



Trade

What to Watch For

Congress has a lengthy list of “leftover” trade issues that will likely carry into 2023. As part of broader “China competitiveness” legislation (H.R. 4521; S. 1260), both the House and Senate passed significant trade proposals. However, none of the trade sections were included in the compromise version of these bills, which provided funding for semiconductor manufacturing and research. These proposals as well as other potential trade legislation are described below.

Proposals in House or Senate China Competitiveness Bills:

Miscellaneous Tariff Bill (MTB)

MTBs make temporary reductions or suspensions of duties on specified imports. The House and Senate passed slightly different MTB legislation as part of China competitiveness legislation, although both bills included more than 1,300 product lines. The last round of MTB tariff adjustments expired at the end of 2020.

Generalized System of Preferences (GSP)

GSP eliminates tariffs on more than 3,500 product lines from roughly 120 developing countries. This program also expired at the end of 2020. Both the House and Senate passed GSP extensions, although the House legislation included additional provisions relating to labor rights and environmental obligations.

Outbound Investment Review

There are advocates in both the House and Senate for legislation that would require a review of “outbound investments” in countries like China that may threaten national security (H.R. 6329; S. 1854). The House passed its version and has been engaged with leading Senate advocates and the White House to reach a compromise version.

Trade Adjustment Assistance (TAA)

House Democrats are insisting on extending the TAA program as part of any larger deal on trade. The TAA program expired in 2021, and the House passed an expansion of the program and extended it through 2028. Some House Republicans have contended that TAA has only been extended in the past in conjunction with Trade Promotion Authority (discussed below) and have sought to link the two.

De Minimis Rule

Current Customs rules allow imports of less than \$800 to enter the U.S. duty-free. The House passed legislation to remove this exemption for imported goods from non-market economy countries that have violated intellectual property standards – requirements that currently would apply to China. The Senate has not supported such legislation.

AD / CVD Successive Investigations

The House also passed legislation to allow concurrent and successive investigations of violations of antidumping and countervailing duty and authorize investigations of cross-border subsidies. The “Leveling the Playing Field Act” has bipartisan support, but it is unclear if there will be enough Senate Republican support in the new congress.

Section 301 Tariff Exclusions

The Senate passed legislation to create a statutory procedure to grant exclusions to the section 301 tariffs against imported Chinese goods that were imposed during the Trump administration. The Biden administration thus far has not established an administrative process to grant such exclusions. Previous exclusions expired at the end of 2021.

Additional Proposals and Considerations:

Trade Promotion Authority

House Republicans are expected to advance legislation to reinstate Trade Promotion Authority, which creates a “fast track” procedure for approving new trade agreements without amendment. This authority expired on July 1, 2021. The Biden administration, which to date has not pursued any new trade agreements requiring Congressional approval, has not sought an extension of this authority.

Additional Russia or China Sanctions

Since Russia's invasion of Ukraine in February 2022, Congress and the White House have worked together to impose broad sanctions on the Russian government and Russian individuals and entities. These actions, some of which involved legislation, have targeted Russian government assets, international trade, economic sectors, and specified individuals and entities. It is possible that additional legislation will target Russia in the 118th congress, as well as China, Iran, Burma, and other foreign adversaries.

USTR

The increasingly bellicose relationship between the United States and China may impact the Biden administration actions on the Section 301 tariffs on products manufactured in China and imported into the United States. The U.S. Trade Representative has announced that it will accept comments on the impact of the additional tariffs on Chinese products since they were imposed in July 2018. The USTR portal will be open Nov. 15 – Jan. 1, 2023. Biden's USTR will continue to push for trade policy focused on benefits for U.S. workers and equity. Any free trade agreement will use the worker provisions of the USMCA as a model.

Forced Labor

Forced labor is the number one enforcement issue for US Customs and Border Protection and numerous other partner government agencies including the State Department, Department of Labor, and Commerce Department. There is also bipartisan support for the protection of the Uyghurs in the Xinjiang region of China with the implementation of the Uyghur Forced Labor Prevention Act. It is expected that the government's focus on forced labor will extend beyond Xinjiang to other regions of China and to other countries.

Solar

While Biden continues to push his environmental agenda, his administration has maintained additional Section 201 tariffs on solar products.

Congressional Leadership Changes

The House Ways and Means Committee is responsible for overseeing trade matters. It is up for debate who could lead this committee. It is between Rep. Vern Buchanan (R-FL), Jason Smith (R-MO), and Adrian Smith (R-NE). Rep. Richie Neal (D-MA) is expected to be Ranking Member.

The Senate's balance of power remains uncertain. If Democrats retain control of the chamber, Sen. Ron Wyden (D-OR) is expected to continue as Chairman of the Finance Committee. Mike Crapo (R-ID) is expected to serve as Chair if Republicans have a Senate majority.

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