

Washington Update

August 18, 2023

This Week In Washington

Senate – The Senate was in recess.

House – The House was in recess.

Biden Administration – On August 9, the White House launched the Artificial Intelligence (AI) Cyber Challenge ([AixCC](#)), a two-year competition designed to identify and fix software vulnerabilities using AI. As described in a White House [Fact Sheet](#), this competition will be made up of teams attempting to create new technologies to improve the security of computer code, among other things. This will include collaboration with several top AI companies like Anthropic, Google, Microsoft, and OpenAI.

Next Week In Washington

Senate – The Senate will reconvene on September 5.

House – The House will reconvene on September 12.

TAX

Investigation Finds U.S. Charities Accepted Funds Tied to Chinese Propaganda Networks, Spurs Request for Public Input by House Ways and Means Committee

Key Points:

- *In August, a New York Times report exposed a global network of nonprofits and advocacy groups funded by an individual with ties to the Chinese Communist Party.*
- *This week, the House Ways and Means Committee issued a request for information to learn if certain U.S. nonprofits have violated campaign finance law.*
- *Stakeholders should submit responses to the House Ways and Means Committee by September 4, 2023.*

This week, the House Ways and Means Committee [issued](#) a Request for Information (RFI) to solicit input from stakeholders on whether the actions of certain nonprofit and tax-exempt organizations have violated the spirit or the intent of campaign finance law.

The RFI comes in the wake of a New York Times report that exposed a global network of nonprofits and advocacy groups funded by an American millionaire with close ties to Chinese Communist Party (CCP) propaganda entities. The report highlighted activities by left-leaning nonprofits such as Code Pink and No Cold War, which have adapted their messaging to support CCP causes such as the internment of Muslim Uyghurs. A second New York Times report, which was referenced in the RFI, highlights donations by the Swiss billionaire Hansjörg Wyss to left-leaning advocacy groups which have become increasingly influential among efforts that helped Democrats win the White House and maintain control of Congress in 2020.

The RFI notes the House Ways and Means Committee is considering taking legislative action to close loopholes that allow the use of tax-exempt status to influence U.S. elections. Stakeholders have until September 4, 2023, to respond to House Ways and Means inquiries.

UN Pushes Back Against OECD Global Tax Plans

Key Points:

- *In a draft report, the United Nations said it would offer a “fully inclusive” alternative to the OECD’s Pillar One and Pillar Two tax plans.*
- *The development comes after developing countries have complained they have not had enough say in the OECD negotiations.*

- *Any plan developed by the United Nations would likely overlap with the OECD plan, creating potential confusion in the global tax landscape.*

Last week, the White House and OECD's Pillar One and Pillar Two tax plans experienced a setback after the United Nations (UN) [released](#) a draft report outlining its intention to develop its own plan for taxing large multinational corporations.

Pillars One and Two have faced immense pressure in recent months as the White House has been criticized by congressional Republicans for allegedly pushing to raise taxes on U.S. companies. Additionally, Canada has put Pillars One and Two at risk by threatening to implement its own digital services tax. The UN-based development comes after developing countries such as Nigeria and Pakistan have complained they have not had enough say in the OECD negotiations.

Defenders of the OECD plan say negotiators have been working with developing countries to ameliorate their concerns. Any UN plan would likely overlap with the OECD plan, creating potential confusion in the global tax landscape.

For more information about tax issues, you may [email](#) or call Christopher Hatcher at 202-659-8201. Logan Mazer contributed to this section.

FINANCIAL SERVICES

Lawmakers React to President Biden's Executive Order on Outbound Investment

Key Points:

- *President Biden issues a long-anticipated Executive Order restricting investments in China.*
- *House Financial Services Committee Chairman McHenry and Senate Banking Committee Chairman Brown expressed support for the executive order.*

After more than a year of signaling possible action on outbound investment, the Biden Administration issued the long-expected [Executive Order](#) (EO) on August 9, 2023, covering investments that it deems may threaten U.S. national security. The EO prohibits and alternatively requires notification of certain transactions involving investment in semiconductors and microelectronics, quantum computing, and artificial intelligence (AI) sectors in China (including Hong Kong and Macau) and other countries of concern. The same day, the Treasury Department issued an [advanced notice of proposed rulemaking](#)

(ANPR) which sets out questions and possible parameters for the EO investment screen for feedback from stakeholders regarding the implementation of the program.

House Financial Services Committee Chairman Patrick McHenry (R-NC) and Subcommittee on National Security, Illicit Finance, and International Financial Institutions Chairman Blaine Luetkemeyer (R-MO) expressed support for the Executive Order (EO), saying:

“We’re glad to see the Biden Administration take a more thoughtful and targeted approach than initially reported. The White House listened to our concerns about the risks of undermining bedrock American principles, including the free flow of capital. This is confirmation that we can confront the Chinese Communist Party with a smart approach rather than harmful policy. Instead of emulating Xi Jinping, we should be working to export our rule of law and property rights. Congress must look past ‘feel good,’ but inadequate, policies and take stronger action to confront the CCP by building on the tried and tested sanctions and export controls regimes. The House Financial Services Committee will lead the effort to address this through legislation, rather than executive fiat.”

Senate Banking Committee Chairman Sherrod Brown (D-OH) also expressed support for the EO, saying:

“American dollars and expertise shouldn’t go toward building up the Chinese government’s military and intelligence capabilities. As we work to pass the Outbound Investment Transparency Act into law, the Administration must implement this order swiftly to ensure that U.S. corporate investment doesn’t help China develop technology that will be used against us.”

Senate Banking Chairman Brown Calls on Federal Reserve to Reform Big Bank Merger Policy

On August 9, Senate Banking Chairman Sherrod Brown (D-OH), along with several other Committee Democrats, sent a [letter](#) to Federal Reserve Chairman Jerome Powell and Vice Chair for Supervision Michael Barr calling on them to review and reconsider the Federal Reserve’s approach to big bank mergers, including the agency’s framework for evaluating a bank merger’s impact on financial stability. Additionally, the Senators expressed concern that the Federal Reserve has not issued any rules or guidance about which banks would implicate financial stability concerns.

FDIC Chairman Gruenberg Previews New Resolution Plan Proposal for Large Regional Banks

On August 14, Federal Deposit Insurance Corporation (FDIC) Chairman Martin Gruenberg gave a [speech](#) about regional bank resolution at a Brookings Institute event. Gruenberg stated, “A stronger resolution planning requirement for large regional banks, combined with a long-term debt requirement, would provide a much stronger foundation for the orderly resolution of these institutions.” He said the FDIC plans to propose a rule soon that would make changes to the resolution plans for insured depository institutions to make them “significantly more effective.” He listed several elements that would have been helpful in dealing with failed banks this spring, including: (1) the bank’s “capability to promptly establish a virtual due diligence data room, and populate it with enough information for interested parties to bid on the bank...”; (2) the bank’s “maintenance of information necessary for operational continuity of the bank, including a more thorough description of key personnel and retention plans, critical third party and shared services, and payments and trading activities;” and (3) the bank’s ability to describe communications systems and strategies for reaching internal and external key stakeholders in the event of a resolution.”

House Financial Services Committee Chairman McHenry Inquires About the Prometheus Special Purpose Broker-Dealer Approval

On August 15, House Financial Services Committee Chairman Patrick McHenry (R-NC), along with several other Committee Republicans, sent a [letter](#) to Financial Industry Regulatory Authority (FINRA) President and CEO Robert Cook and a [letter](#) to Securities and Exchange Commission (SEC) Chair Gary Gensler regarding the approval of Prometheus Ember Capital LLC as the first and only special purpose broker-dealer for digital assets. In the letters, the lawmakers addressed the need for transparency regarding the approval process and raised questions about national security risks posed by Prometheus because of its reported ties to the Chinese Communist Party (CCP).

Upcoming Hearings and Meetings

August 21

China’s Economy: The U.S.-China Economic and Security Review Commission will hold a [hearing](#) entitled, “China’s Current Economy: Implications for Investors and Supply Chains.”

August 23

SEC open meeting: The Securities and Exchange Commission (SEC) will hold an [open meeting](#) to discuss two topics: (1) Exemption for Certain Exchange Members; and (2) Private Fund Advisers and Documentation of Registered Investment Adviser Compliance Reviews.

For more information about financial services issues you may email [Joel Oswald](#) or [Mahlet Makonnen](#). Nicholas May contributed to this section.

ENERGY & ENVIRONMENT

EPA Releases Enforcement Priorities

Key Points:

- *On Thursday, the Environmental Protection Agency (EPA) released its quadrennial “National Enforcement and Compliance Initiatives”.*
- *The new plan targets climate change, PFAS, and coal ash waste for the first time.*
- *The EPA also emphasizes environmental justice and addressing human health and environmental impacts “in overburdened and vulnerable communities.”*

On August 17, the EPA released its [“FY 2024 – 2027 National Enforcement and Compliance Initiatives”](#). As described in a [press release](#), the plan targets:

- **“Mitigating Climate Change...EPA will use its enforcement and compliance tools to reduce greenhouse gas emissions, helping to limit the worst effects of climate change. The initiative will focus on three separate and significant contributors to climate change: (1) methane emissions from oil and gas facilities; (2) methane emissions from landfills; and (3) the use, importation, and production of hydrofluorocarbons (HFCs)...”**
- **“Addressing Exposure to PFAS - Per- and polyfluoroalkyl substances (PFAS)...are toxic, persistent ‘forever chemicals’ that have caused widespread contamination in our air, water, and land throughout the country...”**
- **“Protecting Communities from Coal Ash Contamination - This initiative will focus on the threat presented by the hundreds of millions of pounds of coal ash, also known as coal combustion residuals (CCR), found throughout our country in on-site landfills, settling ponds, and other coal plant surface impoundments...”**
- **“Reducing Air Toxics in Overburdened Communities - This initiative will address the serious threat to communities that comes from unlawful exposure to regulated hazardous air pollutants (HAPs) from nearby industry...”**
- **“Increasing Compliance with Drinking Water Standards - This initiative seeks to ensure that the approximately 50,000 regulated drinking water systems that serve**

water to residents year-round, referred to as Community Water Systems (CWSs), comply with the Safe Drinking Water Act (SDWA)...”

- **“Chemical Accident Risk Reduction** - This initiative seeks to reduce the likelihood of catastrophic chemical releases, and to address the problem of avoidable chemical incidents that continue to occur throughout the country...”

Upcoming Hearings and Meetings

September 1

Waters of the United States: The Environmental Protection Agency (EPA) and the U.S. Army Corps of Engineers (USACE) [announced](#) that they would issue a final rule “by September 1, 2023”, amending the [final rule](#) titled “Revised Definition of ‘Waters of the United States’”, published on January 18, 2023. The agencies stated that the amended final rule would be “consistent with the...Supreme Court’s...decision in the case of Sackett v. Environmental Protection Agency.” On May 25, 2023, the Supreme Court issued its [opinion](#) in *Sackett v. EPA*, regarding the definition of “waters of the United States” under the Clean Water Act. The majority opinion held that the Clean Water Act “extends to only those ‘wetlands with a continuous surface connection to bodies that are ‘waters of the United States’ in their own right,’ so that they are ‘indistinguishable’ from those waters.”

September 21

FERC Meeting: The Federal Energy Regulatory Commission (FERC) will hold its September [open meeting](#).

October 10-11

Energy Bar Association: The Energy Bar Association will hold its [Mid-Year Energy Forum](#).

October 31-November 1

Pipeline Safety R&D: The Pipeline and Hazardous Materials Safety Administration (PHMSA) will hold the “[Pipeline Safety Research and Development Forum 2023](#)”. The event is intended “to help generate a national research agenda that identifies technical challenges and fosters solutions to improve pipeline safety and protect the environment.”

November/December

Distribution Gas Pipeline Leak Detection and Class Location Rulemakings: PHMSA’s Gas Pipeline Advisory Committee (GPAC) plans to meet to consider the [Notice of Proposed Rulemaking \(NPRM\)](#) titled “Pipeline Safety: Gas Pipeline Leak Detection and Repair” during the week of November 27. Section 113 of the “Protecting our Infrastructure of Pipelines and Enhancing Safety (PIPES) Act of 2020” directed PHMSA to promulgate regulations that

update leak detection and repair requirements for natural gas pipelines to incorporate advanced leak detection technologies and procedures. The GPAC also plans to discuss the [NPRM](#) titled "Pipeline Safety: Class Location Change Requirements".

For more information about energy and environment issues you may [email](#) or call Frank Vlossak at 202-659-8201. Updates on energy and environment issues are also available on [twitter](#).

HEALTH

Drug Pricing Provision Faces Lawsuits

Key Point:

- *Several drug manufacturers, the U.S. Chamber of Commerce, and the Pharmaceutical Research and Manufacturers of America (PhRMA) have filed lawsuits to block the Inflation Reduction Act's (IRA) drug negotiation program.*

The Inflation Reduction Act's (IRA) drug pricing provision, which is expected to become effective in 2026, has faced lawsuits challenging its constitutionality. Merck, Johnson and Johnson, Bristol Myers Squibb, the U.S. Chamber of Commerce, the Pharmaceutical Research and Manufacturers of America (PhRMA), and others have all filed lawsuits. On Wednesday, August 16, Bristol Myers Squibb and Johnson and Johnson filed motions for summary judgment in the U.S. District Court of New Jersey.

Collectively, the lawsuits [argue](#) that coercing drug manufacturers to agree to a set price violates the First Amendment's free speech protection. They also argue that excluding public input from key decisions and blocking them from administrative or judicial review violates the Fifth Amendment's due process clause. Additionally, PhRMA's lawsuit claims the program's excise tax violates the Eighth Amendment's Excessive Fines Clause. They explained that the tax would increase to 1,9000 percent of a drug's total revenue if they disagree with Medicare's price-setting negotiations.

In briefs filed with the court, the federal government criticized the Chamber of Commerce's lawsuit, claiming that the organization lacks standing to challenge the provision and that pausing the program would harm the public. The government also refutes the group's claims that the drug price negotiation will cause immediate and irreparable harm to the industry since companies would not be impacted until at least 2026. The response to the Chamber of Commerce lawsuit is the first response from the federal government in any of the cases filed so far.

Bristol Myers Squibb and Janssen Pharmaceuticals both filed a motion for summary judgment in their respective cases and are seeking an expedited ruling. The Centers for Medicare and Medicaid Services (CMS) will announce the first ten drugs selected for negotiation by September 1, 2023.

Here is a list of cases filed so far:

- [Merck](#): DC District Court
- [National Infusion Center Association, Global Colon Cancer Association, PhRMA](#): Western District Court of Texas, Austin Division
- [U.S. Chamber of Commerce](#): U.S. District Court for the Southern District of Ohio, Western Division
- [Bristol Myers Squibb](#): U.S. District cause of New Jersey
- [Astellas Pharma US](#): U.S. District Court for the Northern District of Illinois, Eastern Division
- [Janssen Pharmaceuticals](#): U.S. District Court for the District of New Jersey Trenton Vicinage

For more information about health care issues you may [email](#) or call Nicole Ruzinski Bertsch at 202-659-8201. Chris Affambi and Windsor Warlick contributed to this section.

CYBERSECURITY, PRIVACY, AND ARTIFICIAL INTELLIGENCE

U.S. National Cybersecurity Strategy Calls on Office of Management and Budget to Create Plan to Eliminate Legacy Vulnerabilities in Federal Agency Systems

Key Point:

- *The National Cybersecurity Strategy calls on the Office of Management and Budget (OMB) to create a strategy to eliminate legacy vulnerabilities in federal systems.*

The National Cybersecurity Strategy tasked the OMB to develop a “multi-year lifecycle plan” to modernize federal agency systems and rid them of legacy vulnerabilities. The strategy also calls on OMB to help accelerate a migration to cloud-based systems. This comes after several federal agencies including the Department of Transportation and the Office of Personnel Management did not implement recommendations to improve and secure their legacy technology systems. In May, a Government Accountability Office (GOA) [report](#) stated federal agencies “need to continue addressing critical legacy systems,” and legacy technology can “be costly to maintain and vulnerable to hackers.”

Legislation Introduced to Improve FEMA (Federal Emergency Management Agency) Digital Defenses

Key Points:

- *Representative Bennie Thompson (D) introduced legislation to expand FEMA's role in defending against cyber-attacks.*

The "FEMA Cybersecurity Improvement Act" (H.R. 5201), an amendment to the Homeland Security Act of 2002, aims to strengthen the Federal Emergency Management Agency's (FEMA) digital defenses against technological vulnerabilities. Introduced on August 11, 2023, by House Homeland Security Committee Ranking Member Bennie Thompson (D-MS), the legislation is intended to harmonize FEMA and Cybersecurity and Infrastructure Security Agency's (CISA) roles in accordance with the regulation harmonization goals laid out in the National Cybersecurity Strategy. An objective of the legislation is to enhance FEMA's role in defending against cyber-attacks to strengthen U.S. national security and protect digital infrastructure.

Regulatory Agencies Work to Investigate the Sale of American Data by Third Parties

Key Points:

- *The Biden Administration is looking to increase regulation of the sale of American data by third parties.*

On August 15, the White House held a [roundtable](#) to hear from the Consumer Financial Protection Bureau (CFPB), the Federal Trade Commission (FTC), and the White House Office of Science and Technology Policy on the sale of American data by third parties. CFPB Director Rohit Chopra noted, "After conducting an inquiry into the practices of data brokers in the surveillance industry, we have decided to launch a rulemaking to ensure that modern-day digital data brokers are not misusing or abusing our sensitive data."

White House Pushes Executive Order on Artificial Intelligence

Key Points:

- *The White House is developing an executive order to reaffirm and expand voluntary commitments to AI regulations and safety practices by AI companies.*

The Biden Administration is pushing to develop an executive order aimed at addressing risks with AI. This executive order is expected to also provide guidelines on AI use to federal agencies. This comes after the White House [announced voluntary commitments](#) from AI

companies on AI regulation and use, and the executive order will provide additional steps on safe-use practices for AI. When referring to the development of the executive order, Director of the White House Office of Science and Technology Policy, Arati Prabhakar, said “It’s not just the normal process accelerated — it’s just a completely different process.”

White House Reminds Federal Agencies to Follow 2021 Cyber Executive Order

Key Points:

- *National Security Advisor Jake Sullivan sent a memo reminding federal agencies to follow the 2021 cyber executive order.*

On August 16, National Security Advisor Jake Sullivan sent a memo to federal agencies to remind them “to ensure their cyber infrastructure is compliant” with a 2021 [executive order](#) aimed at “improv[ing] the nation’s cybersecurity and protect[ing] federal government networks.” The executive order included provisions on threat information sharing, cybersecurity modernization, and securing software supply chains.

For more information about cybersecurity issues you may email [Mahlet Makonnen](#) or [Frank Vlossak](#). Joe Maalouf contributed to this section.

TRADE

Biden Issues Executive Order to Limit Outbound Investment in Critical Technology Sectors

Key Points:

- *President Biden has issued an executive order that will establish a method to restrict outbound investments to key technology sectors.*
- *The order comes after an amendment to require outbound investment screenings on key technology sectors was included within the NDAA.*
- *House Financial Services leadership has called for additional legislative action on outbound investments in China.*
- *The Treasury Department is seeking public input on the implementation of the outbound investment regime prior to its implementation.*

On August 9, 2023, President Biden issued an [executive order](#) to restrict outbound investments to key critical technology sectors. The order restricts outbound investment for entities “located in or subject to the jurisdiction of a country of concern,” according to a [fact](#)

[sheet](#) from the Department of the Treasury. The restriction of outbound investments will extend “sensitive technologies” industries that include “semiconductors and microelectronics, quantum information technologies, and artificial intelligence.”

The order comes after previous discussions from the Biden Administration on restricting outbound investments in the Chinese market. Last month, Senator Casey (D-PA) and Senator Cornyn (R-TX) introduced an [amendment](#) to the National Defense Authorization Act (NDAA) to require the screening of outbound investments in sectors that pose national security concerns in countries of concern. The amendment was adopted by the Senate into the NDAA on June 25, 2023.

In a [press release](#), House Financial Services Chairman McHenry (R-NC) and Subcommittee Chairman Luetkemeyer (R-MO) complimented the executive order’s “thoughtful and targeted approach,” but noted that “Congress must look past ‘feel good,’ but inadequate, policies and take stronger action to confront the CCP by building on the tried and tested sanctions and export controls regimes.” The two chairs noted their intent to codify and build upon the order through legislation, stating, “The House Financial Services Committee will lead the effort to address this through legislation, rather than executive fiat.” House Financial Services Ranking Member Waters (D-CA) expressed support for the order in a [press release](#) but outlined additional legislative priorities on the subject, including the mandatory revocation of pre-existing outbound investments and “expanding the [executive order’s] proposal to cover passive forms of investing, such as mutual funds and index investing.”

The Department of the Treasury has requested input from the public on the implementation and scope of the executive order’s provisions. On August 14, 2023, the department published the [advanced notice of proposed rulemaking](#) to the Federal Register seeking input on the scale and scope of the outbound investment regime. The proposed rulemaking will have a 45-day public comment period before the department will compile and review feedback.

President Biden Signs Bill to Formalize Trade Deal with Taiwan Amid Constitutional Concerns

Key Points:

- *President Biden signed a bill into law that formalizes a trade deal with Taiwan.*
- *The bill, introduced by Ways and Means Chair Smith and Ranking Member Neal, follows initial actions taken by the Biden Administration to enact a trade agreement in June.*
- *The legislation seeks to reassert Congressional authority in ratifying trade negotiations.*

- *President Biden signed the bill into law, despite outlining constitutional concerns about a provision that could give additional negotiating powers to Congress.*

On August 7, 2023, President Biden signed the [United States-Taiwan Initiative on 21st-Century Trade First Agreement Implementation Act](#) into law. The bill, authored by Representative Smith (R-MO) and Representative Neal (D-MA), serves to codify an agreement made between the United States and Taiwan initially signed in early June that establishes trade facilitation and regulatory practices between the two countries. The legislation was passed via unanimous consent in the Senate on July 18th and was sent to the President on July 27th.

In a [release](#), Ranking Member Neal noted the legislation's collaborative nature, stating that the President has affirmed the country's commitment to democratic partners "by signing this critical bipartisan bill into law." He also noted that the legislation "underscores the exclusive Constitutional authority of Congress – and particularly the Ways and Means Committee – as the gatekeeper of our trade priorities." The comment follows disagreements between the Biden Administration and members of Congress about the authority of the Executive Office to negotiate and form trade agreements with foreign nations.

After signing the bill into law, President Biden outlined constitutional doubts about the contents of the legislation in a [release](#), stating that "Section 7 of the Act includes requirements for the negotiation of certain further trade agreements with Taiwan that raise constitutional concerns." Specifically, the release highlights how "Section 7(c) of the Act would further, in violation of *INS v. Chadha*, afford 2 members of the Congress the power to increase the required waiting period before the USTR may provide texts to Taiwan." The President stated that he will incompletely adhere to the law, stating that "in cases where the requirements of section 7 of the Act would impermissibly infringe upon my constitutional authority to negotiate with a foreign partner, my Administration will treat them as non-binding."

WTO Panel Rules Against Retaliatory Chinese Tariffs for Section 232 Duties

Key Points:

- *A WTO Dispute Panel ruled that retaliatory tariffs imposed by China on the U.S. violated WTO rules.*
- *The retaliatory tariffs were in response to Section 232 duties on steel and aluminum imposed under the Trump Administration.*

- *In addition, the USTR is seeking public comment on China's WTO compliance for its annual report.*

On August 16, 2023, the World Trade Organization (WTO) ruled that Chinese tariffs imposed in retaliation to U.S. Section 232 duties were in violation of WTO rules. The dispute, originally raised by the U.S. in July 2018, spawned from Chinese tariffs imposed on American goods. The Chinese tariffs were instigated by duties imposed on steel and aluminum imports by the Trump Administration under Section 232 of the Trade Expansion Act. The U.S. has since held dispute discussions with the European Union, Mexico, and Canada on retaliatory tariffs instigated by Section 232 duties, but all three have been resolved since.

In their dispute, the U.S. claimed that Chinese tariffs violated the “most-favored nation principle” enforced by the WTO which prohibits preferential trade treatment between countries. In turn, Chinese officials have argued that their retaliatory tariffs were properly administered as a counter to the “safeguard measures” imposed by the U.S. through Section 232 duties. The WTO panel released a [report](#) which concluded that China's implementation of tariffs did not fall under the classification of an appropriate counter to a safeguard measure as described by the [General Agreement on Tariffs and Trade 1994](#). In turn, the panel determined that the retaliatory tariffs imposed by China do not adhere to the most favored nation principle. The panel ultimately recommended that “China bring its WTO-inconsistent measure into conformity with its obligations under the GATT 1994.”

In another China WTO trade issue development, the office of the USTR released a [statement](#) requesting public comment on the preparation of its annual report outlining China's WTO compliance. The deadline for submitting written comments is September 20, 2023, and the USTR will hold a hearing to gather oral testimony on October 4, 2023.

House Members Introduce Legislation to Mandate Country-of-Origin-Labeling for Beef

Key Points:

- *Representative Johnson introduced legislation to establish what he argues is WTO-compliant Country-of-Origin-Labeling.*
- *This follows a ruling in 2015 from the WTO which found U.S. beef labeling requirements to be punishable by tariffs.*
- *In addition, Representatives Hageman and Khanna have introduced legislation that would establish labeling mandates that disregard the WTO's ruling.*

On August 15, 2023, House Agriculture Commodity Market Subcommittee Chairman Dusty Johnson (R-SD) introduced the "[Beef Origin Labeling Accountability Act](#)." In a [press release](#), Johnson noted that the legislation would direct the U.S. Trade Representative (USTR) and the Secretary of Agriculture to re-establish domestic Mandatory Country of Origin Labeling (MCOOL) for beef products. Notably, the directive requires the two agencies to find a solution that would remain compliant with WTO rules.

This follows a ruling by the WTO in 2015 which determined that pre-existing MCOOL requirements by the U.S. placed undue burdens on Mexican and Canadian markets. A similar bill, entitled the "American Beef Labeling Act of 2023," was introduced in January by Senator Thune (R-SD) and would require the USTR to reinstate MCOOL requirements while ensuring compliance with rules within the World Trade Organization.

Recent legislation introduced by Representative Hageman (R-WY) and Representative Khanna (D-CA), titled the "Country of Origin Labeling Enforcement Act of 2023," also seeks to require MCOOL for beef products but would not attempt to comply with WTO rules. The legislation would define US-sourced beef as being "exclusively born, raised, slaughtered, and packaged in the United States" and would prohibit retailers from providing misleading information about the origin of beef products. A [press release](#) from Hageman's office outlines that "processors who do not comply with country of origin labeling requirements will be assessed a fine of \$5,000 per pound of beef illegally labeled as 'Made in the USA.'"

U.S. Imposes Tariffs on Canadian, German, and Chinese Tin Mill Steel

Key Points:

- *The Biden Administration has announced new tariffs on tin mill steel from China, Germany, and Canada.*
- *This action follows an investigation from the Department of Commerce which found the three countries violated antidumping rules.*
- *A coalition of 36 Members of Congress issued a letter to the agency opposing the tin mill steel tariffs based on the downstream impact on the U.S. steel can producer industry.*

On August 17, 2023, the Department of Commerce [announced](#) the implementation of new tariffs on tin mill steel imports from Canada, China, and Germany. The department reported that a recent investigation found the three countries guilty of dumping tin mill steel products into the U.S. market below market value. The investigation, launched in January by the Commerce Department and the International Trade Commission (USITC), found that other tin mill importers including the Netherlands, South Korea, Taiwan, Turkey, and the U.K. were not in violation of antidumping regulations. As a result, the department has

established tariff rates of 5.29% and 7.02% for Canadian and Germany-based tin mill steel imports, respectively. Additionally, the agency determined that Chinese-based tin mill steel imports will be subject to a 122.52% tariff rate.

On June 12, 2023, a coalition of 36 members of Congress submitted a [letter](#) to the Commerce Department and the USITC opposing the implementation of tin mill steel tariffs. The letter cites economic concerns about the adoption of new tariffs, stating that “the downstream impact on can manufacturers, who rely on tin mill products to make billions of steel cans annually, threatens to cause significant price increases and possible job losses.” Additionally, the coalition highlighted the proportional sourcing of tin mill steel, noting that “Chinese imports account for less than 10% of imported tin mill steel ... Chinese tin mill steel producers would be only slightly harmed by the duties while Chinese canned goods producers would benefit greatly (at the expense of U.S. producers).” The letter calls on the Commerce Department to consider the impacts of tariffs on the canned goods producer industry while formulating any policy recommendations.

The Commerce Department will continue to audit the information submitted by companies within the initial investigation. The Department anticipates it will announce a final determination for anti-dumping duties on Chinese imports by October 31, 2023. In addition, it is estimated to finalize determinations for all other countries by January 8, 2024. The USITC is expected to conduct additional research and investigations to determine the economic impacts of dumping practices on U.S. industries.

For more information about trade issues you may [email](#) or call Christopher Hatcher at 202-659-8201. Noah Hawkins contributed to this section.