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International Trade, Customs & Export Law

A Washington Update: DC in an era of Geopolitics

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The world is full of risk ...



What keeps us up at night?

- Inflation
- China-West Trade & Trade Disputes
- Ukraine-Russia
- Latin America Competitiveness
- Supply Chain Transparency
- Food Security

And opportunity



OVERVIEW

Looking back: 2021...

- Major Legislation
- China bills
- Section 232 and 301
- Trade deals
- CBP Enforcement
- AGOA terminations

Looking ahead: 2022...

- Biden Administration priorities
- Countering China
- Trade and Environment
- USTR Agenda

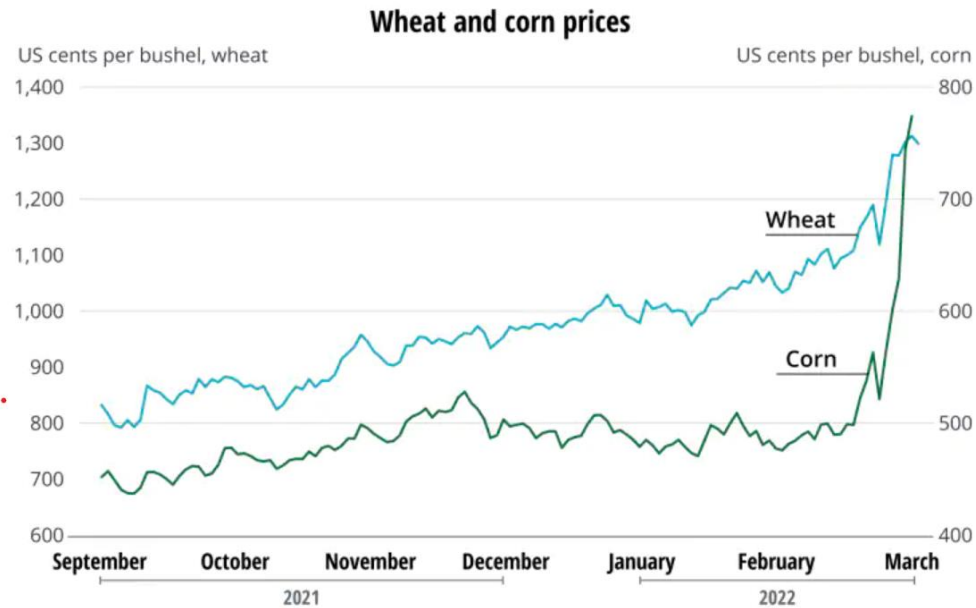
Top of Mind TODAY ... The Geopolitics of Washington



U.S. Action – Congress

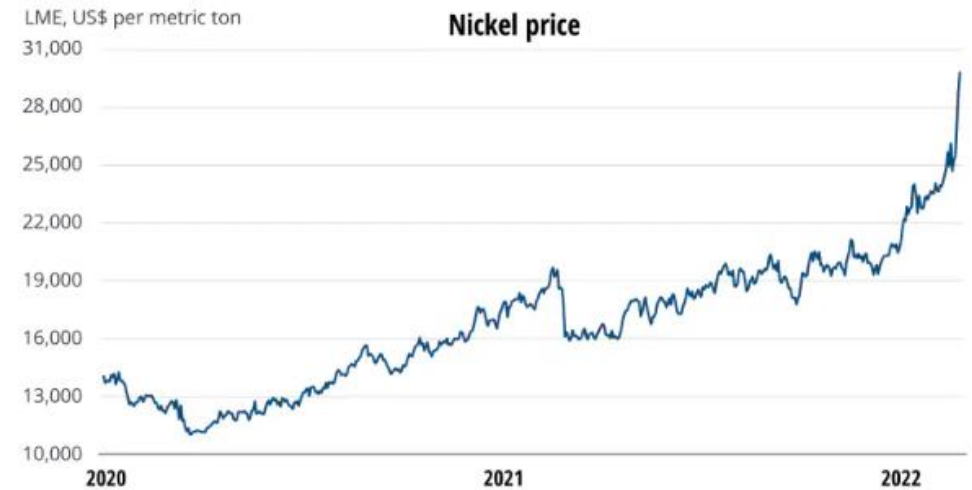


Global Impact – Commodity Prices



Sources: *Financial Times* accessed via Haver Analytics; Refinitiv.

Global prices of key minerals and food commodities shot up in the week following the invasion

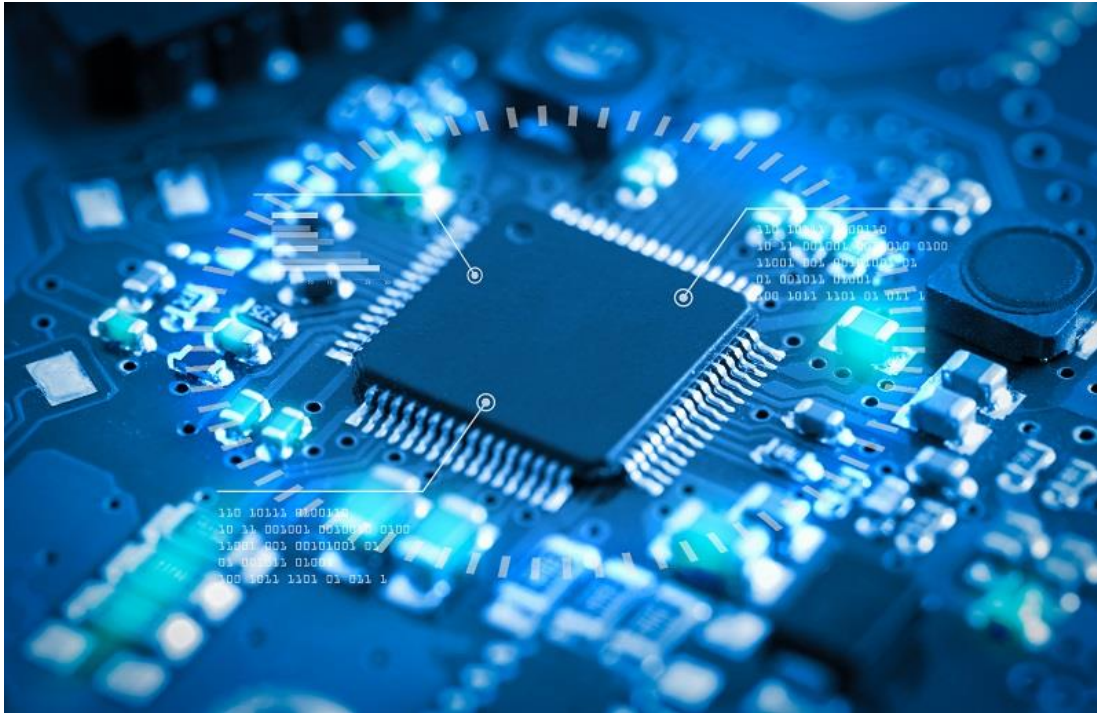




- 301

What are America COMPETES & USICA

The America **COMPETES Act** is the House counterpart to the **U.S. Innovation and Competition Act (USICA)**, which the Senate passed in June 2021.



- The goal of both bills is to raise the United States' domestic and global competitiveness, especially in relation to China.
- Provides more than **\$50 billion in immediate funding for semiconductor production and research.**
- Authorizes more than \$200 billion in future efforts to develop key technology areas.

What do these images have in common?



COMPETES Provisions Supporting Latin America



USICA - Investment, Trade, and Development

- Directs the President to:
 - Establish a comprehensive U.S. strategy for public and private investment, trade, and development in Africa and Latin America and the Caribbean with the goal of increasing exports of U.S. goods and services in the region.
 - Submit the strategy and subsequent reports on the implementation of the strategy to Congress.
 - Designate individuals to serve as Special Africa Export Strategy Coordinator and Special Latin America and the Caribbean Export Strategy Coordinator.
- Expresses the sense of Congress that Secretary of Commerce and other relevant U.S. high-level officials should conduct joint trade missions to Africa, Latin America and the Caribbean.

Economic Competitiveness, Governance, Human Rights, and the Rule of Law



Engagement with Civil Society



- Generalized System of Preferences
- Miscellaneous Tariffs
- China Tariff Exclusion process
- COOL On-Line
- Section 321 *de minimis*



Overview Comparison – Trade Policy

	H.R. 4521 – COMPETES	S. 1260 – USICA
TAA	✓	✗
Trade Remedy Law Reform	✓	✗
De Minimis Legislation	✓	✗
Outbound Finances Review	✓	✗
Forced Labor	✓	✓
Digital Trade Barriers	✗	✓
Section 301 Exclusions	✗	✓
Oversight of Trade Agencies	✗	✓
Supply Chain Resiliency	✓	✓
GSP	✓	✓
MTB	✓	✓
WTO	✓	✓



GSP

COMPETES

- Reauthorizes GSP until December 31, 2024, retroactive since the GSP program expired on December 31, 2020.
- Requires the President to reassess whether countries are meeting the program's criteria every three years
- Directs the ITC to submit a report to Congress on rules of origin and utilization rates under the GSP program.
- Directs USTR and DOL to report to Congress on the laws relating to worker and equal rights of each beneficiary country, and for USTR to encourage beneficiary countries' reporting of sex-disaggregated economic and business data
- Modifies mandatory eligibility criteria by adding **new criteria on the environment, human rights, and labor standards**

USICA

- Reauthorizes GSP until January 1, 2027, same retroactivity
 - Similar provision
 - Similar provision
 - Similar provision
- Similar provision, but does not modify mandatory labor criteria

GSP

COMPETES

- Modifies discretionary criteria by requiring countries to take steps to afford internationally recognized “worker rights” and prohibiting those that don’t, and by including new criteria on the environment, rule of law, poverty reduction, and combatting corruption.
- Updates definition of “internationally recognized worker rights” to include the elimination of discrimination in occupation and employment, and violence against workers, including gender-based violence and harassment.

USICA

USICA adds new criteria related to **women’s economic empowerment** and digital trade.



MTB

COMPETES

- Temporarily suspends or reduces tariffs on certain imported goods through December 31, 2023, and provides retroactive duty relief for the 120 days prior to enactment.
- Authorizes two or more cycles one starting in 2022 and another starting in 2025, each generating lists of imports that could see its duty suspended or reduced by future MTB bills.
- Adopts a prohibition on suspending or reducing the tariff in an MTB for any finished goods.

USICA

- Same
- Same
- Not included

Supply Chain Resiliency - Competes

- Creates a new Supply Chain Resilience Program (SCRIP) that would cost \$45 billion for FYs 2022-2027. Through SCRIP, America COMPETES would engage in a more aggressive industrial policy than USICA.
- The SCRIP would provide grants, loans, and loan guarantees to U.S. entities that engage in certain “eligible activities” included but not limited to the manufacturing of a critical good or industrial equipment in the United States, the commercialization, adoption, or use of manufacturing technology by domestic manufacturers. . . the purchase . . . or retooling of industrial equipment for use in the United States,” or even “the relocation of manufacturing facilities related to the production of a critical good into the United States.

Supply Chain Resiliency - USICA

- Instructs the Department of Commerce to create a supply chain resiliency and crisis response program and encourages partnerships between the federal government and industry/labor organizations.
- The Secretary would work with the private sector to map and monitor critical industries and supply chains and identify high priority gaps and vulnerabilities.
- Instructs the Secretary and other relevant parties to submit reports to Congress identifying critical national security industries and supplies critical to U.S. preparedness among other things.
- Empowers the secretary to enter into agreements with other countries that are allies or partners of the U.S. relating to enhancing critical industry supply chain security and resiliency

World Trade Organization

COMPETES

- Sense of Congress that the United States should continue to lead reform efforts at the World Trade Organization, including efforts related to dispute settlement, notifications, and ensuring that there are platforms to discuss matters related to labor, the environment, and women's economic empowerment.

USICA

- Uses similar language to COMPETES but does not include language on creating platforms to discuss labor, environment, and women's economic empowerment issues
- Adds language to "expand upon the trilateral negotiations currently underway with Japan and the EU"
- Adds language to explore reform proposals including on pursuing plurilateral agreements, new rules to address practices of nonmarket economies, and better implementation of existing rules.

COMPETES Only Trade Provisions



De Minimis Legislation

- Adopts the *Import Security and Fairness Act* (HR6412) introduced by Rep. Blumenauer which:
 - Prohibits imports from countries that are both non-market economies and on USTR's Priority Watch List from receiving de minimis treatment, which allows goods worth less than \$800 to enter the U.S. duty-free;
 - Provides CBP with statutory authority to collect additional information on all imports that receive de minimis treatment;
 - Prohibits importers that are suspended or debarred from receiving de minimis treatment; and
 - Simplifies CBP's requirements for processing goods that receive de minimis treatment upon importation but have been detained by CBP.

OSRA

- Adopts the *Ocean Shipping Reform Act of 2021* (H.R. 4996):
 - Requirements for operating a shipping exchange involving ocean transportation in the foreign commerce of the United States
 - Revises annual reporting requirements for the FMC on foreign laws and practices to include practices by ocean common carriers
 - Prohibits ocean common carriers and marine terminal operators from retaliating or discriminating against shippers because such shippers have patronized another carrier, or filed a complaint
 - Directs the FMC to establish rules prohibiting ocean common carriers and marine terminal operators from adopting and applying unjust and unreasonable demurrage and detention fees
 - Authorizes the FMC to initiate investigations of an ocean common carrier's fees or charges and apply enforcement measures, as appropriate
- Note: There is a similar Senate version of the bill (S.3580) that passed the Senate Committee on Commerce, Science and Transportation on March 22, 2022, but it is not included in USICA.



Is COOL heating up?

The “United States Innovation and Competition Act of 2021” Sec. 2510 Country of Origin Labeling Online Act

(a) MANDATORY ORIGIN AND LOCATION DISCLOSURE FOR PRODUCTS OFFERED FOR SALE ON THE INTERNET.

(1) IN GENERAL. — It shall be unlawful for a product that is required to be marked under section 304 of the Tariff Act of 1930 (19 U.S.C. 1304) or its implementing regulations to be introduced, sold, advertised, or offered for sale in commerce on an internet website unless the internet website description of the product—

(A)(i) indicates in a conspicuous place the country of origin of the product, in a manner consistent with the regulations prescribed under section 304 of the Tariff Act of 1930 (19 U.S.C. 1304)...AND

(B) indicates in a conspicuous place the country in which the seller of the product is located (and, if applicable, the country in which any parent corporation of such seller is located).

Transparency and Accountability

Uyghur Forced Labor Prevention Act – On December 23, President Biden signed the Uyghur Forced Labor Prevention Act to underscore the United States’ commitment to combatting forced labor.

- Creates a presumption against goods mined, produced, or manufactured wholly or in part in the Xinjiang or produced by an entity on a list.



EU Strategy for Sustainable and Circular Textiles



The Strategy proposes actions for the **entire lifecycle of textiles products, while supporting the ecosystem in the green and digital transitions.** It addresses the way textiles are designed and consumed, including by looking also at sustainable technological solutions and innovative business models.

Translating trade ... next generation negotiations

NAFTA

USMCA

TPP

CPTPP

I P E F

“Building a Sustainable, Resilient, and Equitable Future”



Questions?

Thank you!

