



FJATA NEWSLETTER

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BIDEN LAUNCHES THE IPEF TO CONNECT U.S. TO ASIAN COUNTRIES



Japanese Prime Minister Fumi Kishida, left, U.S. President Joe Biden, middle, and Indian Prime Minister Narendra Modi, right, at the IPEF launch event in Tokyo, May 23

On May 23, 2022, President Biden and 12 other partner nations launched a new economic platform titled the [Indo-Pacific Economic Framework](#) (IPEF). This framework focuses on establishing standards and obligations in four main areas, referred to as pillars: digital trade cooperation, supply chain resiliency, clean energy advancements, and firm tax, anti-money laundering, and antibribery measures. The members thus far make up 40% of global gross domestic product and include the U.S., Japan, South Korea, Brunei, Indonesia, Malaysia, the Philippines, Singapore, Thailand, Vietnam, India, Australia, and New Zealand.

Many are comparing the IPEF and the Trans-Pacific Partnership (TPP), which President Trump pulled out of in 2017. Possibly the most notable difference between these two agreements is that the TPP includes lower tariff agreements between countries. Businesses and farmers looking to expand their goods into Asian markets are advocating for the U.S. to rejoin the TPP for this reason. Japanese Prime Minister Fumio Kishida also mentions that coming back to the TPP and offering Asian countries lower tax rates

and wider access to U.S. markets would visually play well. Allowing that access is an effective approach to building relationships with these countries.

However, rejoining the TPP requires congressional approval, whereas launching the IPEF does not. Because of this, the Biden Administration is unlikely to rejoin. USTR Katherine Tai adds her view that the TPP was “quite fragile” due to the sole focus being trade, and that the additional goals of the IPEF is what makes this framework more durable and realistically achievable. Nonetheless, there is still public frustration since the IPEF will not assist U.S. exporters as immediately as the duty break of the TPP would.

Though the IPEF is open to and expecting more nations to join in the future, some may be hesitant in fear their participation will conflict with their relationship to China. On this, 50 senators wrote and signed a letter to President Biden urging the addition of Taiwan to the IPEF. The letter argues that the hesitation of other countries would dissipate after seeing Taiwan’s participation.

Also, in efforts to have nations join, the IPEF is very broad and nonspecific. Though the framework is still in early days, there is no mention of nonmarket economies, the ongoing trade tension of China, nor the Russian invasion in the Ukraine. This is likely because China is a major trading partner for many, and Russia is tied to the politics and military of India. Additionally, due to some nations being unsure of certain areas of the deal, the IPRF is not requiring joining nations to participate in each of the four areas. Nations can choose which pillars they want to be involved in. They are expected to choose by mid-June, and once that is settled negotiation of the details of each area will commence.

USTR ASKS FOR REQUEST OF CONTINUATION FOR SECTION 301 TARIFFS

On May 3, 2022, the USTR released a [notice](#) to announce the beginning of the required post-four-year reviews of the Section 301 tariffs. There will be two reviews: one examining the July 6, 2018 action that is List 1, and the other examining the August 23, 2018 action that is List 2. The modifications of List 3 and 4a will be reviewed where they apply.

The USTR is asking representatives of domestic industries that have benefited from these tariffs to request continuation. If requests are made, the USTR will enter into a second phase, to be announced, that will consider comments from all parties. Representatives that want to request continuation should make their request at [the docket](#) which will be open during the following dates: May 7- July 5 and June 24-August 22 for the first and second action respectively. If no requests are made, the review will be over and the tariffs will end July 6.

UFLPA COMING INTO EFFECT IN JUNE

The Uyghur Forced Labor Prevention Act (UFLPA), signed into law in December 2021, will be going into effect June 21st. This Act prohibits any entry of goods from the Xinjiang Uyghur Autonomous Region of China (XUAR) unless specific evidence is provided that proves the goods were made and sourced without forced labor. This is the first time the U.S. is requiring such indepth supply chain tracking from importers. Even if companies are not importing directly from the XUAR, they must confirm that their goods do not originate or have certain parts made in the area.

This Act reverses the assumption of innocence, meaning from June 21st and onward, the U.S. will assume all products or materials coming from XUAR are made with forced labor and are therefore not permitted. For businesses to have goods from XUAR allowed into the U.S., importers must comply fully with the requirements of the CBP. This includes answering all inquiries and providing an overwhelming amount of evidence that the relevant goods are not made wholly or in part by forced labor. Goods that do meet these qualifications and are permitted in the U.S. will be published in a list issued by the CBP.

The Act also creates the Forced Labor Enforcement Task Force. This task force actively strategizes how to prevent goods of force labor from entering the U.S. They have also been responsible for educating importers on how they can comply with UFLPA and how they can best track their supply chain to ensure there is no forced labor involved.

If you would like more information on this law or the impact or compliance of it, international trade consultant Sandler, Travis & Rosenberg (ST&R) is conducting a webinar on June 28th which you can register for [here](#).

COUNTERFEIT GOODS SEIZED IN VIRGINIA

In April, Virginia CBP seized a shipment of goods going through the Port of Norfolk. They found a total of 1,120 dresses, shawls, and slips falsely initiating the designer brands of Louis Vuitton, Gucci, and Apple. These garments were determined to have a MSRP of \$2,372,490.

EU FINDS LEAD IN ALMOST ALL HAZARDOUS PRODUCTS

Through the database of Substances of Concern In Products (SCIP), the European Chemicals Agency (ECHA) released a report stating that 95% of the 7.5 million products that contain a hazardous substance on the EU market contain lead. This figure has shocked the EU and energizes them to find ways to reduce the usage of this widely known toxic chemical.

The SCIP was created in January of 2021 by the ECHA to further their awareness of hazardous chemicals in their products. The indformation they gather is posted in a [database](#) where consumers can look up or browse what articles contain what chemicals.

NSAC MEETING ENDS IN TWO RECOMMENDATIONS TO FMC



The 23 U.S. importers and exporters making up the NSAC gathered for their April 27 meeting

The [Federal Maritime Commission's National Shipper Advisory Committee \(NSAC\)](#) held a meeting on April 27, 2022 where the committee discussed recommendations to strengthen how the FMC is dealing with detention and demurrage charges. They unanimously voted for the following two recommendations to be sent to the FMC for review.

1. Dwell Fees
 - The FMC should verify that the dwelling fees imposed by the Marine Terminal Operators are only inaction to incentivize the movement of freight, as opposed to posting fees regardless of container availability.
 - When disputes occur, the FMC should shift the burden of proof to the marine terminal operators and necessitate more considerate resolutions.
2. Intermodal Oversight via Through Bills of Lading
 - The FMC should have all oversight over any transportation requiring a bill of lading, including rail and trucking. This would give shippers more support when they are faces with fees from railroads.
 - The FMC should make accurate transit, location of cargo, and location of containers upon pick up and return mandatory.
 - FMC regulation should be superior to the terms of the Uniform Intermodal Interchange Access Agreement (UIIA) in the event of any conflict.

Also in the meeting, the NSAC was informed by FMC Commissioner Carl Bentzel that his recommendations on minimum mandatory data standards gathered during the Maritime Transportation Data Initiative will be announced in early June at the FMC's Data Summit. Each committee member has been invited to the Summit. The entire April 27 meeting was recorded and can be viewed [here](#).

OCEAN CARRIER ALLIANCES NOW REQUIRED TO PROVIDE FMC WITH ENHANCED INFORMATION

The FMC is now requiring enhanced reports of pricing and capacity information from the three ocean carrier alliances (2M, OCEAN, and THE Alliance) and all their member companies. The new requirements are the following:

- Carriers must report cargo pricing information when moving on major trade lanes.
- Carriers and alliances must give comprehensive information related to their capacity management.

For the past year, the Commission's [Bureau of Trade Analysis \(BTA\)](#) has been monitoring what data would be most helpful to the FMC in their efforts to better analyze the behavior of carriers and marketplace trends. Though the FMC already requires a lot of information from alliances, they are constantly adapting these requirements in conjunction with altering circumstances and business practices. This year of examination revealed that mandating the above data will be hugely beneficial and accomplish the following:

- Drastically increase the FMC's insight into the behavior of carriers and the market's competitiveness
- Allow the BTA to analyze how individual trade lanes are priced in relation to container and service type
- Show how ocean carrier and alliances make capacity management decisions

PURPOSED CALIFORNIA BILL MAY CHANGE HOW SOCIAL MEDIA IS REGULATED

A new bill was proposed in California that would create an "Age Appropriate Design Code" which forces social media platforms to be more conscious of their young users. The U.K. enacted a similar Code six months ago.

- Regulations are applied to platforms and games that are often used by children, even if they were not designed for that audience specifically.
- Children are defined as persons under 18 years old as opposed to the current standard on these platforms of under 13.
- The owner of the platform will be made responsible for the impact their product has on children. This includes inappropriate suggestions from algorithms, location sharing, and other actions that value a child's viewership above their well-being.

Unlike prior bills on internet monitoring, legislators designed this bill with specific consideration to the fast pace of the social media realm. Trends are coming and going at increasingly fast speeds and though many industries have adapted to this, the government

is finding their way. This bill attempts to set an example on how to create lasting legislation in an environment that is continuously changing. As opposed to setting a firm legal principle specific to a platform or action that may be irrelevant in a year's time, this Code attempts to set rules to monitor and regulate platforms as the environment shifts. The law must maintain a precedent and purpose that will stand regardless of external progression, advancements, or trend growth. Rules that regulate TikTok, and the platforms that come after.

California is taking a huge step in creating a safer online presence for children in proposing this bill. Additionally, this bill introduced a new way for legislation to be written and interpreted that may be necessary to properly regulate the rapid change of certain industries.

AB5 DEBATE CONTINUES AWAITING THE SUPREME COURT DECISION



Two different rallies located in Sacramento, right, and Washington D.C., left, where Californians voice opinions on AB5

The debate on California's Assembly 5 bill (AB5) continues after U.S. Solicitor General Elizabeth Prelogar sends the U.S. Supreme Court an amicus brief insisting the court declines reopening the AB5 petition. If this petition is not the reopened, the ruling of U.S. Court of Appeals, in which AB5 was ruled legal, would stand.

The [California Truck Association](#) (CTA) has been fighting against AB5 since the bill's enactment in 2019. They believe the AB5 conflicts with the Federal Aviation Administration Authorization Act of 1994 (FAAAA), which prohibits state laws from interfering with the price, route, or service of motor carriers transporting property. The CTA's claim was successful in the first court, but the appellate court found FAAAA to not preempt AB5, therefore affirming the validity of the bill. The court reasoned that there was not enough evidence that proves AB5 has significant impact on commercial trucking.

AB5, if enacted, would create a new ABC test for truckers that loosens the definition of what an "employee" is. This would force many independent Californian truck drivers to be reclassified as employees and subject them to payroll taxes, labor regulations, and other stipulations that come. Some in the trucking industry feel this law

would disrupt the movement of cargo and may even deter truckers from working in California. However, others believe the bill's union capabilities will provide support to drivers and give certain benefits that would not be permitted if they remain independent.

The U.S. Supreme Court has yet to decide on whether or not to hear this case, but the opinion of the U.S. Solicitor General has certainly caused worry for the CTA and those against AB5.

LAWSUIT AGAINST JEWELRY COMPANY FOR FALSELY ADVERTISING LEAD FREE PRODUCTS

A New York state class action lawsuit has developed claiming the jewelry company [Paparazzi](#) is falsely advertising their goods as lead free. Paparazzi is based in Utah and notorious for their under \$5 jewelry. The suit claims these products contain lead and many other harmful substances that are prohibited, despite advertising as "lead-free and nickel free". Paparazzi maintains they had no awareness that their products contained these materials, and they would not have advertised as such had they known.

Advertising as lead free can be tricky for companies outsourcing their production. Even if the supplier lies to the retailer claiming the products exclude illegal substances when they do not, the retailer will likely still be responsible for the false advertising.

LEGISLATIVE STATUS

Click [here](#) to view a list of bills affecting our industry and any action that has occurred.



Our Mission - We continue our leadership role in legislative issues and advancing internationally recognized, sensible standards for the jewelry and accessories industries on behalf of our members.

Thanks for reading. Have any questions? Email us at executive_director@fjata.org.

The Executive Committee

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