

# Trade & Manufacturing Alert

## Trade-Related Energy Issues at Forefront of Political Debate in 2015

*Clint Long*

When the 114th U.S. Congress convenes this month, two key trade-related energy issues will be near the top of its agenda. First, the U.S. Senate is expected to vote on a bill that would authorize construction of the Keystone XL Pipeline. Second, the U.S. House of Representatives will consider a bill introduced by Representative Joe Barton (R-TX) that would repeal the U.S. ban on exports of crude oil.

As currently proposed, the Keystone XL Pipeline would connect crude oil reserves in Canada to existing pipelines in the United States by way of a 1,179-mile pipeline from Alberta to Nebraska. While proponents argue that the pipeline would create American jobs and reduce dependence on oil from outside North America, opponents are concerned with the environmental impact of both pipeline construction in the United States and oil extraction in Canada. The [State Department's January 2014 determination](#) that the project would have little effect on carbon emission and oil extraction rates has not resolved the environmental debate.

In November 2014, the Senate fell one vote short of passing a bill that would have authorized construction of the pipeline. Senate Republicans promised to vote on a similar bill as the first matter of business in the 114th Congress this month. The Obama Administration has said that it will not decide its stance on the pipeline until the Nebraska Supreme Court issues a decision on a pending lawsuit regarding the approval of the pipeline's route in Nebraska. Thus, decision-makers at the state and federal level will take important steps in early 2015 that may determine the fate of the Keystone XL Pipeline.

### January 2015

#### In This Issue

01. Trade-Related Energy Issues at Forefront of Political Debate in 2015
02. Customs and Border Protection Issues Update of Enforcement Activities Related to Trade Orders
02. News of Note
  - Congress Passes Revitalize American Manufacturing and Innovation Act
  - U.S. Department of Commerce Initiates Investigations on Melamine from China and Trinidad and Tobago
  - New Competition Announced for Manufacturing Innovation Hubs
04. Contacts

As previously discussed in King & Spalding's [Trade and Manufacturing Alert](#) and [Energy Newsletter](#), the debate on ending the forty-year-old crude oil export ban has intensified along with the growth of U.S. oil production. In December 2014, Representative Barton introduced a bill that would repeal the export ban and prohibit U.S. Government officials from imposing or enforcing any restrictions on the export of crude oil. Senator Lisa Murkowski (R-AK), a leading opponent of the ban and the new Chair of the Senate Committee on Energy & Natural Resources, is pressuring the Obama Administration to loosen or lift the ban and also may introduce legislation to accomplish these objectives. Thus, the new Congress may consider significant changes in this longstanding U.S. policy on crude oil exports.

While it is unclear how, or if, these trade-related energy issues will be resolved in 2015, they

certainly will be at the forefront of the political debate this year.

## Customs and Border Protection Issues Update of Enforcement Activities Related to Trade Orders

*P. Lee Smith*

U.S. Customs and Border Protection (CBP) issued its first “[AD/CVD Update](#)” in December 2014. The AD/CVD Update provides information regarding CBP’s activities to collect antidumping (AD) and countervailing duties (CVD) from U.S. importers that attempt to evade their payment.

CBP’s AD/CVD Update is a result of a renewed focus on collecting duties that result from AD and CVD orders issued by the Commerce Department. CBP designated AD/CVD issues as one of its “Priority Trade Issues.” According to CBP, Priority Trade Issues represent high-risk areas that can cause significant revenue loss, harm the U.S. economy, or threaten the health and safety of the American people. The goal of the AD/CVD Priority Trade Issue is to detect and deter circumvention of the AD/CVD law, to liquidate final duties timely and accurately, and to facilitate legitimate trade.

The AD/CVD Update is part of CBP’s outreach efforts and a way to publicize CBP’s progress on this Priority Trade Issue. According to the AD/CVD Update, CBP collected \$508.5 million in AD/CVD cash deposits in fiscal year 2014, which was a 12 percent increase from fiscal year 2013. This increase in duty collection resulted from 78 audits of importers of AD/CVD commodities and CBP’s targeting efforts. In particular, CBP collected \$3.4 million in evaded AD/CVD duties on drawn stainless steel sinks from China, which was among the commodities targeted by CBP.

CBP also highlighted its industry outreach efforts. CBP noted that the annual CBP and Steel Industry Partnership meeting was held on October 21, 2014. The U.S. steel industry works in partnership with

CBP to enforce U.S. trade laws by providing trade intelligence and training to CBP personnel at various ports annually. Steel products constitute the largest group of AD and CVD orders, over 42 percent of all orders. CBP, however, made clear that any company can provide trade intelligence regarding the evasion of duties. CBP provided a link to its [e-Allegation](#) website, which allows private parties to report trade violations.

Continuing its focus on AD/CVD evasion issues, CBP also issued an “[AD/CVD Scam Alert](#).” This Scam Alert provides an example of the type of scam advertisements that have become common in the market. The Scam Alert advises importers that “knowingly engaging in activities designed to evade the payment of antidumping or countervailing duties is a federal crime. Violations involving duty evasion may result in civil and criminal penalties.”

The AD/CVD Update and Scam Alert demonstrate that CBP is focused on stopping AD/CVD duty evasion and that CBP seeks the assistance of the relevant industry stakeholders in curbing the ongoing evasion of duties on AD/CVD products.

---

## News of Note

### Congress Passes Revitalize American Manufacturing and Innovation Act

*Lauren M. Donoghue*

The Revitalize American Manufacturing and Innovation (RAMI) Act was included in the \$1.1 trillion omnibus FY 2015 spending bill signed into law by President Obama last month. The RAMI Act [passed the House](#) in September, but had been held up in the Senate since its [Committee passage in that body](#) last April. The legislation was introduced in August 2013 by Reps. Tom Reed (R-NY) and Joe Kennedy (D-MA) and the Senate companion bill was introduced by Senators Sherrod Brown (D-OH) and Roy Blunt (R-MO). The bipartisan group of Members worked together to ensure RAMI’s

inclusion in the omnibus spending bill. Among other provisions, the RAMI Act funds the 15 manufacturing hubs that make up the Centers for Manufacturing Innovation. The network of public-private innovation hubs will each be focused on a unique technology, material, or process relevant to advanced manufacturing.

## **U.S. Department of Commerce Initiates Investigations on Melamine from China and Trinidad and Tobago**

*Erienne Kilgore & Joshua Snead*

On December 3, the U.S. Department of Commerce announced the initiation of antidumping and countervailing duty investigations on melamine from the People's Republic of China and the Republic of Trinidad and Tobago. The petitions were filed on November 12 by King & Spalding on behalf of Cornerstone Chemical Company, the only U.S. producer of melamine. Melamine is a crystalline powder or granule typically used to manufacture melamine formaldehyde resins, which can be used in surface coatings, laminates, and textile-treatment applications in the automotive, appliance, fabric, and wood paneling industries, as well as many others. The scope of the investigations includes all melamine from the subject countries, including melamine that has been commingled with melamine produced in other countries.

In 2013, the value of U.S. imports of melamine from China and Trinidad and Tobago was \$30.9 million. These investigations progressed when the U.S. International Trade Commission unanimously determined on December 29 that there is a reasonable indication that the U.S. industry is materially injured by imports of melamine from China and Trinidad and Tobago that are allegedly subsidized and sold in the United States at less than fair value. The Department of Commerce is currently scheduled to publish preliminary antidumping and countervailing duty determinations by April 21, 2015.

## **New Competition Announced for Manufacturing Innovation Hubs**

*Szymon Maziakowski and Elizabeth Owerbach*

President Obama's 2014 State of the Union pledge to create 15 manufacturing innovation institutes is under way as competitions for two R&D hubs were announced on December 11.

Each hub consists of a public-private partnership of institutions such as companies and universities that are chosen from a field of applicants, as well as a government agency sponsor.

The two new hubs will lead innovation in the areas of flexible electronic components and energy efficient manufacturing techniques, and are sponsored by the Departments of Defense and Energy, respectively. The hubs will receive over \$290 million in investments.

These new centers are part of a broader effort to create links between research and manufacturing communities, and thereby build an environment conducive to domestic manufacturing (see previous policy coverage from [August 2014](#)) and accompany President Obama's ongoing efforts to strengthen and celebrate American manufacturing (see coverage of the [National Manufacturing Day](#)).

For application information, visit [Manufacturing.gov](http://Manufacturing.gov).

# Trade & Manufacturing Alert

---

## Contacts

Gilbert B. Kaplan	Jeffrey M. Telep	Stephen A. Jones	P. Lee Smith	Joshua M. Snead
gkaplan@kslaw.com	jtelep@kslaw.com	sajones@kslaw.com	lsmith@kslaw.com	jsnead@kslaw.com
+1 202 661 7981	+1 202 626 2390	+1 202 626 2950	+1 202 626 2940	+1 202 626 2919

## About King & Spalding

Celebrating more than 125 years of service, King & Spalding is an international law firm that represents a broad array of clients, including half of the Fortune Global 100, with 800 lawyers in 17 offices in the United States, Europe, the Middle East and Asia. The firm has handled matters in over 160 countries on six continents and is consistently recognized for the results it obtains, uncompromising commitment to quality, and dedication to understanding the business and culture of its clients. More information is available at [www.kslaw.com](http://www.kslaw.com).

The content of this publication and any attachments are not intended to be and should not be relied upon as legal advice. If you are not currently on our International Trade Practice Group mailing list under your own name, and you would like to join to receive our monthly *Trade & Manufacturing Alert* publication and to receive notices of future programs and occasional commentaries on new legal developments in the industry, you can make that request by submitting your full contact information to [manufacture@kslaw.com](mailto:manufacture@kslaw.com).

© 2015 King & Spalding