

# Washington, D.C. Update: Federal Government Policy Developments

Prepared by  
The Franklin Partnership, LLC  
Policy Resolution Group at Bracewell  
September 30, 2022



# Your Team in Washington, D.C.



## Lobbying Firm – The Franklin Partnership, LLC

- Bi-partisan Washington, D.C.-based government relations firm
- Representing manufacturing industry since 2002
- Clients include: manufacturing associations, defense contractors, hospitals, cities



## Strategic Communications Firm – Policy Resolution Group at Bracewell

- Wash, D.C.-based public affairs & strategic communications consultants
- Promote NTMA and PMA in print, digital and other media
- Support Franklin Partnership government relations efforts by designing and implementing coordinated strategic communications strategy
- Representing metalworking industry since 2003

*Nothing contained in here shall be deemed legal or financial advice.*

# Contents

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- Federal COVID, Regulatory Updates
- CHIPS Law Implementation
- Congressional Update
- Supply Lines

*All information presented as of September 29, 2022*

# Recent COVID and other Regulatory Actions

# CDC Booster Recommendations Issued

## When Are You Up to Date?

You are **up to date** with your COVID-19 vaccines if you have completed a COVID-19 vaccine primary series and received the most recent booster dose recommended for you by CDC.

Vaccine recommendations are based on your age, the vaccine you first received, and time since last dose. People who are moderately or severely immunocompromised have different recommendations for COVID-19 vaccines.

People ages **12 years and older** are recommended to receive one **updated Pfizer or Moderna (bivalent) booster**.

- This includes people who have received all primary series doses and people who have previously received one or more original (monovalent) boosters.
- At this time, people aged **12 years to 17 years** can only receive the **updated Pfizer bivalent booster**.

*As of Sept. 8, 2022*

<https://www.cdc.gov/coronavirus/2019-ncov/vaccines/stay-up-to-date.html>

# CDC When to Get a Booster Tool

Use this tool to determine when or if you (or your child) can get one or more COVID-19 boosters.

Find Out When to Get a Booster >

## Your responses

- Age: 50 years or older
- Primary series: Pfizer-BioNTech or Moderna
- Updated (bivalent) booster received: no
- Length of time since last COVID-19 vaccine: At least 2 months ago

Based on your responses, you should also get an **updated (bivalent) booster**.

You are considered [up to date](#) with your COVID-19 vaccines immediately after getting your updated (bivalent) booster.

<https://www.cdc.gov/coronavirus/2019-ncov/vaccines/stay-up-to-date.html>

*As of Sept. 8, 2022*

# IRS: Improper PPP Loans are Taxable

## IRS advises that improperly forgiven Paycheck Protection Program loans are taxable

IR-2022-162, September 21, 2022

WASHINGTON — The Internal Revenue Service recently issued [guidance addressing improper forgiveness of a Paycheck Protection Program loan \(PPP loan\)](#). [PDF](#).

The guidance confirms that, when a taxpayer's loan is forgiven based upon misrepresentations or omissions, the taxpayer is not eligible to exclude the forgiveness from income and must include in income the portion of the loan proceeds that were forgiven based upon misrepresentations or omissions. Taxpayers who inappropriately received forgiveness of their PPP loans are encouraged to take steps to come into compliance by, for example, filing amended returns that include forgiven loan proceed amounts in income.

*As of Sept. 21, 2022*

<https://www.irs.gov/newsroom/irs-advises-that-improperly-forgiven-paycheck-protection-program-loans-are-taxable>

# Include All Hazards for Severe Violators



U.S. DEPARTMENT OF LABOR

## OSHA INSTRUCTION

Occupational Safety and Health Administration

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**DIRECTIVE NUMBER:** CPL 02-00-169      **EFFECTIVE DATE:** September 15, 2022

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**SUBJECT:** Severe Violator Enforcement Program (SVEP)

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The new criteria include violations of all hazards and OSHA standards and will continue to focus on repeat offenders in all industries. Previously, an employer could be in the program for failing to meet a limited number of standards. The changes will broaden the program's scope with the possibility that additional industries will fall within its parameters.

Since 2010, the Severe Violator Enforcement Program has focused on enforcement and inspection resources on employers who either willfully or repeatedly violate federal health and safety laws or demonstrate a refusal to correct previous violations. In addition to being included on a public list of the nation's severe violators, employers are subject to follow-up inspections.

<https://www.osha.gov/enforcement/directives/cpl-02-00-169>

*As of Sept. 15, 2022*



# OSHA Process Safety Management Review

## **OSHA schedules stakeholder meeting to provide overview of its Process Safety Management rulemaking project**

The U.S. Department of Labor's Occupational Safety and Health Administration will hold a virtual informal stakeholder meeting to seek public comments on potential changes to the Process Safety Management standard. The meeting will be held on Oct. 12, 2022, a change from the original scheduled date of Sept. 28, 2022.

OSHA is considering several potential changes to the scope and provisions of the current PSM standard. The agency will provide a brief overview of its work on the PSM rulemaking project before hearing public comments. Read the [Federal Register notice](#) for the full list of potential changes to the PSM standard. OSHA published its PSM standard in 1992 in response to several catastrophic chemical-release incidents that occurred worldwide. The standard requires employers to implement safety programs that identify, evaluate and control highly hazardous chemicals. The standard is performance-based and outlines 14 management system elements for controlling highly hazardous chemicals. Employers have the flexibility to tailor their PSM programs to the unique conditions at their facilities.

# Temp Worker, Staff Agency Rule Released

## **NLRB Issues Notice of Proposed Rulemaking on Joint-Employer Standard**

The NPRM proposes to rescind and replace the joint-employer rule that took effect on April 27, 2020. The proposed changes are intended to explicitly ground the joint-employer standard in established common-law agency principles, consistent with Board precedent and guidance that the Board has received from the U.S. Court of Appeals for the DC Circuit.

Under the proposed rule, two or more employers would be considered joint employers if they “share or codetermine those matters governing employees’ essential terms and conditions of employment,” such as wages, benefits and other compensation, work and scheduling, hiring and discharge, discipline, workplace health and safety, supervision, assignment, and work rules. The Board proposes to consider both direct evidence of control and evidence of reserved and/or indirect control over these essential terms and conditions of employment when analyzing joint-employer status.

<https://www.nlr.gov/news-outreach/news-story/nlr-issues-notice-of-proposed-rulemaking-on-joint-employer-standard>

*As of Sept. 6, 2022*

# OSHA/CDC Temp Workers Guide



## Protecting Temporary Workers: Best Practices for Host Employers

- Evaluation and contracting;
- Training for temporary workers and their worksite supervisors; and
- Injury and illness reporting, response, and recordkeeping.

<https://www.cdc.gov/niosh/docs/2022-126/>

<https://www.cdc.gov/niosh/docs/2022-126/pdfs/2022-126.pdf?id=10.26616/NIOSHPUB2022126&id=10.26616/NIOSHPUB2022126>

*Released July 2022*

# NLRB: Cannot Ban Union Apparel

## **Board Rules Workplace Policies Limiting Wearing Union Insignia, including Union Apparel, are Unlawful Absent Special Circumstances**

The National Labor Relations Board [issued a decision in \*Tesla, Inc.\*](#), in which the Board overruled *Wal-Mart Stores, Inc.*, 368 NLRB No. 146 (2019), and reaffirmed longstanding precedent holding that employer attempts to impose any restriction on the display of union insignia, including by wearing union apparel, are presumptively unlawful, absent special circumstances that justify such a restriction. *Wal-Mart Stores* had previously held that the “special-circumstances” test applies only when an employer completely prohibits union insignia, and that lesser size-and-appearance restrictions on union insignia could be deemed lawful based on less compelling employer interests.

After consideration of public comment through a Notice and Invitation for Briefing, see [Tesla, Inc., 370 NLRB No. 88 \(2021\)](#), a Board majority consisting of Chairman McFerran and Members Wilcox and Prouty found that it was unlawful for Tesla to maintain a policy requiring employees to wear a plain black t-shirt or one imprinted with the employer’s logo, thus prohibiting employees from substituting a shirt bearing union insignia.

<https://www.nlr.gov/news-outreach/news-story/board-rules-workplace-policies-limiting-wearing-union-insignia-including>

*As of Aug. 29, 2022*

# Gov't Prioritizes Purchase of Low Carbon

Federal Government will prioritize the purchase of key low carbon construction materials, covering 98% of materials purchased by the Federal Government

## Buy Clean News and Announcements

Date	News Item
September 15, 2022	GSA Administrator Highlights Progress on Low-Carbon Construction Materials Procurement. <a href="#">Read the press release.</a>
September 15, 2022	The Biden Administration announced that it is prioritizing the Federal Government's purchase of steel, concrete, asphalt and flat glass products produced with lower levels of embodied GHG emissions. The Buy Clean Task Force will provide instructions to agencies for integrating Buy Clean into Federal procurement and funding processes. The Administration anticipates prioritizing additional construction materials and pollutants for Buy Clean Federal procurement. <a href="#">Read this announcement.</a>
September 15, 2022	The Department of Transportation <a href="#">released its first agency-wide Buy Clean policy</a> and launched a Embodied Carbon Work Group to drive better data and reporting, better procurement and purchasing policies, and better education and research to ensure the use of sustainable materials across its programs. <a href="#">Read this announcement.</a>
September 15, 2022	The Department of State announced that it launched a Decarbonization Initiative focused on reducing embodied emissions in overseas construction at embassies and other facilities. <a href="#">Read this announcement.</a>
September 7, 2022	DOE released its "Industrial Decarbonization Roadmap"—a comprehensive report identifying four key pathways to reduce industrial emissions in American manufacturing. This will support the supply of U.S.-made, lower-carbon materials for procurement through Buy Clean. <a href="#">Read this announcement.</a>

*As of Sept. 15, 2022*

<https://www.whitehouse.gov/briefing-room/statements-releases/2022/09/15/fact-sheet-biden-harris-administration-announces-new-buy-clean-actions-to-ensure-american-manufacturing-leads-in-the-21st-century/>



# Industrial Decarbonization Roadmap

## U.S. PRIMARY ENERGY-RELATED CO<sub>2</sub> EMISSIONS BY ECONOMIC SECTOR



# Steel Decarbonization Roadmap

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- Transition to low-and no-carbon fuels and expand industrial electrification
- Pilot demonstrations for transformative technologies such as hydrogen-steel production, electrolysis of iron ore, and carbon capture and utilization storage (CCUS)
- Improve materials efficiency and increase materials circularity

# Industry Recognized Apprenticeships

The U.S. Department of Labor (DOL or the Department) is issuing this final rule to rescind its 2020 regulation that established a process under which the Department's Office of Apprenticeship (OA) Administrator (Administrator) was authorized to grant recognition to qualified third-party entities, known as Standards Recognition Entities (SREs), which in turn were authorized to evaluate and extend recognition to Industry-Recognized Apprenticeship Programs (IRAPs). This final rule also makes necessary conforming changes to the regulations governing the registration of apprenticeship programs by the Department.

This final rule is effective November 25, 2022.

<https://www.federalregister.gov/documents/2022/09/26/2022-20560/apprenticeship-programs-labor-standards-for-registration>

*As of Sept. 26, 2022*



# Congressional Activity

# House Attaches ENABLERS Act to NDAA

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- Requires professional service providers who serve as key gatekeepers to the U.S. financial system adopt anti-money laundering procedures that can help detect and prevent the laundering of corrupt and other criminal funds into the United States.
- Any person who provides corporate or legal entity formation services, trust services, third-party payment services, or legal or accounting services involving certain financial activities would qualify.

# Government Funding Extended to Dec. 16

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- Bipartisan federal funding bill avoids shutdown
- Election outcome could dictate final results
- House and Senate must still negotiate all spending bills
- Bill includes funding for FEMA, LIHEAP, Ukraine
- Did not include oil, gas lease language

# CHIPS Law

## Implementation Underway

# CHIPS for America Implementation



## Next Steps

- Funding Application Process
  - Will be announced in February 2023 (6 months from enactment)
  - Proposals considered on a rolling basis
- Learn more
  - Visit [CHIPS.gov](https://www.chips.gov)
  - Read the Implementation Strategy
  - Join our mailing list

# CHIPS for America Implementation

## Eligibility for Manufacturing Incentives



For organizations that are...	that can substantially...	a U.S. facility for...	of...
<input type="checkbox"/> private	<input type="checkbox"/> finance	<input type="checkbox"/> fabrication	<input type="checkbox"/> semiconductors
<input type="checkbox"/> non-profit	<input type="checkbox"/> construct	<input type="checkbox"/> assembly	<input type="checkbox"/> materials
<input type="checkbox"/> consortia	<input type="checkbox"/> expand	<input type="checkbox"/> testing	<input type="checkbox"/> manufacturing equipment
	<input type="checkbox"/> modernize	<input type="checkbox"/> packaging	
		<input type="checkbox"/> production	
		<input type="checkbox"/> R&D	

# CHIPS for America Implementation

## Accountability



Projects must be economically viable and compatible with strategy

Beneficiaries must meet performance, reporting, audit, and oversight requirements

Beneficiaries may not send funded technology abroad or engage with countries of concern

Workers on funded construction projects to earn prevailing wages

Priority to programs that engage a diversity of participants

Public funds cannot be used for stock buybacks or dividend payments

Funds to be returned if taxpayer funds are misused

# CHIPS For America Fund

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- Likely a two-stage application process; First submit preliminary proposal ideas to be able to solicit feedback from Commerce before submitting a proposal
- Training organizations will have opportunities to partner, likely in a consortium
- Still have not defined how far downstream and upstream will go

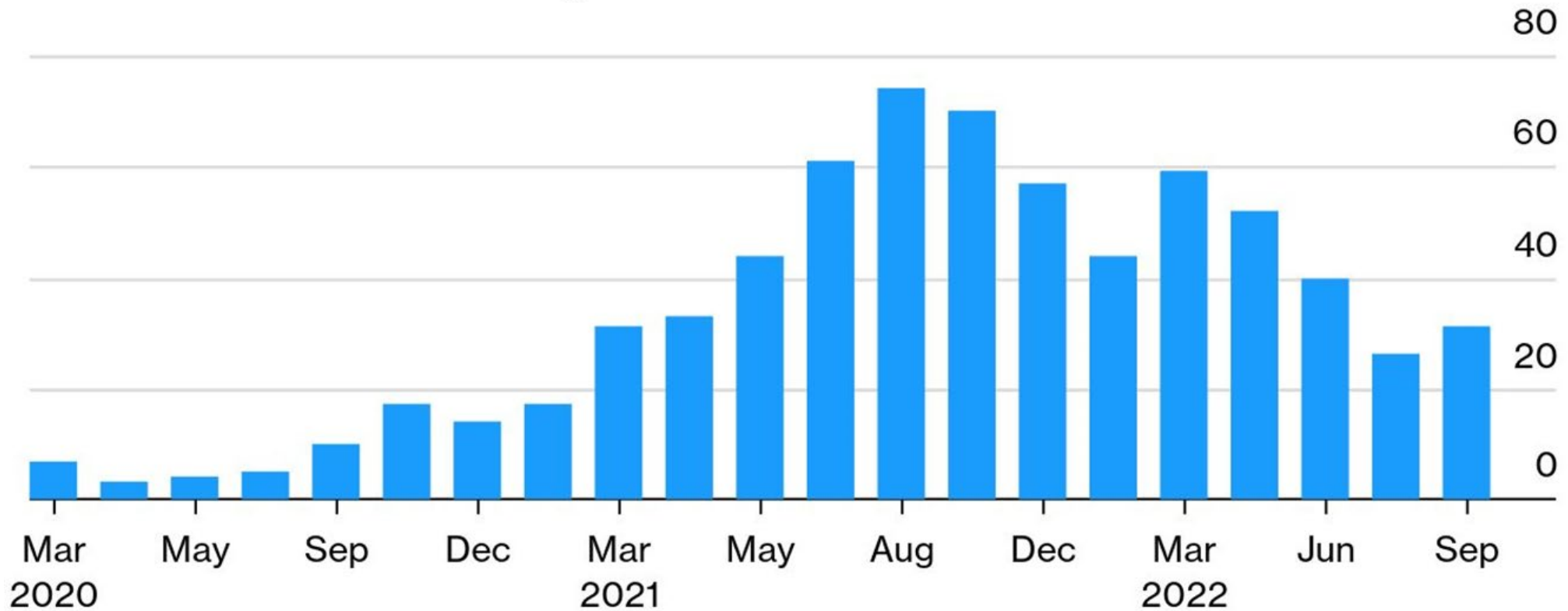


# Supply Lines

# Supply Lines Challenges Bounced Back

Mentions of shortages in the Fed's Beige Book edged higher in latest report

■ Number of references to 'shortage'



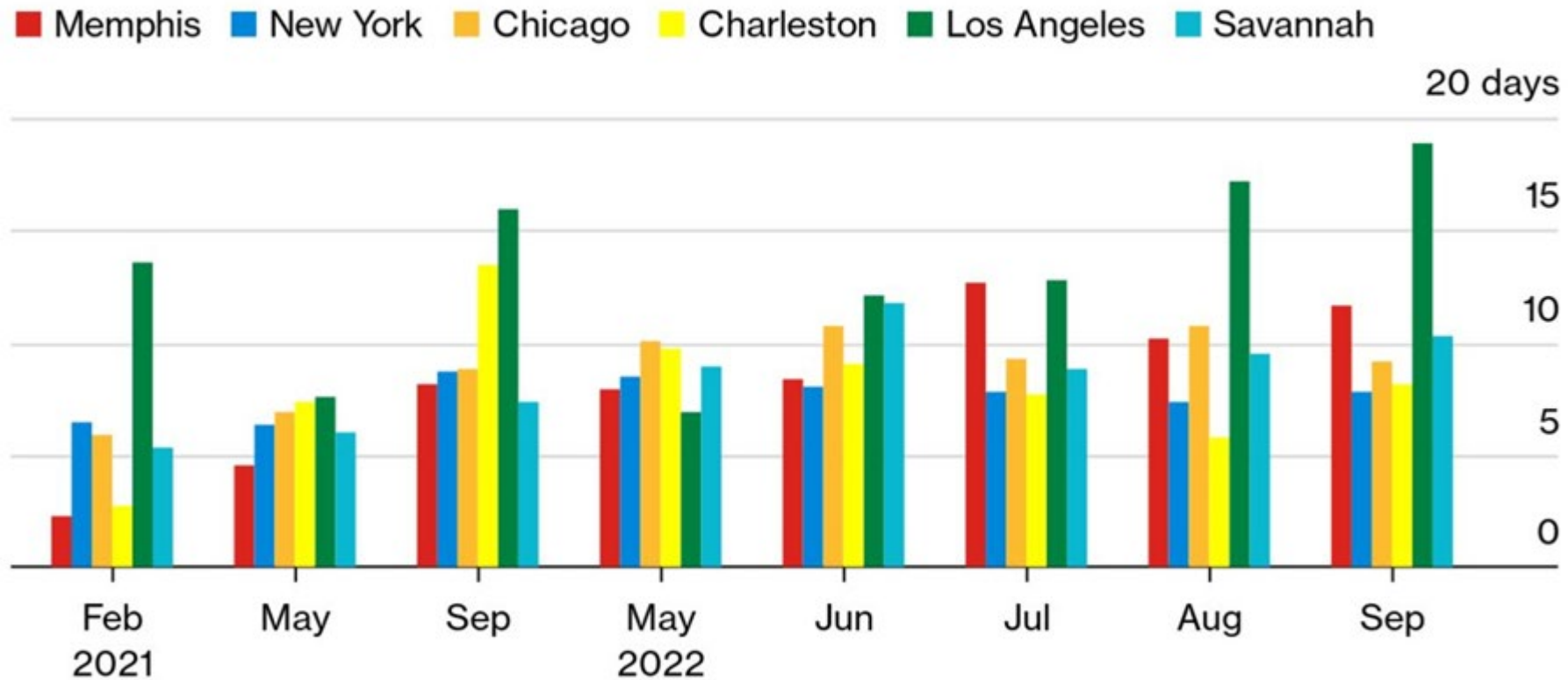
Source: Fed beige book released Sept. 7

**Bloomberg**

# First Ships, Now Rail Causing Delays

## Stalled Containers

Dwell times for Hapag-Lloyd intermodal containers are up across the US



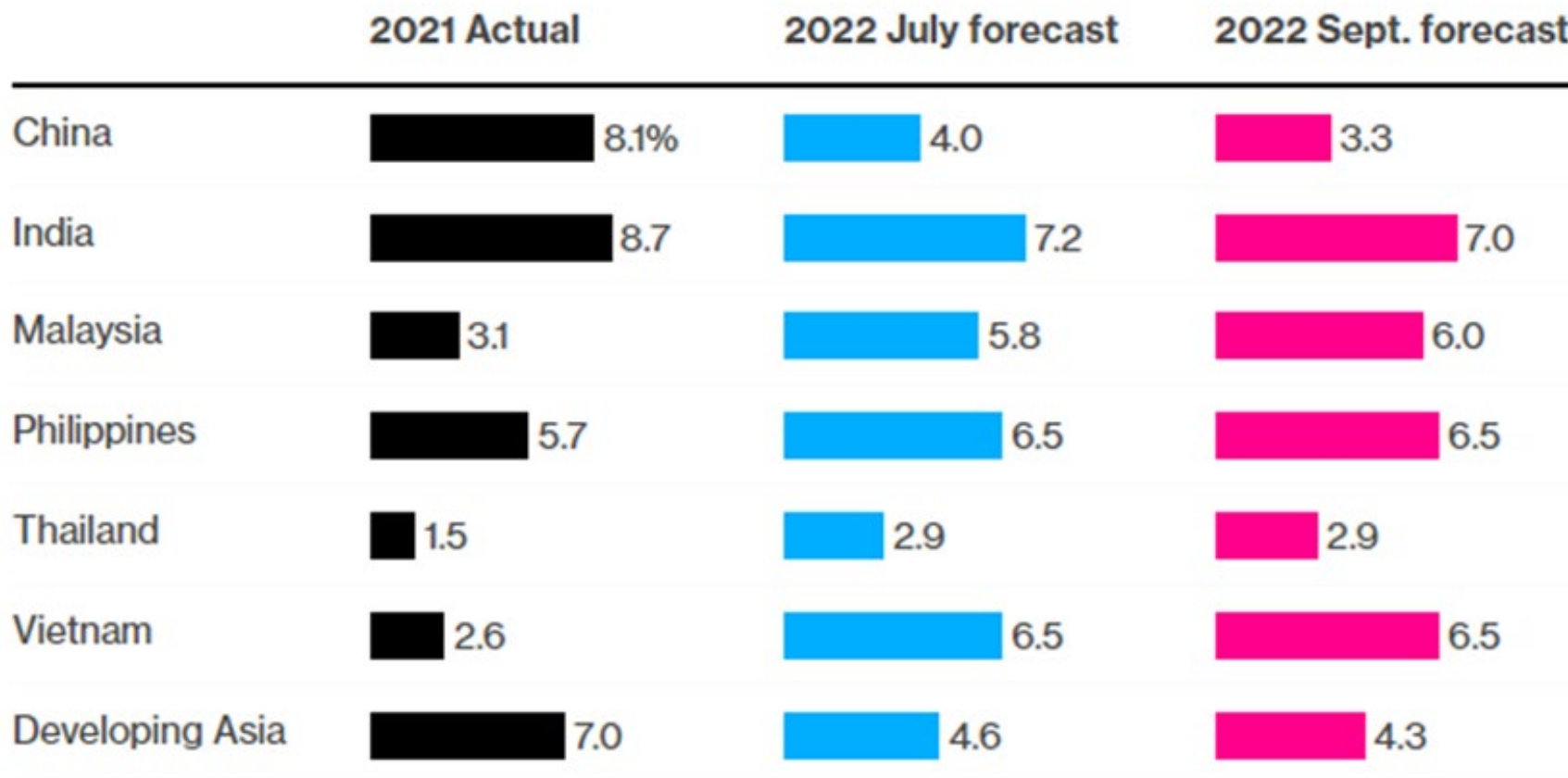
Source: Hapag-Lloyd intermodal operations

**Bloomberg**

# Supply Lines: Is China Slowing Down?

## China Slowdown

China 2022 growth to be lower than other developing Asia in three decades



Source: Asian Development Bank

Note: Developing Asia includes China data

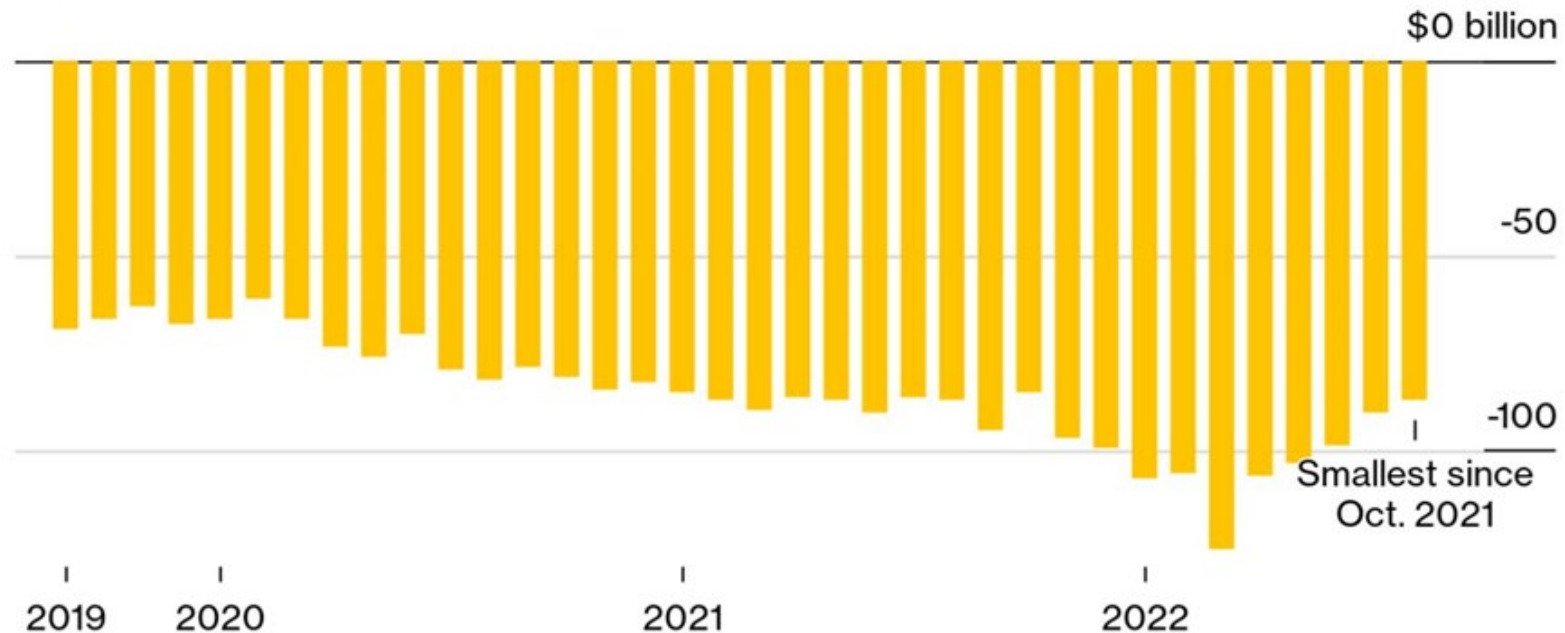
# Imports Slowing = Economy Slowing?

## Charted Territory

### US Goods-Trade Gap Narrows

Merchandise-trade deficit shrank to smallest since October last month

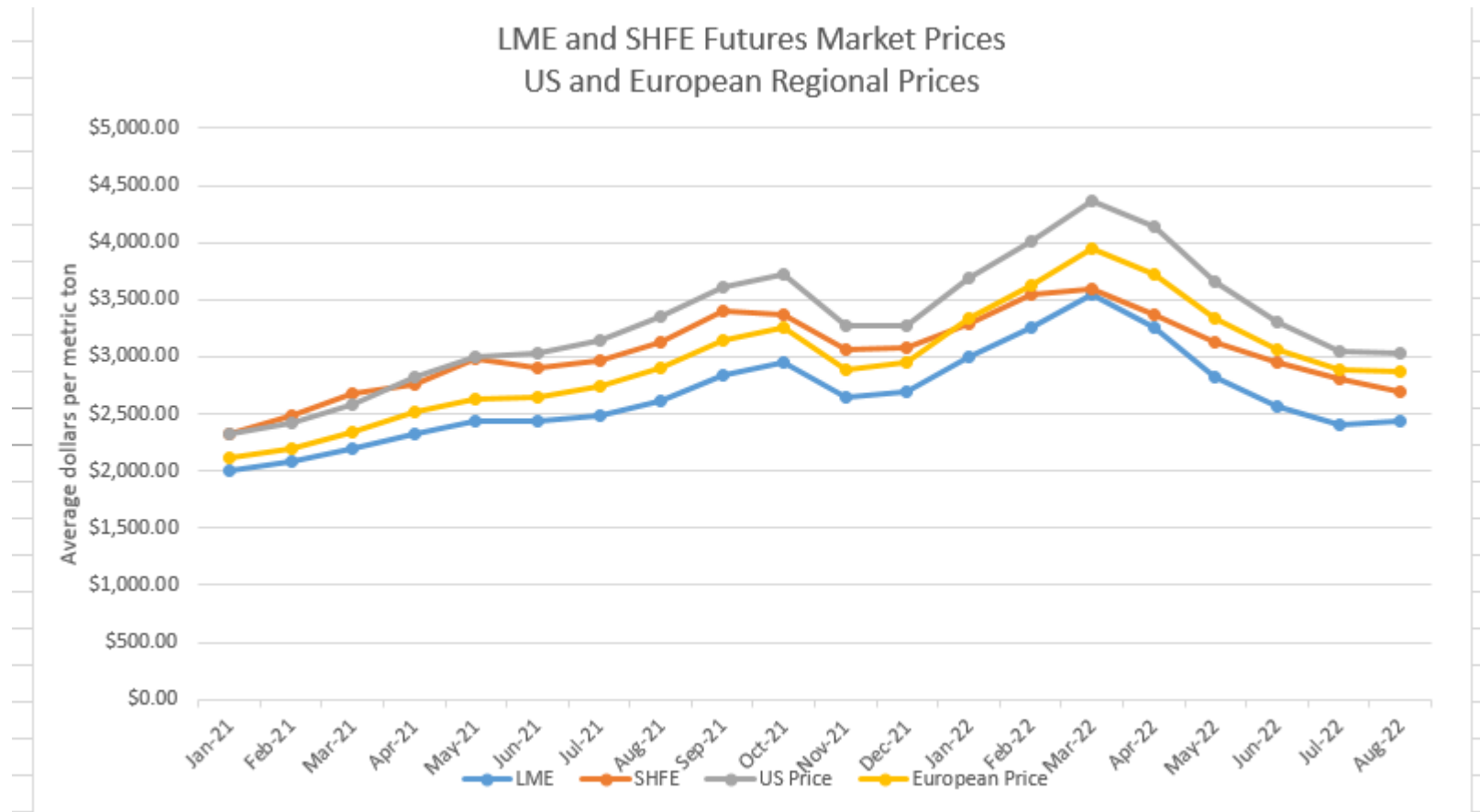
■ US merchandise-trade gap



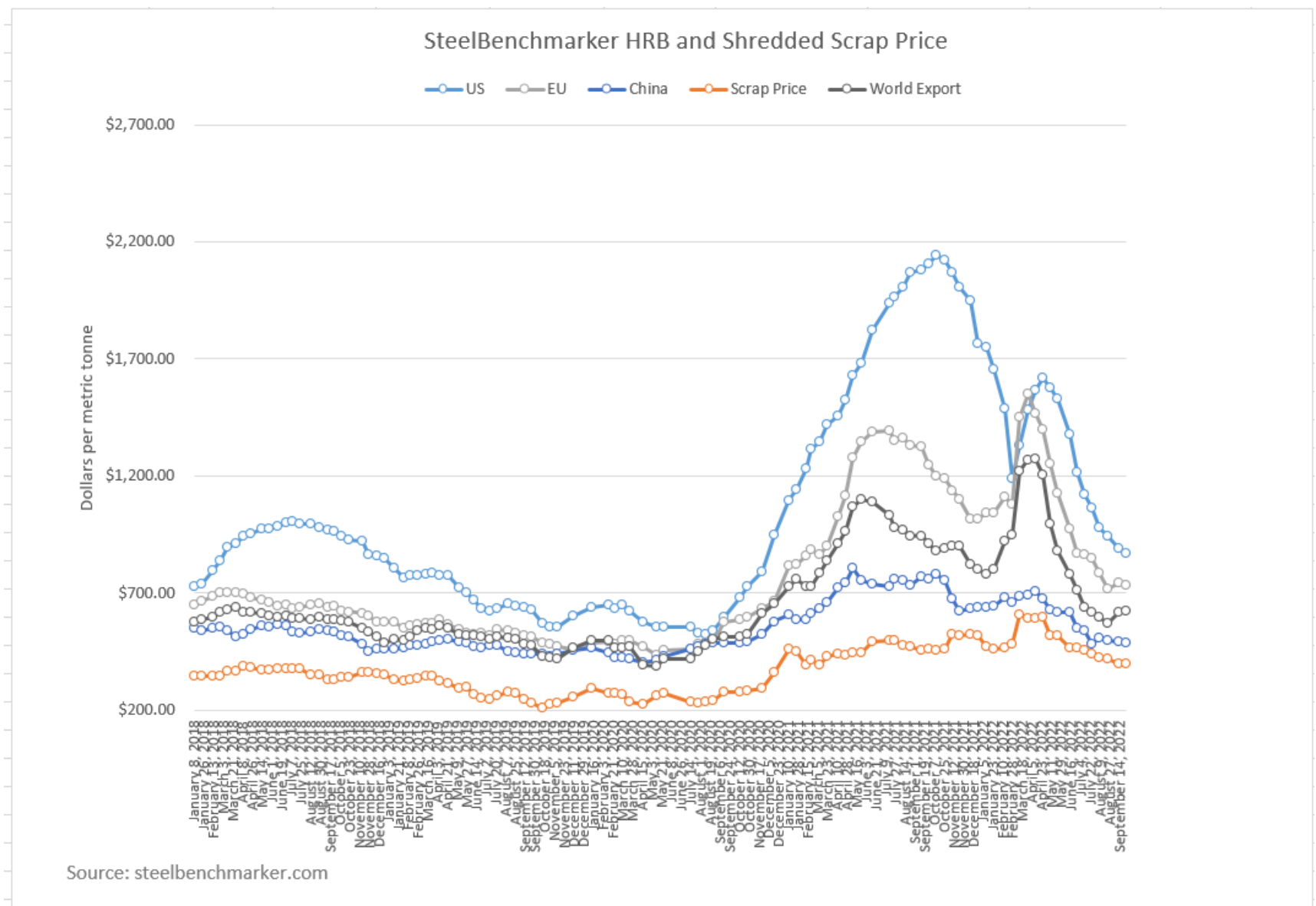
Source: US Census Bureau

Bloomberg

# Aluminum Prices



# Steel Prices



# Nov. 15 ITC Cut to Length Plate Hearing

ITC is holding five-year sunset review of the countervailing duty (CVD) orders on carbon and alloy steel cut-to-length (CTL) plate from China and Korea and the antidumping duty (AD) orders on CTL plate from Austria, Belgium, Brazil, China, France, Germany, Italy, Japan, Korea, South Africa, Taiwan, and Turkey.

Covered products: certain carbon and alloy steel hot-rolled or forged flat plate products not in coils, whether or not painted, varnished, or coated with plastics or other non-metallic substances (cut-to-length plate).

Current duty rates under the AD orders range from 6.95% for Taiwan to 148.02% for France and range for the CVD orders from 4.35% for Korea to 251% for China.



# Register Your MFG Day Event

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- Register with One Voice
- Take pictures, promote your event afterwards
- Use MFG Day to recruit the next generation

NTMA:

<https://form.jotform.com/BPadnos/ntma-mfgday22>

PMA:

<https://pma.wufoo.com/forms/manufacturing-day-event-information-2022/>

# Register Your MFG Day Event



NTMA

September 17, 2021 · 🌐

MFG Day is coming Friday, October 1st! Is your shop ready to Rock MFG Day? Learn how NTMA Partner [Edge Factor](#) is helping our shops reach out to their community and engage the future workforce:

<https://ntma.org/rock-your-manufacturing-day-event/>

#mfg #manufacturing #mfgday21



NTMA.ORG

Free, High Impact Media to Rock your Manufacturing Day Event - National Tooling & Machining Association



PMATalk

@PMATalk

...

Good news for manufacturing employment! Check out this manufacturing fact. [#MFGDay21](#)



11:14 AM · Oct 1, 2021 · Twitter Web App

1 Retweet 1 Like

# Stay Connected – One Voice Podcast



# Donate to NTMA, PMA's to Advocacy in DC

**NTMA's Government Affairs Administrative Fund (GAAF)** allows the association to undertake initiatives aimed at educating elected officials on tooling and machining and the industry's priority issues. It also permits us to support a variety of activities to inform and mobilize our members, as well as to protect and promote the industry with key lawmakers. You can use corporate OR personal funds to donate to the GAAF.

Donate Today!

<https://ntma.org/programs/advocacy/>

## **PMA ADVOCACY FUND**

PMA's Advocacy Fund supports the association's day-to-day lobbying and public relations efforts in Washington, D.C., increasing the industry's visibility in Congress, the Administration and the public. You can use corporate OR personal funds to donate to the advocacy fund.

Donate Today!

<https://www.pma.org/advocacy/donate-today.asp>

# Questions?

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<https://www.pma.org/advocacy/donate-today.asp>

<https://ntma.org/programs/advocacy/>

