Intelligence MEMOS

From: Jon Johnson

To: Canadian Trade Watchers

Date: August 4, 2022

Re: *Inflation Reduction Act of 2022* – An Improvement on Build Back Better?

President Biden's proposed Build Back Better legislation (with its discriminatory subsidy provisions for electric vehicles satisfying US content requirements and produced only at unionized plants in the US) is now dead.

However, negotiations between Senator Joe Manchin and Senate Majority leader Chuck Schumer have resulted in the introduction into the US Senate of the *Inflation Reduction Act of 2022*. While less comprehensive than Build Back Better, this legislation covers a wide range of topics and indudes provisions for subsidies respecting vehicles driven by electric batteries which (together with new qualified fuel cell motor vehicles) are referred to in this legislation as "clean vehicles."

To qualify for a subsidy, final assembly of a new "clean vehicle" must occur within North America (which of course includes Canada).

The value of "applicable critical minerals" contained in the battery of the "clean vehicle" must exceed certain "applicable" percentages depending on the year the vehicle is put into service – increasing from 40 percent for a vehicle placed in service before January 1, 2024, to 80 percent for a vehicle placed in service after December 31, 2026. To qualify, "applicable critical minerals" must be (i) extracted or processed in any country with which the United States has a free trade agreement in effect (such as CUSMA), or (ii) recycled in North America (including Canada.) The credit for a vehicle satisfying this requirement is $3,750.

There is a further requirement that the percentage of the value of components contained in the battery manufactured or assembled in North America (including Canada) be equal to or greater than "applicable" percentages (as certified by the qualified manufacturer). This requirement increases from 50 percent for a vehicle placed in service before January 1, 2024, to 100 percent for a vehicle placed in service after December 31, 2028. As with the critical minerals requirement, the credit for a vehicle that satisfies this requirement is $3,750.

There are caveats. A vehicle will not be considered a "clean vehicle" if any of the "applicable critical minerals" were extracted, processed, or recycled by a "foreign entity of concern." A similar caveat applies if any of the components in the battery are produced by a "foreign entity of concern."

There are also income limits, above which a taxpayer will not be eligible for the subsidy. The limit in the case of a joint return or surviving spouse is $300,000, for a head of household the limit is $ 225,000, and for any other taxpayer the limit is $150,000.

Additionally, credits will not be allowed if the manufacturer's suggested retail price for the vehicle exceeds $80,000 for vans, SUVs and pick-up trucks or $55,000 for other vehicles.

These provisions are complex and doubtless have complications. However, unlike the Build Back Better provisions which were clearly harmful to Canadian vehicle producers, the subsidy provisions in the *Inflation Reduction Act of 2022* do not appear to harm Canadian vehicle producers and could be useful.

There is, of course, no assurance this legislation will become law. Democrat Senator Kyrsten Sinema has not yet indicated that she will support this legislation, and there is no assurance that any Republican senator will vote for it.

However, if this legislation does become law, Canadian vehicle producers will be much better off than if Build Back Better had gone into effect and may benefit from these provisions.

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