

Administration of Joseph R. Biden, Jr., 2024

Memorandum on Actions by the United States Related to the Statutory 4-Year Review of the Section 301 Investigation of China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation

May 14, 2024

Memorandum for the United States Trade Representative

Subject: Actions by the United States Related to the Statutory 4-Year Review of the Section 301 Investigation of China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation

On May 5, 2022, the United States Trade Representative (Trade Representative) initiated the statutory 4-year review of the July 6, 2018, and the August 23, 2018, actions, as modified (two actions), taken under section 301 of the Trade Act of 1974, as amended (19 U.S.C. 2411) (Trade Act), in the investigation of China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation (section 301 investigation). The July 6, 2018, and the August 23, 2018, actions were subsequently modified by imposing additional duties on supplemental lists of products, as well as by the temporary removal of duties on certain products through product exclusions. The Trade Representative initiated the May 5, 2022, review of the two actions under section 307(c)(3) of the Trade Act (19 U.S.C. 2417(c)(3)).

During its review, the Office of the United States Trade Representative (USTR) sought and received approximately 1,500 written submissions. Pursuant to section 307(c)(3) of the Trade Act (19 U.S.C. 2417(c)(3)), and based on information obtained during the review, including the written submissions, USTR and the section 301 Committee prepared a comprehensive report on the effectiveness of the two actions in achieving the objectives of the investigation, other actions that could be taken, and the effects of such actions on the United States economy, including consumers.

The Trade Representative has advised me on the findings in the review, and taking into consideration these findings, I find as follows:

First, while imposition of tariffs under section 301 of the Trade Act (section 301 tariffs) has been effective in encouraging China to take positive steps in addressing the issues identified in the section 301 investigation, such as certain revisions in its foreign investment and administrative licensing laws, China's actions do not represent a systematic and sustained response to the issues raised in the section 301 investigation.

Second, China has not eliminated many of the technology transfer-related acts, policies, and practices at issue, nor removed their burden or restriction on United States commerce.

Third, although China has taken limited measures to address negative perceptions of its technology transfer-related acts, policies, and practices, it continues to aggressively attempt to acquire and absorb foreign technology and intellectual property, particularly through cyber intrusions and cybertheft, adding to the burden or restriction on United States commerce.

Fourth, the section 301 tariffs have been effective to an extent in reducing the exposure of United States persons and commerce to China's acts, policies, and practices at issue.

Fifth, additional section 301 tariffs would provide incentives for China to eliminate the acts, policies, and practices at issue.

It is hereby directed as follows:

Section 1. Tariffs. (a) The Trade Representative shall maintain, as appropriate and consistent with this memorandum, the ad valorem rates of duty and lists of products subject to the two actions, taken under the section 301 investigation. To further encourage China to eliminate the acts, policies, and practices at issue, and to counteract the burden or restriction of these acts, policies, and practices, the Trade Representative shall modify the two actions to increase section 301 ad valorem rates of duty for the following products from China:

- Battery parts (non-lithium-ion batteries): Increase rate to 25 percent in 2024;
- Electric vehicles: Increase rate to 100 percent in 2024;
- Lithium-ion electrical vehicle batteries: Increase rate to 25 percent in 2024;
- Lithium-ion non-electrical vehicle batteries: Increase rate to 25 percent in 2026;
- Natural graphite: Increase rate to 25 percent in 2026;
- Other critical minerals: Increase rate to 25 percent in 2024;
- Permanent magnets: Increase rate to 25 percent in 2026;
- Semiconductors: Increase rate to 50 percent in 2025;
- Ship to shore cranes: Increase rate to 25 percent in 2024;
- Solar cells (whether or not assembled into modules): Increase rate to 50 percent in 2024; and
- Steel and aluminum products: Increase rate to 25 percent in 2024.

For personal protective equipment (facemasks, medical gloves, and syringes and needles), the Trade Representative is directed to increase rates of duty to no less than the rates indicated:

- Facemasks: Increase rate to 25 percent in 2024;
- Medical gloves: Increase rate to 25 percent in 2026; and
- Syringes and needles: Increase rate to 50 percent in 2024.

(b) To advance the purposes of subsection (a) of this section, the Trade Representative shall publish a proposed list of products and corresponding tariff increases. After a period of notice and comment in accordance with section 307(a) of the Trade Act (19 U.S.C. 2417(a)), and after consultation with appropriate agencies and committees, the Trade Representative shall, as appropriate and consistent with law, publish a final list of products and tariff increases, if any, and implement any such tariffs.

(c) The Trade Representative shall also establish a process by which interested persons may request that particular machinery used in domestic manufacturing classified within a subheading under chapters 84 and 85 of the Harmonized Tariff Schedule of the United States be temporarily excluded from section 301 tariffs, and shall prioritize, in particular, exclusions for certain solar manufacturing equipment. USTR shall publish a separate notice describing the machinery exclusion process, including the procedures for submitting exclusion requests and for interested persons to oppose any such requests.

Sec. 2. Publication. The Trade Representative is authorized and directed to publish this memorandum in the *Federal Register*.

JOSEPH R. BIDEN, JR.

[Filed with the Office of the Federal Register, 11:15 a.m., May 17, 2024]

NOTE: This memorandum was published in the *Federal Register* on May 20.

Categories: Communications to Federal Agencies : U.S. actions related to statutory 4-year review of section 301 investigation of China's acts, policies, and practices related to technology transfer, intellectual property, and innovation, memorandum.

Subjects: China, trade and economic policies; China, trade with U.S.; China, U.S. tariffs on certain imports; U.S. Trade Representative.

DCPD Number: DCPD202400409.