



The Bottom Line

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SECTION 301 DUTIES SUNSET REVIEW

Summary

The Office of the U.S. Trade Representative is commencing the statutory review process leading up to the four-year anniversaries of the tariff actions in the Section 301 investigation of China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation.

Background

The Trade Act of 1974 (Section 301) authorizes the President to take all appropriate action, including retaliation, to obtain the removal of any act, policy, or practice of a foreign government that violates an international trade agreement or is unjustified, unreasonable, or discriminatory, and that burdens or restricts U.S. commerce. Accordingly, in August 2017, the President instructed the U.S. Trade Representative to investigate China's unfair trade practices. The results, announced in March 2018, concluded that China does engage in activities including foreign ownership restrictions on business in China, requirements for technology transfer to Chinese entities, investment in U.S. firms to obtain cutting-edge technology and intellectual property, supporting and conducting unauthorized intrusions into computer networks of U.S. companies, and manipulation of Chinese currency to inflate the cost of U.S.-manufactured goods in China. As a result, starting in June 2018, punitive tariffs have been levied against Chinese products.

According to Section 301, duties imposed are subject to a mandatory review every four years, the "Review of Necessity," to determine if the domestic industry that benefits from the duties continues to support the tariffs. The domestic sector must request to continue the tariffs within the last 60 days of the relevant four-year period.

Current Status

The currently pending Section 301 tariffs were applied in four waves: 25 percent tariffs on \$34 billion worth of Chinese goods effective July 6, 2018 (List 1); 25 percent tariffs on \$16 billion worth of Chinese goods effective August 23, 2018 (List 2); 10 percent tariffs on \$200 billion worth of Chinese goods effective September 24, 2018 (List 3); and 15 percent tariffs on \$120 billion worth of Chinese goods effective September 1, 2019 (List 4A). The List 3 tariffs were increased to 25 percent effective May 10, 2019. The List 4A tariffs were reduced to 7.5 percent effective February 14, 2020, when the U.S.-China Phase One agreement took effect.

USTR will consider all the current Section 301 tariff lists, Lists 1, 2, 3, and 4A, as part of this Review of Necessity. Notably, lists 3 and 4A are treated as modifications to Lists 1 and 2. The announcement specifies that USTR will mail notices to parties that submitted comments supporting the tariffs (approximately 600 stakeholders) regarding the possibility of termination and the opportunity to request continuation during two specified time frames. Specifically, there will be two 60-day windows for commenting on the tariffs – List 1 tariffs, as modified (May 7, 2022 – July 5, 2022), and List 2 tariffs, as modified (June 24, 2022 – August 22, 2022). Requests for continuation must be submitted before the four-year anniversary of the action, which is July 6, 2022, for the first action in the investigation. If one or more requests for continuation are submitted, USTR will publish an additional notice after July 6 announcing the continuation of the tariff action and will proceed with a review of the tariffs.

Impact

The Trump administration repeatedly argued that foreign companies pay for tariffs. But multiple studies suggest this is not the case: the cost of tariffs has been borne almost entirely by American households and American firms, not foreign exporters. While estimates vary, economic analyses suggest that the average American family has paid up to a thousand dollars or more per year due to higher consumer prices attributable to the tariffs. In general, Trump's tariffs have helped some workers and hurt others. Any change in trade policy is usually a choice to benefit some groups at the expense of others. Yet, when economists have attempted to add up the net effect of Trump's tariffs on jobs, any gains in importing-competing sectors appear to have been more than offset by losses in industries that use imported inputs and face retaliation on their foreign exports.

RESOURCES

[Notice of Reinstatement of Certain Exclusions: China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property and Innovation](#) (US Trade Representative)

[USTR Issues Notice Regarding Statutory Four-Year Review of China 301 Tariffs](#) (US Trade Representative)

[Section 301 Update: USTR Announces Initiation of "Review of Necessity"](#) (Venable LLP)

[Did Trump's Tariffs Benefit American Workers and National Security?](#) (Brookings Institute)