

September 20, 2024

Volume 4, Issue 19

Online ISSN 2837-3863
Print ISSN 2837-3855

What's Been Happening

1 — USTR Finalizes Sweeping Tariff Increases on Chinese Imports — 1

[In One Sentence]

- After repeated delays, the Office of the U.S. Trade Representative finalized its actions on the statutorily required Section 301 China tariff review on September 13, 2024.
- USTR confirmed that it will enforce a duty of 100% on Chinese EVs, 50% on solar cells, 25% on steel, aluminum, EV batteries and key minerals, and 100% on syringes and needles, which would become effective on September 27, 2024.
- In addition, USTR announced a 50% duty on Chinese semiconductors, including on silicon wafers and polysilicon, and a 50% tariff on medical gloves, which would take effect in 2025.
- Starting in 2026, the USTR plans to impose tariffs of 50% on face masks, 25% on non-EV batteries, 25% on natural graphite, and 25% on permanent magnets.
- Moreover, USTR decided to adopt 14 temporary tariff exclusions on Chinese manufacturing equipment for solar cells and wafers, while declining to adopt five temporary exclusions on solar module manufacturing equipment.
- USTR also decided to expand the scope of the exclusion process to include five additional categories of machinery imports from China, out of 312 proposed additions.
- The Biden administration announced plans to no longer grant *de minimis* exemptions to imports of items from China that are subject to Section 232, Section 301 or Section 201 tariffs, seeking to close a “loophole” that it says benefits “China-founded e-commerce platforms.”
- Meanwhile, on September 9, during election campaigning in Wisconsin, former U.S. president Donald Trump claimed if other countries intend to reduce the use of dollars, he will put a 100% tariff on these countries’ exported goods to the United States.

[Mark the Essentials]

- In addition to finishing up its repeatedly extended review of Section 301 tariffs on China’s exports to the U.S., the September 13 announcement implements the Biden administration’s May 14 Memorandum on Actions related to the statutory 4-year review of the Section 301 investigation of China’s technology transfer, intellectual policy and innovation-related policies and practices. Shortly after USTR’s announcement,

China's Commerce Ministry criticized the tariffs and labeled the U.S. as a “disrupter of global industrial and supply chains” in its second annual report on the United States’ compliance with the WTO.

- Among others, USTR’s action seals the Biden administration’s decision to impose a 100% tariff on Chinese electric vehicles (EVs). The Biden administration and other U.S. policymakers have argued that the tariffs are intended to “protect American workers and businesses from China’s unfair trade practices” arising from the latter’s subsidization of its EV sector, resulting in low and highly competitive EV price offerings. Others, though, attribute the significant price gap between U.S. and Chinese EVs to the comprehensiveness of the EV supply chain in China.
- U.S. policymakers have long expressed concerns over China’s “dominance” in the solar industry, especially in the production of solar cells and modules. Nevertheless, downstream industrial users have resisted the imposition of tariffs or restrictions on Chinese solar imports. In 2022, for example, following an anti-circumvention investigation on Chinese solar panels by the U.S. Department of Commerce, the Biden administration nevertheless provided a 24-month tariff moratorium on solar panels shipped from Southeast Asia to avoid market and industry disruptions.
- Under existing customs practices, import shipments valued at US\$800 or below are exempt from U.S. tariffs. According to the Biden administration, “some e-commerce platforms and other foreign sellers” have utilized the *de minimis* “loophole” to “circumvent” U.S. tariffs, including Section 301 tariffs on Chinese imports. As such, the administration has now instructed agencies to issue new rules to “improve accountability and enforcement in *de minimis* shipments,” with a particular focus on e-commerce platforms such as Temu and Shein. The White House has cautioned though that “comprehensive legislative reforms on *de minimis*” is required to fully address the issue.

[Keeping an Eye On...]

- Almost exactly four years to the day that a dispute settlement panel in Geneva had ruled that the Trump administration’s Section 301 China tariffs were inconsistent with the United States’ WTO obligations under the GATT, the Biden administration has formally decided to not only double-down on the tariffs but also selectively expand them. The first tranche of tariff increases will drop as early as September 27. For those who argue that the president does not enjoy the authority to ratchet tariffs upwards in a big way (Congress constitutionally, after all, gets to “regulate commerce with foreign nations”), well, they should think again. On the basis of delegated retaliatory tariff authority under Section 307 of the Trade Act, the president has just quadrupled an already-unlawful tariff on electric vehicles to 100%, without even so much as a preliminary investigation of China’s practices in the sector. Be that as it may, USTR’s September 13 decision on the tariffs is a useful moment to take stock of the self-defeating nature of the Section 301 tariffs. Granted that the tariffs have reduced the bilateral trade deficit by over \$100 billion, which is not exactly chump change. And the argument for their selective expansion—which is, to protect the recent industrial policy interventions by way of the CHIPS Act and the Inflation Reduction Act—holds a certain logic. Nevertheless, ample data and analysis is now available that confirm that the tariffs have become a massive exercise in trade self-marginalization on the part of the United States. And that they are a ‘gift’ to Beijing from a political standpoint. First, even as China’s share of U.S. imports have slipped, China’s overall market share of global goods exports has increased over these past five years, meaning that the country has become more important to the rest of the global economy. In a related vein, EU-China trade ties have intensified too during this period, particularly in medium-skill and technology-intensive goods. This intensification is set to deepen over the next decade, notwithstanding the various subsidization-linked trade measures proposed

by Brussels that target Chinese producers. Second, while there has been a relocation and diversification of production outside China to escape the Section 301 tariffs, this diversification is limited and shallow. Nearshoring to Mexico and friendshoring to Vietnam has dominated this trend. Yet even here, the evidence suggests that final assembly of items in these countries continues to depend on China-sourced intermediate inputs. This ‘lengthening’ of supply chains runs counterintuitive to the logic of supply chain resilience which was the supposed reason—or, rather, the excuse—given to ‘derisk’ dependence on China. Third, much of the foreign direct investment supporting this supply chain diversification has tended to arrive from non-U.S. and non-Western sources. Which, in turn suggests, that it is East Asian and most likely Chinese investors providing the FDI that is driving this trade diversification. So much for ‘decoupling’ from China. And just as Japan. Inc.’s forced relocation of domestic production to East Asia due to American badgering to revalue the yen four decades ago spawned the remarkable region-wide production networks, so also the Section 301 tariffs will come to be seen as a blessing that equipped Chinese firms to internationalize and entrench their world-beating operations globally and obtain valuable ‘learning by doing’ experience along the way. Finally, the Section 301 China tariffs have turbocharged calls for protectionism—rarely ever a good idea—within the U.S. body politic. Like salted peanuts, the more they are dispensed to favored industries, the more they will be, and are being, demanded. The Section 301 tariffs (along the steel and aluminum Section 232 tariffs) have also dislodged the long-held trade policy consensus within the Beltway from its pro-liberalization moorings, with trade policy today shot through with streaks of populism and protectionism. At a time when most major economic players continue to liberalize their trade policy frameworks, albeit at a slower pace, Washington’s tariff play has been a grand exercise in self-deluding marginalization on the global stage. Whatever one’s view may be of the technology policy decoupling that Washington has pursued over the past half-decade, its trade policy counterpart has been an undiluted lose-lose proposition. It is set to continue with no turnaround in sight even on the distant horizon. And in the meantime, China will not just continue to intensify its trade linkages with much of the Global South and (the rest of the) North but also rack up wins *vis-à-vis* Washington at the WTO dispute settlement panel stage along the way.

[Expanded Reading]

- [Ursula von der Leyen gives top economic jobs to interventionist EU countries](#), *Financial Times*, September 17, 2024
- [USTR Finalizes Action on New and Increased Section 301 Tariffs](#), Holland & Knights, September 16, 2024
- [Chinese EVs still cheaper than Teslas in U.S. after tariff hike](#), *Nikkei Asia*, September 15, 2024
- [China's Shein and Temu face end to tariff-free imports into U.S.](#), *Nikkei Asia*, September 14, 2024
- [New Tariff Rules Could Reverse a ‘Paradigm Shift’ in Retail](#), *New York Times*, September 14, 2024
- [FACT SHEET: Biden-Harris Administration Announces New Actions to Protect American Consumers, Workers, and Businesses by Cracking Down on De Minimis Shipments with Unsafe, Unfairly Traded Products](#), The White House, September 13, 2024
- [Biden Administration Ratchets Up Tariffs on Chinese Goods](#), *New York Times*, September 13, 2024
- [US locks in steep China tariff hikes, some industries warn of disruptions](#), *Reuters*, September 13, 2024
- [How China and a tariffs row cast a shadow over booming US solar power](#), *The Guardian*, September 10, 2024
- [Donald Trump escalates tariff threat in vow to protect dollar](#), *Financial Times*, September 9, 2024



[Legislative Developments]

- During what was dubbed as “China Week” in the U.S. Congress, the House passed more than 25 China-related bills on or around September 9 to “protect Americans against the military, economic, ideological, and technological threats” imposed by China.
- The BIOSECURE Act, for one, prohibits executive agencies from procuring, and federal contractors from using biotechnology equipment and services from certain Chinese companies that are deemed to be connected to the Chinese government.
- Among the dozens of “China Week” bills that passed the House, four of them sought to reform the U.S. export controls system. Specifically, the bills seek to clarify that the U.S. export controls system should be also used to protect United States’ trade secrets and the domestic industrial base; create an expedited procedure for federal agencies to propose and enact modifications to the Entity List; expand the scope of export controls to also cover remote access of U.S. technologies and items; and require the Department of Commerce to periodically report its export controls enforcement progress to Congress.
- Two other bills would allow the President to sanction foreign entities that conduct economic or industrial espionage against U.S. companies; and push for better interagency coordination and harmonization of various sanctions lists.
- Regarding electric vehicles (EVs) and EV batteries, two bills would prohibit the Department of Homeland Security from procuring foreign-made EV batteries from a list of Chinese companies as well as further tighten regulations to ensure that Chinese businesses and Chinese business owners cannot benefit from U.S. tax credits that promote EV development.
- Other “China Week” bills would, among other changes, require prior congressional notification before the White House enters into, renews or extends the Science and Technology Agreement (STA) with China; revokes certain privileges granted to the Hong Kong Economic and Trade Offices; reestablish a “CCP Initiative” within the Department of Justice to curb “spying” and “trade secret theft” “by the Chinese Communist Party”; require a study into the national security risks posed by China-made consumer routers and modems; and require the United States representative to oppose an increase in the weight of the Chinese Renminbi in the International Monetary Fund’s Special Drawing Rights (SDR) basket.
- On the Senate side, Senator Bob Casey (D-PA) introduced a package of five bills to enhance U.S. regulators’ ability to review China’s investment in and procurement of emerging technologies in the U.S.; disclose and limit U.S. investment in China; modify the rules-of-origin standards to prohibit goods with more than 20% of China-made components from enjoying free trade agreement benefits; and educate the U.S. port and shipping industry of Chinese logistics infrastructure and technology threats.

[Hearings and Statements]

- On September 12, the House Committee on Homeland Security and the House China Committee jointly released an investigative report regarding the “rising threat” of Chinese-made port cranes to U.S. economic and homeland security.

- Although several U.S. lawmakers have applauded the Biden administration's decision to revoke the *de minimis* benefit accorded to Chinese exporters, lawmakers including House China Committee Chair John Moolenaar (R-MI), House Ways and Means Committee Chair Jason Smith (R-MO), Rep. Earl Blumenauer (D-OR) and Rep. Rosa DeLauro (D-CT) argued that the Biden administration's "first step" on the *de minimis* reform front merely reinforces the urgent need for Congress to pass legislation to close the *de minimis* "loophole."

[Expanded Reading]

- [It was 'tough on China' week in Congress, one of the few issues both parties agree on](#), CNBC, September 14, 2024
- [Blumenauer, DeLauro: "This is only the first step and does not negate the need for Congress to act,"](#) Office of Rep. Earl Blumenauer (D-OR), September 13, 2024
- [Chairman Smith Statement on Executive Branch Action to Implement Ways and Means Republicans' De Minimis Reforms](#), House Committee on Ways and Means, September 13, 2024
- [Moolenaar on Administration's New De Minimis Actions](#), the Select Committee on the CCP, September 13, 2024
- [NEW: Investigation by House Homeland, Select Committee on the CCP Finds Potential Chinese Threats to U.S. Port Infrastructure Security](#), U.S. House Committee on Homeland Security, September 12, 2024
- [Moolenaar, Johnson Introduce Bill to Protect U.S. Infrastructure from China](#), the Select Committee on the CCP, September 12, 2024
- [CHINA WEEK RECAP: Congress Passes 25 Bills to Combat Chinese Communist Party Threats](#), the Select Committee on the CCP, September 12, 2024
- [CHINA WEEK UPDATE: Congress Takes on the Chinese Communist Party](#), the Select Committee on the CCP, September 10, 2024
- [Casey Introduces Legislation to Combat China's Rising Economic Aggression, Boost American Market Competitiveness, Crack Down on Trade Cheating](#), Office of Sen. Bob Casey (D-PA), September 10, 2024