

TIMELINE OF SECTION 301 TARIFF ACTIONS AGAINST CHINA

There has been a considerable surge in Section 301 investigations and consequent actions in recent years, especially as tensions between the U.S. and China have intensified. Thus, it is vital to better understand how these trade mechanisms have escalated over the past five years.



SECTION 301 STATUTORY EXCLUSION AND REVIEW PROCESSES

While this tariff process is governed by the Trade Act of 1974, there are robust mechanisms in place to ensure that these retaliatory trade measures are implemented with ample consideration and review by the Office of the U.S. Trade Representative. Furthermore, this intense Section 301 process with respect to China has led to the emergence of new policies - including a dedicated exclusion process for each tranche of tariffs implemented against Chinese entities.

Tariff Exclusion Process



Comments Display Need for Relief

It was determined during the comment periods required by Section 301 that the actions on China would lead to unprecedented impacts on U.S. businesses.



Exclusion Process Unofficially Created

Because of this, USTR announced that they would accept exclusion requests for each tariff tranche, which would be reviewed and granted on a case-by-case basis.



Thousands of Requests Ungranted

There were 52,746 product exclusion requests across all four tariff tranches. There were 6,802 requests granted for a one-year period, and only 352 were extended and reinstated.

This limited exclusion process has led to scrutiny from policymakers and stakeholders alike, due to a lack of a robust framework surrounding how these exclusions are determined.

Four-Year Tariff Review

Section 307(c)



60-Day Period



Second Phase



Final Decision

of the Trade Act requires tariffs to expire after 4 years, unless there is support for tariffs to continue.

for domestic industries to submit comments showing that the tariffs are positive and should continue.

for other entities to submit comments, which would likely request that the tariffs be eliminated.

to be issued by USTR, depending on their review of the comment processes.

NEGOTIATIONS FOR A CHINA COMPETITION PACKAGE

In the 117th Congress, there has been an immense focus on finding a legislative solution for addressing competition with China, through a variety of investments in research, technology, trade, and more. The negotiations are now centered on finding a consensus between the Senate-passed \$250 billion U.S. Innovation & Competition Act (S.1260) and the House-passed \$350 billion America COMPETES Act (H.R.4521).

Notably, the Senate’s package included an amendment that would set up a robust Section 301 tariff exclusion process. Since this process thus far has been largely governed by USTR with very little congressional involvement, this amendment was seen as a critical mechanism to better oversight of the exclusion process. However, the House’s proposal did not include provisions relevant to Section 301 tariffs, and it remains unclear if this amendment will make it into the final consensus bill.

SENATE BILL’S SECTION 301 EXCLUSION PROPOSAL



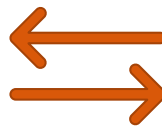
Directs USTR to analyze the potential impact of tariffs on U.S. entities prior to implementing tariffs.



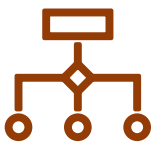
Requires USTR to establish a consistent exclusion process for all future Section 301 proceedings.



Implements a retroactive exclusion process for the Trump-era tariffs enacted in 2018.



Directs USR to reimplement all exclusions for items that were filed before 12/31/22 retroactively.



Lays out the following six criteria for USTR to consider in granting potential tariff exclusions for goods, with any of the following demonstrated outcomes qualifying for consideration for an exclusion:

1

Severe economic harm

2

Lack of substitute good

3

Critical infrastructure concerns

4

Sharp price increases

5

Harmful domestic impact

6

Abuse of market strength

COULD LIFTING THE TARIFFS BE A SOLUTION TO INFLATION?

Over the past few months, there has been an interest regarding the possibility that lifting the Section 301 tariffs could curb the growing risks surrounding inflation. As the administration is facing rapidly increasing prices, there has been more and more discussion that removing the tariffs would offer a solution that would reduce these rising cost. This possibility has created a divide within the Biden administration, as top officials have publicly revealed opposing stances on eliminating or retaining the tariffs.



President Joe Biden: I am considering reducing tariffs. We did not impose any of those tariffs. They were imposed by the last administration and they're under consideration.



U.S. Trade Representative Katherine Tai:

“If we’re going to take on an issue like inflation, then our approach needs to respect that it is a more complicated issue than just tariffs at the border.”



Secretary of Agriculture Tom Vilsack:

In response to the question of lifting tariffs: “No, China is still \$13 billion short on purchases from the Phase One deal and there are seven key areas where they have yet to perform.”



National Security Adviser Jake Sullivan:

“The way that families experience inflation is: When they go to the store to buy products, are the prices higher? Would removing tariffs lead price -- those -- those prices on those goods to be lower? I won’t put a timetable on it.”



Secretary of the Treasury Janet Yellen:

“Some of the tariffs end up being paid by Americans not the Chinese, and we need to reconfigure those tariffs in a way that would be more strategic.”



Secretary of Commerce Gina Raimondo:

“We’re decided to keep steel and aluminum tariffs for national security. There are other products – household goods, bicycles – where lifting tariffs may make sense.”



Deputy National Security Adviser Daleep Singh:

“While they may have created negotiating leverage, these tariffs serve no strategic purpose. Our opportunity is to reframe the purpose of these tariffs so they’re advancing real, strategic priorities.”