Insights: Alert

U.S. Imposes Sweeping Tariffs on Chinese Tech Imports: Solar Cells, Batteries, EVs, and More

May 15, 2024

Written by **Kurtis G. Anderson, Stephen M. Anstey**

On May 14, 2024, the U.S. Trade Representative (USTR) completed a statutory review of tariffs imposed on China for purported unfair "technology transfer" policies that "burden or restrict U.S. commerce" and recommended imposing sweeping tariffs on Chinese imports, including "China's high-tech" big-three: solar cells, batteries, and electric vehicles (EVs).

In 2017, the USTR initiated an investigation of China's trade practices under Section 301 of the Trade Act of 1974. After completing its investigation, USTR found that "China employed a series of technology transfer-related acts, policies, and practices that are unreasonable or discriminatory and burden or restrict U.S. commerce" that justified the imposition of tariffs of up to 25%. Since then, these tariffs have been modified or expanded, impacting more than 4,000 products valued at over $350 billion.

In 2022, the USTR commenced a "statutory review" of these Section 301 tariffs, looking at, among other things, their "effectiveness" at eliminating "China's technology transfer-related acts." Now, USTR has completed its review and concluded that while tariffs have "been effective in reducing the exposure" of the U.S. economy to China's policies and encouraged supply chain diversification and a shift away from reliance on Chinese-based supply, more can be done. Accordingly, USTR has recommended that "products currently subject to section 301 duties should remain subject" and additional and increased tariffs should be added to "certain products."

USTR's recommendations include, among other things, new tariffs on steel and aluminum (increased from as low as 0% to 25% in 2024) and ship to shore cranes (0% to 25% in 2024) along with doubling existing tariffs on semiconductors (25% to 50% by 2025) and more than tripling tariffs on medical gloves (7.5% to 25% by 2026).

Critically, USTR and the White House have also targeted "China's high-tech" sector, specifically solar cells, batteries, and EVs, including the critical minerals necessary to their manufacture. USTR has recommended the following new and increased tariffs, which the White House has approved:

Solar Cells: Given that China "dominate[s] upwards of 80 to 90% of certain parts of the global solar supply chain," USTR proposes to double the tariff rate from 25% to 50% in 2024, on "solar cells (whether or not assembled into modules)." These rates are subject to a list of nineteen "temporary exclusions for certain solar manufacturing equipment," to encourage "domestic manufacturing."

These duties are just the latest to impact the solar industry, including anti-dumping and countervailing duties of over 200% going into effect in June 2024 and a proposal to reinstate double-digit tariffs on Chinese bifacial

panels. Recent investigations threaten even more.

Batteries: Given that China "currently controls over 80 percent of certain segments of the EV battery supply chain," including "critical minerals mining, processing, and refining," USTR proposes the following new and increased tariff rates:

1. Lithium-ion EV batteries: 7.5% to 25% in 2024;
2. Lithium-ion non-EV batteries: 7.5% to 25% by 2026;
3. Battery parties: increase from 7.5% to 25% in 2024;
4. Natural Graphite & Permanent Magnets: 0% to 25% by 2026; and
5. Other Critical Minerals: 0% to 25% in 2024.

Electric Vehicles (EVs): Given that China's "exports of EVs grew by 70% from 2022 to 2023," USTR proposes a four-fold increase of the tariff rate from 25% to 100% in 2024.

USTR will issue a notice seeking comment on these "proposed modifications" next week. And as they do, we will continue to monitor these developments impacting cross-border trade and the solar industry as they unfold and will be available to provide updated analysis as the landscape continues to change.

Kilpatrick – Energy

Kilpatrick's Energy practice serves clients across the sector and at all stages of development, including energy consumers, developers, vendors, producers, generators, investors, lenders, entrepreneurs, and manufacturers. Our practice supports development, tax, and financing efforts regarding established and emergency energy technologies, helping our clients achieve optimal results in an increasingly competitive and complex marketplace. For more information, please visit our website: Kilpatrick – Energy

Kilpatrick—Government & Regulatory

Kilpatrick's Government and Regulatory practice offers policy, legislative, rulemaking, compliance, and regulatory advocacy services and legal guidance on both broad and industry-specific matters, including artificial intelligence, energy, sustainability, Tribal, finance, distributed ledger technology (including blockchain), and digital assets (cryptocurrency, stablecoin, tokenization, and central bank digital currency ("CBDC")). For more information, please visit our website: Kilpatrick—Government & Regulatory

Related People

Kurtis G. Anderson

t 404.815.6637

kganderson@ktslaw.com

Stephen M. Anstey

t 202.824.1427

sanstey@ktslaw.com