

# Issue Brief

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## Biden Administration Should Not Extend Costly and Ineffective Section 301 Tariffs

In 2018, following an investigation into China's policies related to technology transfer, intellectual property, and innovation under Section 301 of the Trade Act of 1974, the Trump administration imposed tariffs covering nearly two-thirds of imports from China.<sup>1</sup> Section 301 tariffs are intended to be temporary in nature, lasting a maximum of four years unless the Office of the U.S. Trade Representative extends them following a "review of necessity."

This review must include an assessment of the effectiveness of the tariffs in achieving their objectives and an evaluation of their impact on the U.S. economy.<sup>2</sup> Because the tariffs utterly failed to achieve their objectives while imposing billions of dollars in ongoing costs on Americans, the Biden administration should not extend them.

**Section 301 tariffs are paid by Americans.** Although Section 301 tariffs are often misleadingly called "China tariffs" for short, the tariffs are in fact [taxes on Americans](#) who import goods from China.<sup>3</sup> This can

<sup>1</sup> Bown, Chad, "Phase One China Deal: Steep Tariffs Are the New Normal," Peterson Institute for International Economics, December 19, 2019. Retrieved from: <https://www.piie.com/blogs/trade-and-investment-policy-watch/phase-one-china-deal-steep-tariffs-are-new-normal>.

<sup>2</sup> 19 U.S. Code § 2417 - Modification and termination of actions. Retrieved from <https://www.law.cornell.edu/uscode/text/19/2417>.

<sup>3</sup> Amiti, Mary, Stephen J. Redding, and David E. Weinstein, "Who's Paying for the US Tariffs? A Longer-Term Perspective," National Bureau of Economic Research, January 2020. Retrieved from: <https://www.nber.org/papers/w26610>.

### Key Facts:



Section 301 tariffs are intended to be temporary in nature, lasting a maximum of four years unless the Office of the U.S. Trade Representative extends them following a "review of necessity."



This review must include an assessment of the effectiveness of the tariffs in achieving their objectives and an evaluation of their impact on the U.S. economy. Because the tariffs utterly failed to achieve their objectives while imposing billions of dollars in ongoing costs on Americans, the Biden administration should not extend them.



The Biden administration should instead pursue policies that would strengthen the U.S. economy, provide relief from inflationary price increases, and reinforce U.S. global economic leadership.

be confirmed by reviewing U.S. trade law, economic analysis, or the words of [President Biden](#), who observed when campaigning in Iowa: “Any beginning econ student at Iowa or Iowa State could tell you the American people are paying [Trump’s China] tariffs.”<sup>4</sup>

**Tariffs are now higher in the United States than in China.** Section 301 tariffs doubled the overall average U.S. tariff rate to the highest level in 27 years.<sup>5</sup> In 2019, the average tariff rate in the United States was even higher than the average tariff rate in China.<sup>6</sup> As the country that once led the world in efforts to reduce trade barriers and promote economic freedom, that’s unacceptable.

The cumulative direct cost of Section 301 tariffs to U.S. taxpayers was [\\$136.5 billion](#) as of March 31, 2022.<sup>7</sup> That’s equal to [more than \\$1,000](#) for every American household, an amount that continues to grow.<sup>8</sup> A Peterson Institute for International Economics study calculates that ending these tariffs could boost competition and lead to about a 1 percentage point [reduction in inflation](#).<sup>9</sup>

**Extending Section 301 tariffs following a review of necessity by the Biden administration would be unprecedented.** There has never been a case of an administration extending a Section 301 tariff following a review of necessity after their four-year lifespan has expired.<sup>10</sup>

**The Constitution gives Congress, not the Biden administration, the authority to levy duties and regulate commerce with foreign nations.** If the Biden administration extends Section 301 tariffs, there is no formal process for Congress to intervene short of passing new trade legislation. Sen. Mike Lee (R-UT) and Rep. Warren Davidson (R-OH) have addressed this concern by introducing the [Global Trade Accountability Act](#), legislation that would allow Congress to vote on tariffs proposed by President Biden or future administrations before they could take effect.<sup>11</sup>

**Extending Section 301 tariffs would require President Biden to break his tax pledge.** President Biden has repeatedly promised: “I will not impose [any tax increase](#) on people making less than \$400,000.”<sup>12</sup> Extending Section 301 tariffs would impose a [highly regressive tax](#) on Americans.<sup>13</sup> Tariffs in general, and Section 301 tariffs in particular, disproportionately penalize low-income households.<sup>14</sup>

**“The tariffs did not work and therefore we must extend them” is not a very compelling argument.** The Section 301 trade investigation was based on the hope that the threat of tariffs would compel China to become more market-oriented. Instead, China [failed to alter](#) its practices related to technology transfer,

<sup>4</sup> President Joe Biden, CNN, June 11, 2019. Retrieved from: <https://transcripts.cnn.com/show/ath/date/2019-06-11/segment/01>.

<sup>5</sup> Tariff and duty statistics from U.S. International Trade Commission, [dataweb.usitc.gov](http://dataweb.usitc.gov).

<sup>6</sup> Data from U.S. International Trade Commission, [dataweb.usitc.gov](http://dataweb.usitc.gov), and World Bank, <https://wits.worldbank.org/CountryProfile/en/country/by-country/startyear/LTST/endyear/LTST/tradeFlow/Import/indicator/AHS-WGHTD-AVRG/partner/WLD/product/Total>.

<sup>7</sup> U.S. Customs and Border Protection, “Trade Statistics.” Retrieved from: [https://www.cbp.gov/newsroom/stats/trade?language\\_content\\_entity=en](https://www.cbp.gov/newsroom/stats/trade?language_content_entity=en).

<sup>8</sup> Household data from United States Census Bureau, “Quick Facts.” Retrieved from: <https://www.census.gov/quickfacts/fact/table/US/HCN010212>.

<sup>9</sup> Hogan, Megan and Yilin Wang, “To fight inflation, cutting tariffs on China is only the start,” Peterson Institute for International Economics, June 3, 2022. Retrieved from: <https://www.piie.com/blogs/realtime-economic-issues-watch/fight-inflation-cutting-tariffs-china-only-start>.

<sup>10</sup> Based on author’s review of Federal Register notices, annual U.S. International Trade Commission “Year in Review: Operation of the Trade Agreements Programs” reports, USTR annual reports, and U.S. General Accounting Office, “International Trade: Combating Unfair Foreign Trade Practices, March 1987. Chad Bown, Reginald Jones Senior Fellow at the Peterson Institute for International Economics, provided valuable input.

<sup>11</sup> Sen. Mike Lee, “Sen. Lee Reintroduces Global Trade Accountability Act,” March 11, 2021. Retrieved from: <https://www.lee.senate.gov/2021/3/sen-lee-reintroduces-global-trade-accountability-act>.

<sup>12</sup> President Joe Biden, “Remarks by President Biden in Address to a Joint Session of Congress, April 28, 2021. Retrieved from: <https://www.whitehouse.gov/briefing-room/speeches-remarks/2021/04/29/remarks-by-president-biden-in-address-to-a-joint-session-of-congress/>.

<sup>13</sup> Reynolds, Kara M., “Costs of Trade Wars: The Distributional Consequences of US Section 301 Tariffs Against China,” June 8, 2021. Available at SSRN: <https://ssrn.com/abstract=3862764> or <http://dx.doi.org/10.2139/ssrn.3862764>.

<sup>14</sup> Furman, Jason, Katheryn Russ, and Jay Shambaugh, “U.S. Tariffs are an Arbitrary and Regressive Tax,” VoxEU, January 12, 2017. Retrieved from: <https://voxeu.org/article/us-tariffs-are-arbitrary-and-regressive-tax>.

intellectual property, and innovation.<sup>15</sup> Section 301 tariffs were followed by [broadened state intervention](#) in the economy to achieve the Chinese Communist Party's economic, social, and political goals.<sup>16</sup>

In 2020, the United States and China entered into a so-called "Phase One" trade deal. According to the Biden administration, this agreement [failed to address](#) many of the issues the United States had prioritized in its negotiations with China, including those related to subsidies, state-owned enterprises, and certain issues in the areas of intellectual property and technology transfer.<sup>17</sup>

The deal's purchasing commitments actually [strengthened](#) China's state-owned enterprises at the expense of the private sector.<sup>18</sup> Peterson Institute for International Economics economist Chad Bown calculated that China only purchased about [57 percent](#) of the exports it committed to, although negotiators had no way of anticipating the COVID-19 pandemic and its effect on trade.<sup>19</sup>

**Removing Section 301 tariffs would boost U.S. exports.** [More than half](#) of U.S. exports to China are currently subject to retaliatory tariffs reaching as high as [25 percent](#).<sup>20</sup> Eliminating these retaliatory tariffs would be of particular benefit to U.S. [farmers and ranchers](#).<sup>21</sup>

**Removing Section 301 tariffs would not lead to a "flood of imports."** A bipartisan [letter](#) from nine Senators lists several concerns about tariff removal, including the allegation that removing tariffs would lead to a flood of imports.<sup>22</sup> That fear is exaggerated. After tariffs were imposed in 2018, imports from China fell by \$89 billion in 2019. In the unlikely case that imports from China immediately grew by \$89 billion, that would represent an increase of just 3.1 percent in overall imports from 2021 levels. Even the Senators' letter points out that Chinese imports are small relative to the U.S. economy, making up only two percent of goods included in the Consumer Price Index.

**Cutting taxes on Americans and removing barriers to U.S. farm exports is not a "unilateral give-away."** The letter from nine Senators characterizes removal of punitive 301 tariffs as a unilateral give-away to China. It's neither unilateral nor a give-away. Letting U.S. tariffs expire would prompt China to remove its retaliatory tariffs on U.S. exports. The main beneficiaries of tariff expiration would be the Americans who are paying for them through higher prices and lost exports.

**Removing tariffs would not be a sign of weakness.** Unilateral U.S. economic sanctions are typically weak and ineffective. Section 301 tariffs bring to mind the unilateral U.S. embargo of grain exports to the USSR following the Soviet Union's invasion of Afghanistan. President Reagan was no fan of the "evil empire."

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<sup>15</sup> Office of the U.S. Trade Representative, "Update Concerning China's Acts, Policies and Practices Related to Technology Transfer, Intellectual Property, and Innovation," November 20, 2018. Retrieved from: <https://ustr.gov/sites/default/files/enforcement/301Investigations/301%20Report%20Update.pdf>.

<sup>16</sup> U.S.-China Economic and Security Review Commission, "2021 Annual Report to Congress," November 2021. Retrieved from: <https://www.uscc.gov/annual-report/2021-annual-report-congress>.

<sup>17</sup> Office of the U.S. Trade Representative, "2022 National Trade Estimate Report on Foreign Trade Barriers," March 2022. Retrieved from: <https://ustr.gov/sites/default/files/2022%20National%20Trade%20Estimate%20Report%20on%20Foreign%20Trade%20Barriers.pdf>.

<sup>18</sup> Bown, Chad P., and Mary E. Lovely, "Trump's phase one deal relies on China's state-owned enterprises," Peterson Institute for International Economics, March 3, 2020. Retrieved from: <https://www.piie.com/blogs/trade-and-investment-policy-watch/trumps-phase-one-deal-relies-chinas-state-owned-enterprises>.

<sup>19</sup> Bown, Chad P., "China bought none of the extra \$200 billion of US exports in Trump's trade deal," Peterson Institute for International Economics, March 8, 2022. Retrieved from: <https://www.piie.com/blogs/realtime-economic-issues-watch/china-bought-none-extra-200-billion-us-exports-trumps-trade>.

<sup>20</sup> Bown, Chad P., "US-China Trade War Tariffs: An Up-to-Date Chart," Peterson Institute for International Economics, April 22, 2022. Retrieved from: <https://www.piie.com/research/piie-charts/us-china-trade-war-tariffs-date-chart>, and York, Erica, "Tracking the Economic Impact of U.S. Tariffs and Retaliatory Actions," Tax Foundation, April 1, 2022. Retrieved from: <https://taxfoundation.org/tariffs-trump-trade-war/>.

<sup>21</sup> "American food and agriculture leaders call for for tariff relief as Biden administration reviews tariff reduction to ease inflation," Farmers for Free Trade, May 26, 2022. Retrieved from: <https://farmersforfreetrade.com/news/american-food-and-agriculture-leaders-call-for-tariff-relief-as-biden-administration-reviews-tariff-reduction-to-ease-inflation-2>.

<sup>22</sup> "Portman, Bipartisan Group of Senators Urge President Biden to Keep Section 301 Tariffs in Place, Enforce Phase One Agreement with China," Press Release, May 25, 2022. Retrieved from: <https://www.portman.senate.gov/newsroom/press-releases/portman-bipartisan-group-senators-urge-president-biden-keep-section-301>.

But Reagan overruled hawks in his administration and terminated the grain embargo based on his belief that it was [ineffective](#) and unfair to American farmers – much like the Section 301 tariffs in place today.<sup>23</sup> In contrast to ineffective unilateral measures like the grain embargo and Section 301 tariffs, recent U.S. sanctions on Russia have been more effective because the United States [worked with allies](#) who share our goals.<sup>24</sup>

Instead of uniting with U.S. allies, the Phase One trade agreement aggravated them by requiring China to purchase certain quantities of goods from American producers – requirements that China failed to satisfy.

Perhaps the best-kept secret about the tariffs is that if by some miracle they had worked as intended, the result would have been a stronger China.<sup>25</sup> As former U.S. Trade Representative Robert Lighthizer put it: “Protection of intellectual property is not anti-Chinese. Stopping people from forcing transfer of technology is not anti-Chinese. In fact, the reformers would say it’s pro-Chinese. [It will help their economy](#), not hurt their economy.”

**The Biden administration should not extend mercantilist tariffs that cost Americans billions of dollars, reduce exports, and weaken U.S. global leadership. [Better options](#) include joining the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP), ending “national security” tariffs and quotas affecting U.S. companies that import steel and aluminum from our allies, and modernizing trade programs like the Generalized System of Preferences (GSP) and the Central America-United States Free Trade Agreement (CAFTA-DR) to encourage imports from countries other than China.<sup>26</sup> These policies, unlike Section 301 tariffs, would strengthen the U.S. economy, provide relief from inflationary price increases, and reinforce U.S. global economic leadership.**

## About the Author

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<sup>23</sup> President Ronald Reagan, “The President’s News Conference,” January 29, 1981. Retrieved from: <https://www.presidency.ucsb.edu/documents/the-presidents-news-conference-992>.

<sup>24</sup> “FACT SHEET: Joined by Allies and Partners, the United States Imposes Devastating Costs on Russia,” The White House, February 24, 2022. Retrieved from: <https://www.whitehouse.gov/briefing-room/statements-releases/2022/02/24/fact-sheet-joined-by-allies-and-partners-the-united-states-imposes-devastating-costs-on-russia/>.

<sup>25</sup> Chang, Ailsa, “U.S. Trade Representative Robert Lighthizer Discusses Ongoing Trade Talks With China,” NPR, March 25, 2019. Retrieved from: <https://www.npr.org/2019/03/25/706636078/u-s-trade-representative-robert-lighthizer-discusses-ongoing-trade-talks-with-ch>.

<sup>26</sup> Riley, Bryan, and Eric Zachmann, “How Free Trade Can Counter China and Enhance American Competitiveness,” National Taxpayers Union Foundation, July 12, 2021. Retrieved from: <https://www.ntu.org/foundation/detail/how-free-trade-can-counter-china-and-enhance-american-competitiveness>.



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