

production of quality, safe and effective relevant health products.”³⁶ The United States said of these provisions that they “improve[] access to critical health products so we can more equitably prevent, prepare and respond to pandemic emergencies regardless of where they arise.”³⁷

While the IHR amendments are not as strong on implementation as the proposals made by the United States, they elaborate positions that the United States endorses while at the same time not creating substantive obligations that it opposes, such those pertaining to financing and equity. The United States has not yet made public any reservation it might submit regarding the new amendments. In 2006, the United States announced its acceptance of the 2005 IHR amendments³⁸ and submitted one reservation—relating to federalism—and three understandings.³⁹ While an announcement of acceptance is not required for the IHR amendments to take effect, any reservations must be submitted within eighteen months.⁴⁰ The Senate Republican caucus objected to the IHR amendments and anticipatorily argued that a Pandemic Agreement must be submitted to the Senate for its advice and consent to ratification in accordance with Article II of the U.S. constitution.⁴¹ The WHO constitution was approved by a joint resolution of Congress.^{42*}

INTERNATIONAL ECONOMIC LAW

President Biden Adds, Increases, and Maintains Tariffs on Chinese Goods Levied by President Trump

doi:10.1017/ajil.2024.57

Following a review of tariffs on Chinese goods levied by President Donald J. Trump pursuant to Section 301 of the Trade Act of 1974,¹ President Joseph R. Biden, Jr. has decided to add some, increase others, and maintain the remainder.² The new and augmented tariffs—on

³⁶ *Id.* Art. 13(8)(a)–(e).

³⁷ U.S. National Statement, *supra* note 1.

³⁸ See DIGEST OF UNITED STATES PRACTICE IN INTERNATIONAL LAW 2006, at 891–92 (Sally J. Cummins ed., 2007).

³⁹ See U.S. Dep’t of State Archive, International Health Regulations, U.S. Note to Depository (Dec. 13, 2006), at <https://2001-2009.state.gov/s/l/2007/112669.htm> [<https://perma.cc/6NN3-AF3U>].

⁴⁰ Amended IHR, *supra* note 2, Art. 59(1).

⁴¹ See Letter of Republican Senators to President Joseph R. Biden, Jr. (May 1, 2024), at <https://mustreadalaska.com/wp-content/uploads/2024/05/ZTv63l-WHO-letter-to-Biden-signed-5-1-24.pdf> [<https://perma.cc/7SBW-3HDQ>]. The “No WHO Pandemic Preparedness Treaty Without Senate Approval Act” has also been introduced in both houses of Congress. See S. 444, 118th Cong., 2d Sess. (2024); H.R. 1425, 118th Cong., 2d Sess. (2024).

⁴² See Pub. L. 643, 80th Cong., 62 Stat. 441 (June 14, 1948).

* This is the corrected version of a paper first published on November 15, 2024, containing minor typesetter errors.

¹ See Office of the U.S. Trade Representative, Four-Year Review of Actions Taken in the Section 301 Investigation: China’s Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation (May 14, 2024), at <https://ustr.gov/sites/default/files/USTR%20Report%20Four%20Year%20Review%20of%20China%20Tech%20Transfer%20Section%20301.pdf> [<https://perma.cc/WN5L-GDFX>] [hereinafter Section 301 Review].

² See White House Press Release, Memorandum on Actions by the United States Related to the Statutory 4-Year Review of the Section 301 Investigation of China’s Acts, Policies, and Practices Related to Technology

a wide range of goods, including critical minerals, electric vehicles, lithium-ion batteries, semiconductors, solar cells, aluminum, and steel—mostly seek to protect American manufacturers of clean energy products and high-end technologies. The expanded tariffs complement a range of policies imposed under other authorities, such as significant government investment in the high-tech and clean energy sectors³ and non-tariff actions (including export controls and foreign investment restrictions) that aim to hamper Chinese development of those industries.⁴ Some of the tariff additions and increases are preventive (the United States currently imports almost no electric vehicles, semiconductors, or steel from China),⁵ and their overall economic impact is not significant (affecting only about \$18 billion in annual imports of the \$448 billion from China and the more than \$3.1 trillion from all countries).⁶ Nonetheless, the panoply of measures taken by the Biden administration over the past several years, including adding, increasing, and maintaining the Section 301 tariffs, comprise an economic strategy (frequently called “de-risking” or “de-coupling”) that merges national security with industrial policy, with the technology sector and strategic competition with China at its core.⁷ The administration’s actions continue the United States’ unilateral approach to trade

Transfer, Intellectual Property, and Innovation (May 14, 2024), at <https://www.whitehouse.gov/briefing-room/presidential-actions/2024/05/14/memorandum-on-actions-by-the-united-states-related-to-the-statutory-4-year-review-of-the-section-301-investigation-of-chinas-acts-policies-and-practices-related-to-technology-transfer-intellectua> [<https://perma.cc/GE7U-64BF>] [hereinafter President’s Memorandum]; Notice of Modification: China’s Acts, Policies and Practices Related to Technology Transfer, Intellectual Property and Innovation, 89 Fed. Reg. 76,581 (Sept. 18, 2024) [hereinafter Notice of Modification].

³ See Infrastructure Investment and Jobs Act, Pub. L. 117-58, 135 Stat. 429 (2021); CHIPS and Science Act, Pub. L. 117-167, 136 Stat. 1366 (2022); Inflation Reduction Act of 2022, Pub. L. 117-169, 136 Stat. 1818 (2022).

⁴ See Jacob Katz Cogan, *Contemporary Practice of the United States*, 117 AJIL 702, 713 (2023); Jacob Katz Cogan, *Contemporary Practice of the United States*, 117 AJIL 128, 144 (2023).

⁵ See Greg Ip, *The U.S. Finally Has a Strategy to Compete with China. Will It Work?*, WALL ST. J. (May 20, 2024), at <https://www.wsj.com/economy/the-u-s-finally-has-a-strategy-to-compete-with-china-will-it-work-ce4ea6cf>.

⁶ See Request for Comments on Proposed Modifications and Machinery Exclusion Process in Four-Year Review of Actions Taken in the Section 301 Investigation, 89 Fed. Reg. 46,252, 46,254 (May 28, 2024) [hereinafter Request for Comments]; U.S. Census Bureau & the U.S. Bureau of Economic Analysis Press Release, U.S. International Trade in Goods and Services January 2024, at 18, 39 (Mar. 7, 2024), at https://www.bea.gov/sites/default/files/2024-03/trad0124_0.pdf [<https://perma.cc/2PS4-V69C>].

⁷ The decision to maintain and extend Section 301 tariffs was one of a series of trade actions taken in regard to China during the first nine months of 2024. In February, the Department of Commerce issued an advance notice of proposed rulemaking to investigate the national security risks of connected vehicles manufactured with information and communications technology and services from certain countries, especially China. See *Securing the Information and Communications Technology and Services Supply Chain: Connected Vehicles*, 89 Fed. Reg. 15,066 (Mar. 1, 2024). Following public comment, the Commerce Department issued a notice of proposed rulemaking “that would prohibit the sale or import of connected vehicles integrating specific pieces of hardware and software, or those components sold separately, with a sufficient nexus to the People’s Republic of China (PRC) or Russia.” U.S. Dep’t of Commerce Bureau of Industry and Security Press Release, *Commerce Announces Proposed Rule to Secure Connected Vehicle Supply Chains from Foreign Adversary Threats* (Sept. 23, 2024), at <https://www.bis.gov/press-release/commerce-announces-proposed-rule-secure-connected-vehicle-supply-chains-foreign> [<https://perma.cc/N8ZB-HTBF>]. In April, USTR initiated a Section 301 investigation of China’s “acts, policies, and practices targeting the maritime, logistics, and shipbuilding sectors for dominance.” See *Initiation of Section 301 Investigation: China’s Acts, Policies, and Practices Targeting the Maritime, Logistics, and Shipbuilding Sectors for Dominance*, 89 Fed. Reg. 29,424 (Apr. 22, 2024). In July 2024, additional levies were imposed against aluminum and steel imported from China (and some other countries) by way of Mexico. See White House Press Release, *A Proclamation on Adjusting Imports of Aluminum into the United States* (July 10, 2024), at <https://www.whitehouse.gov/briefing-room/presidential-actions/2024/07/10/a-proclamation-on-adjusting-imports-of-aluminum-into-the-united-states-6> [<https://perma.cc/FW4U-8WYT>]; White House Press Release, *A Proclamation on Adjusting Imports of Steel Into the United States* (July 10, 2024), at

disputes begun under President Trump (though both Canada and the European Union subsequently imposed new tariffs on Chinese electric vehicles and Canada added levies on aluminum and steel as well), and they serve as a reminder that the United States retains the right, given the absence of a functioning Appellate Body, to appeal adverse World Trade Organization (WTO) panel reports into a legal void.

In August 2017, as part of a wide array of tariff actions and other trade measures taken under President Trump,⁸ the Office of the U.S. Trade Representative (USTR) initiated an investigation under Section 301 to determine “whether acts, policies, and practices of the Government of China related to technology transfer, intellectual property, and innovation” were “unreasonable or discriminatory and burden[ed] or restrict[ed] U.S. commerce.”⁹ Seven months later, in March 2018, USTR found that China’s practices were discriminatory. China “used foreign ownership restrictions . . . to require or pressure technology transfer from U.S. companies,” “forced U.S. companies seeking to license technologies to Chinese entities to do so on non-market-based terms that favored Chinese recipients,” “directed and unfairly facilitated the systematic investment in, and acquisition of, U.S. companies and assets by Chinese companies to obtain cutting-edge technologies and IP and generate the transfer of technology to Chinese companies,” and “conducted and supported unauthorized intrusions into, and theft from, the computer networks of U.S. companies to access their IP, including trade secrets, and confidential business information.”¹⁰ Accordingly, the White House announced the imposition of tariffs in accordance with Section 301 on “goods imported from China containing industrially significant technology.”¹¹ The tariffs, issued in two rounds, affected at first \$50 billion in goods.¹² A trade war with China ensued, and by August 2019 the

<https://www.whitehouse.gov/briefing-room/presidential-actions/2024/07/10/a-proclamation-on-adjusting-imports-of-steel-into-the-united-states-7> [<https://perma.cc/9K9B-RJJR>]. In September, the administration proposed new rules to restrict the *de minimis* exemption that has increasingly been used to import goods from China duty-free. See White House Press Release, 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 (Sept. 13, 2024), at <https://www.whitehouse.gov/briefing-room/statements-releases/2024/09/13/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> [<https://perma.cc/QT86-VHZN>].

⁸ See, e.g., Kristina Daugirdas & Julian Davis Mortenson, *Contemporary Practice of the United States*, 111 AJIL 1014, 1045 (2017); Jean Galbraith, *Contemporary Practice of the United States*, 112 AJIL 295, 315 (2018); Jean Galbraith, *Contemporary Practice of the United States*, 112 AJIL 734, 751 (2018).

⁹ See Initiation of Section 301 Investigation, 82 Fed. Reg. 40,213, 40,213 (Aug. 24, 2017); 19 U.S.C. § 2411(b)(1) (codifying Trade Act of 1974, Pub. L. 93–618, § 301, as amended); see also Jean Galbraith, *Contemporary Practice of the United States*, 112 AJIL 486, 505 (2018).

¹⁰ Section 301 Review, *supra* note 1, at 3; see also Office of the U.S. Trade Representative, Findings of the Investigation into China’s Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation Under Section 301 of the Trade Act of 1974 (Mar. 22, 2018), at <https://ustr.gov/sites/default/files/Section%20301%20FINAL.PDF> [<https://perma.cc/K82C-AUR3>] [hereinafter Section 301 Investigation].

¹¹ See White House Press Release, Statement on Steps to Protect Domestic Technology and Intellectual Property from China’s Discriminatory and Burdensome Trade Practices (May 29, 2018), at <https://trumpwhitehouse.archives.gov/briefings-statements/statement-steps-protect-domestic-technology-intellectual-property-chinas-discriminatory-burdensome-trade-practices> [<https://perma.cc/9QV8-GFL7>]; see also Office of the U.S. Trade Representative, President Trump Announces Strong Actions to Address China’s Unfair Trade (Mar. 22, 2018), at <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2018/march/president-trump-announces-strong> [<https://perma.cc/4K5E-E945>].

¹² See Notice of Determination and Request for Public Comment Concerning Proposed Determination of Action Pursuant to Section 301, 83 Fed. Reg. 14,906 (Apr. 6, 2018); Notice of Action and Request for Public

United States had imposed tariffs on an additional \$500 billion in goods in two separate tranches.¹³ In January 2020, the United States and China agreed to a trade deal that reduced or eliminated some of these tariffs.¹⁴ A planned second deal never materialized, however, and once in office, the Biden administration decided to retain the extant tariffs, which at this point covered more than \$360 billion in goods.¹⁵

Section 301 tariffs automatically expire after four years if a representative of the domestic industry that benefitted from them does not request their continuation.¹⁶ USTR announced on September 8, 2022, that such a request had been submitted and that all the tariffs would remain in effect pending a statutorily required review.¹⁷ The review would evaluate the tariffs' "effectiveness" in eliminating China's unfair or discriminatory trade practices, as well as the tariffs' "effects . . . on the United States economy, including consumers."¹⁸ USTR received nearly 1,500 comments as part of the review process.¹⁹

In May of this year, USTR completed and issued its review. Regarding the effectiveness of the tariffs, the review concluded that they had: (1) encouraged China to "take steps toward eliminating the investigated technology transfer-related acts"; (2) reduced "the exposure of U.S. persons and companies"; (3) and provided "an incentive for importers to find alternative sources."²⁰ Even so, China had "not eliminated its technology transfer related acts, policies,

Comment Concerning Proposed Determination of Action Pursuant to Section 301, 83 Fed. Reg. 28,710 (June 20, 2018); Notice of Action Pursuant to Section 301, 83 Fed. Reg. 40,823 (Aug. 16, 2018).

¹³ See Notice of Modification of Section 301 Action, 83 Fed. Reg. 47,974 (Sept. 21, 2018); Notice of Modification of Section 301 Action, 84 Fed. Reg. 43,304 (Aug. 20, 2019); Notice of Modification of Section 301 Action, 84 Fed. Reg. 45,821 (Aug. 30, 2019); see also Ana Swanson, *As Trump Escalates Trade War, U.S. and China Move Further Apart with No End in Sight*, N.Y. TIMES (Sept. 1, 2019), at <https://www.nytimes.com/2019/09/01/world/asia/trump-trade-war-china.html>. A process was instituted for persons to request temporary exclusions of specific products from the tariffs. Most granted exclusions have expired. Some have been extended, with certain exclusions now continued through May 31, 2025. See Notice of Extension of Certain Exclusions, 89 Fed. Reg. 46,948 (May 30, 2024).

¹⁴ See Economic and Trade Agreement Between the Government of the United States of America and the Government of the People's Republic of China (Jan. 15, 2020); Notice of Modification of Section 301 Action, 84 Fed. Reg. 69,447 (Dec. 18, 2019); Notice of Modification of Section 301 Action, 85 Fed. Reg. 3,741 (Jan. 22, 2020); see also Ana Swanson & Alan Rappeport, *Trump Signs China Trade Deal, Putting Economic Conflict on Pause*, N.Y. TIMES (Jan. 15, 2020), at <https://www.nytimes.com/2020/01/15/business/economy/china-trade-deal.html>; Ana Swanson, *Trump's Trade Deals Raise, Rather Than Remove, Economic Barriers*, N.Y. TIMES (Dec. 17, 2019), at <https://www.nytimes.com/2019/12/17/business/trump-trade-deals-free-markets.html>.

¹⁵ See Ana Swanson & Keith Bradsher, *U.S. Signals No Thaw in Trade Relations with China*, N.Y. TIMES (Oct. 4, 2021), at <https://www.nytimes.com/2021/10/04/business/economy/us-china-trade.html>; Ana Swanson, Edward Wong & Alan Rappeport, *Debate Over Tariffs Reveals Biden's Difficulties on China Trade*, N.Y. TIMES (May 23, 2022), at <https://www.nytimes.com/2022/05/23/business/economy/china-trade-tariffs-biden.html>; Andrew Duehren, Yuka Hayashi & Alex Leary, *Biden Officials Divided Over Easing China Tariffs to Slow Inflation*, WALL ST. J. (May 3, 2022), at <https://www.wsj.com/articles/biden-officials-divided-over-easing-china-tariffs-to-slow-inflation-11651605527>.

¹⁶ See 19 U.S.C. § 2417(c).

¹⁷ See Initiation of Four-Year Review Process, 87 Fed. Reg. 26,797 (May 5, 2022); Continuation of Actions, 87 Fed. Reg. 55,073 (Sept. 8, 2022); Request for Comments in Four-Year Review of Actions Taken in the Section 301 Investigation, 87 Fed. Reg. 62,914 (Oct. 17, 2022).

¹⁸ 19 U.S.C. § 2417(c)(3).

¹⁹ See Section 301 Review, *supra* note 1, Appendix A, at 1.

²⁰ Office of the U.S. Trade Representative Press Release, USTR Issues Federal Register Notice on Section 301 Proposed Tariff Modifications and Machinery Exclusion Process (May 22, 2024), at <https://www.ustr.gov/about-us/policy-offices/press-office/press-releases/2024/may/ustr-issues-federal-register-notice-section-301-proposed-tariff-modifications-and-machinery> [<https://perma.cc/66SS-7UNR>] [hereinafter USTR Issues Federal Register

and practices, which continue[d] to impose a burden or restriction on U.S. commerce.”²¹ China had also “persisted, and in some cases [had] become aggressive, including through cyber intrusions and cybertheft, in its attempts to acquire and absorb foreign technology.”²² Turning to the effects on the U.S. economy, the review found that (1) the “tariffs . . . had small negative effects on U.S. aggregate economic welfare”; (2) they had “positive impacts on U.S. production in the 10 sectors [that were] most directly”; and (3) they had “minimal impacts on economy-wide prices and employment.”²³

Based on these conclusions, and in order to “maintain the current leverage” on China and “encourage [it] to eliminate the technology transfer-related acts,” the review recommended that “products currently subject to section 301 duties . . . remain subject to [those] duties” and that “modifications [be made] to add or increase tariffs for certain [specified] products.”²⁴ The review also recommended: additional funding for U.S. Customs and Border Protection for tariff enforcement; greater public-private collaboration to prevent cyber-intrusion and economic espionage; continued assessment of supply chain resilience; and establishment of a tariff exclusion process for machinery used in domestic manufacturing.²⁵

Advised of these findings by U.S. Trade Representative Katherine Tai, the president directed USTR to maintain, add, and increase the Section 301 tariffs, as the review had recommended.²⁶ Accordingly, USTR published a proposed list of tariff increases,²⁷ and following public comment, those modifications were finalized in early September.²⁸ Focusing on protecting the U.S. high-tech sector and especially clean energy (though also touching on medical products), tariffs were increased on battery parts (non-lithium-ion) (from 7.5 percent to 25 percent), electric vehicles (from 25 percent to 100 percent), facemasks (from 7.5 percent to 25 percent immediately and 50 percent in 2026), lithium-ion EV and non-EV batteries (from 7.5 percent to 25 percent), medical gloves (from 7.5 percent to 50 percent in 2025 and 100 percent in 2026), semiconductors (from 25 percent to 50 percent), solar cells (from 25 percent to 50 percent), and steel and aluminum products (from 7.5 to 25 percent).²⁹ Tariffs were added on natural graphite (25 percent), other critical minerals (25 percent), permanent magnets (25 percent), ship-to-shore cranes (25 percent), and syringes and needles (100 percent).³⁰ In making its tariff recommendations, USTR explained that “[i]ncreasing or adding section 301 tariffs on products targeted by China for dominance will . . . encourag[e] alternative sourcing in strategic sectors of the economy, reducing U.S. reliance on China, while also reducing exposure to China’s . . . practices, and help to maintain resilient, diverse, and secure supply chains.”³¹ They will also complement

Notice]. *See generally* Section 301 Review, *supra* note 1. The review was conducted jointly by USTR and the Section 301 Committee, a staff-level body of the interagency Trade Policy Staff Committee.

²¹ USTR Issues Federal Register Notice, *supra* note 20.

²² *Id.*

²³ *Id.*

²⁴ Section 301 Review, *supra* note 1, at 84.

²⁵ *See id.* at 87–88.

²⁶ *See* President’s Memorandum, *supra* note 2, Sec. 1(a).

²⁷ *See* Request for Comments, *supra* note 6, at 46,252.

²⁸ *See* Notice of Modification, *supra* note 2, at 76,581.

²⁹ *See id.* at 76,590–76,600. Some of the increases were deferred until 2025 or 2026.

³⁰ *See id.*

³¹ Section 301 Review, *supra* note 1, at 85.

“significant [U.S.] investments, including through such initiatives as the IRA and the Bipartisan Infrastructure Law[,] . . . [that] seek[] to improve U.S. economic competitiveness, innovation, and productivity . . . in U.S. production and technology in strategic sectors.”³²

Shortly after President Biden’s decision to increase tariffs on electric vehicles, Canada and the European Union (EU) also increased their tariffs. In July, the EU provisionally imposed duties on Chinese electric vehicles, varied by manufacturer, with a maximum of 37.6 percent.³³ Those duties were made definitive in October, extending them for at least five years,³⁴ despite negotiations between the EU and China that would have avoided that decision.³⁵ In August, Canada imposed a 100 percent tariff on Chinese electric vehicles.³⁶ Following the United States, Canada also imposed a 25 percent tariff on Chinese aluminum and steel.³⁷ Canadian Prime Minister Justin Trudeau said: “I think we all know that China is not playing by the same rules.”³⁸ “What is important about this,” he continued, “is we’re doing it in alignment and in parallel with other economies around the world.”³⁹

Responding to President Biden’s announcement that additional tariffs would be imposed, and the existing Section 301 tariffs would not be withdrawn, Liu Pengyu, the spokesperson for the Chinese Embassy in Washington, DC, said that “[t]he WTO has drawn a clear conclusion that the U.S.’s Section 301 tariffs violate WTO rules and international law. The US move . . . will only significantly drive up the cost of imported goods, inflict more loss on American companies and consumers, and make the US consumers pay even more.”⁴⁰ “The latest move by the US,” he continued, “is typical unilateralism, political maneuvering and hegemonic bullying.”⁴¹ In September, China released its annual “Report on WTO Compliance of the United States,”

³² *Id.*

³³ See European Commission Press Release, Commission Imposes Provisional Countervailing Duties on Imports of Battery Electric Vehicles from China While Discussions with China Continue (July 4, 2024), at https://ec.europa.eu/commission/presscorner/detail/en/ip_24_3630 [<https://perma.cc/3A52-DJ5Y>].

³⁴ See European Commission Press Release, Commission Proposal to Impose Tariffs on Imports of Battery Electric Vehicles from China Obtains Necessary Support from EU Member States (Oct. 3, 2024), at https://ec.europa.eu/commission/presscorner/detail/en/statement_24_5041 [<https://perma.cc/J3ZL-7PGD>].

³⁵ See Melissa Eddy & Jenny Gross, *Europe Slashes Tariffs for Tesla Vehicles Made in China*, N.Y. TIMES (Aug. 20, 2024), at <https://www.nytimes.com/2024/08/20/business/tesla-electric-vehicle-tariffs-china.html>.

³⁶ Dep’t of Finance Canada Press Release, Surtax on Chinese-made Electric Vehicles (Aug. 26, 2024), at <https://www.canada.ca/en/departement-finance/news/2024/08/surtax-on-chinese-made-electric-vehicles.html> [<https://perma.cc/WR7L-Y4MA>].

³⁷ Dep’t of Finance Canada Press Release, Surtax on Imports of Steel and Aluminum Products from China (Aug. 26, 2024), at <https://www.canada.ca/en/departement-finance/news/2024/08/surtax-on-imports-of-steel-and-aluminum-products-from-china.html> [<https://perma.cc/TMR7-RF8W>].

³⁸ Ian Austen, *Canada Will Impose 100% Tariffs on Chinese Electric Vehicles*, N.Y. TIMES (Aug. 26, 2024), at <https://www.nytimes.com/2024/08/26/business/canada-ev-tariffs-china.html> (quoting Prime Minister Trudeau).

³⁹ *Id.*

⁴⁰ Embassy of the People’s Republic of China in the United States of America Press Release, Embassy Spokesperson’s Response to Media Query on US Tariff Hikes (May 15, 2024), at http://us.china-embassy.gov.cn/eng/lcbrt/sgfyrbt/202405/t20240516_11305294.htm [<https://perma.cc/C6GW-NA3S>] [hereinafter Embassy Spokesperson’s Response]. In 2020, in a complaint brought by China, a WTO dispute settlement panel found the Section 301 tariffs were *prima facie* inconsistent with U.S. obligations under the General Agreement on Tariffs and Trade. The United States appealed the panel’s report. See United States—Tariff Measures on Certain Goods from China, para. 8.2, WTO Doc. WT/DS543/R (Sept. 15, 2020); World Trade Organization Press Release, United States Appeals Panel Report Regarding US Tariffs on Chinese Goods (Oct. 26, 2020), at https://www.wto.org/english/news_e/news20_e/ds543apl_26oct20_e.htm [<https://perma.cc/9EYC-HBGJ>].

⁴¹ Embassy Spokesperson’s Response, *supra* note 40.

criticizing the United States for its “so-called ‘de-risking’ policy,” for “escalating unilateral sanctions,” and for “discriminatory economic and trade policies,” such as the Section 301 tariffs.^{42*}

INTERNATIONAL CRIMINAL LAW

Julian Assange Pleads Guilty to One Charge of Espionage and Returns to Australia, Ending U.S. Attempts to Extradite Him

doi:10.1017/ajil.2024.47

Appearing before a Northern Mariana Islands federal judge pursuant to a plea agreement,¹ WikiLeaks founder Julian Assange pleaded guilty in June to one count of conspiracy to obtain and disclose national defense information.² He was immediately sentenced to sixty-two months’ time served—the period he spent in a UK prison while contesting a U.S. extradition request³—and departed for Australia, his country of nationality.⁴ The quick proceeding brought an end to thirteen and a half years of efforts to prosecute Assange, first by Sweden for rape and sexual assault and then by the United States for encouraging and facilitating the largest disclosure of classified documents in U.S. history.⁵ The case’s resolution avoided the possible rejection by the English courts of the U.S. request for Assange’s extradition. It also prevented the consideration by U.S. courts of complicated statutory and constitutional questions that Assange’s prosecution would have raised regarding the relationship between national security and the First Amendment. Attorney General Merrick Garland said that the plea deal was in the “best interests” of the United States.⁶

⁴² People’s Republic of China Ministry of Commerce, 2024 Report on WTO Compliance of the United States 3–5 (Sept. 2024), at http://sms.mofcom.gov.cn/cms_files/filemanager/676898164/attach/2024/9/7e465a3c4b3c4f11be09a3a4f6d09916.pdf [<https://perma.cc/L4KK-L5D>].

* This is the corrected version of a paper first published on November 15, 2024, containing minor typesetter errors.

¹ See Plea Agreement, United States v. Assange, Case No. 1:24-cr-00014 (D.N.M.I. June 25, 2024), at <https://www.justice.gov/www.justice.gov/opa/media/1358636/dl%3Finline/dl?inline> [hereinafter Plea Agreement]. The count was charged in a criminal information filed the same day as the guilty plea. See Criminal Information, United States v. Assange, Case No. 1:24-cr-00014 (D.N.M.I. June 25, 2024), at <https://www.justice.gov/opa/media/1358631/dl?inline> [<https://perma.cc/PU3H-SHAJ>].

² See U.S. Dep’t of Justice Press Release, WikiLeaks Founder Pleads Guilty and Is Sentenced for Conspiring to Obtain and Disclose Classified National Defense Information (June 25, 2024), at <https://www.justice.gov/opa/pr/wikileaks-founder-pleads-guilty-and-sentenced-conspiring-obtain-and-disclose-classified> [<https://perma.cc/27BN-9HYD>] [hereinafter DOJ Press Release].

³ In a press release, the Department of Justice stated that Assange’s sentence “reflect[ed] the time he served in U.K. prison as a result of the U.S. charges.” DOJ Press Release, note 2. Assange was imprisoned in the United Kingdom for sixty-two months, but the first five of those months stemmed from a custodial sentence for violating bail. See text accompanying notes 28–29 *infra*. He thus served approximately fifty-seven months in the United Kingdom “as a result of the U.S. charges.”

⁴ See Damien Cave, *Julian Assange Pleads Guilty to Espionage, Securing His Freedom*, N.Y. TIMES (June 25, 2024), at <https://www.nytimes.com/2024/06/25/world/australia/julian-assange-plea-deal-guilty.html>.

⁵ As part of the plea agreement, prosecutors agreed to withdraw the U.S. extradition request to the United Kingdom, dismiss the indictment against Assange in the Eastern District of Virginia, and not file any additional charges. See Plea Agreement, *supra* note 1, at 11.

⁶ Glenn Thrush & Megan Specia, *A Wish from All Sides to Move on Ends with Liberty for Assange*, N.Y. TIMES (June 29, 2024), at <https://www.nytimes.com/2024/06/29/us/politics/julian-assange-release-uk-us.html> (quoting Attorney General Garland).