

TRANSLATION

**2025 Report on WTO Compliance of the  
United States**

October 2025

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## **TABLE OF ABBREVIATIONS**

|        |                                                               |
|--------|---------------------------------------------------------------|
| AMS    | Aggregate Measurement of Support                              |
| ARC    | Agricultural Risk Coverage                                    |
| BIS    | Bureau of Industry and Security of the Department of Commerce |
| CEER   | Combined Energy Efficiency Ratio                              |
| CFIUS  | Committee on Foreign Investment in the U.S.                   |
| CSA    | CHIPS and Science Act of 2022                                 |
| DOC    | The U.S. Department of Commerce                               |
| DOE    | The U.S. Department of Energy                                 |
| DSB    | Dispute Settlement Body                                       |
| DSU    | Dispute Settlement Understanding                              |
| EAR    | Export Administration Regulations                             |
| ERC    | End-User Review Committee                                     |
| FCC    | Federal Communications Commission                             |
| FDP    | Foreign-Direct Product Rule                                   |
| FEOC   | Foreign Entity of Concern                                     |
| FIRRMA | Foreign Investment Risk Review Modernization Act of 2018      |
| GATS   | General Agreement on Trade in Services                        |

|      |                                                    |
|------|----------------------------------------------------|
| GATT | General Agreement on Tariffs and Trade             |
| GPA  | Agreement on Government Procurement                |
| Ics  | Integrated Circuits                                |
| ICT  | Information and Communications Technology          |
| IIJA | Infrastructure Investment and Job Act of 2021      |
| IMF  | International Monetary Fund                        |
| IPEF | Indo-Pacific Economic Framework                    |
| IRA  | Inflation Reduction Act of 2022                    |
| LDCs | Least Developed Countries                          |
| LTAR | Less Than Adequate Remuneration                    |
| MC12 | 12th Ministerial Conference of the WTO             |
| MC13 | 13th Ministerial Conference of the WTO             |
| MPIA | Multi-Party Interim Appeal Arbitration Arrangement |
| NME  | Non-Market Economy                                 |
| NOAA | National Oceanic and Atmospheric Administration    |
| NPE  | Non-Practicing Entity                              |
| NPRM | Notice of Proposed Rulemaking                      |
| NSA  | National Security Agency                           |
| OFAC | Office of Foreign Assets Control                   |
| PLC  | Price Loss Coverage                                |
| R&D  | Research and Development                           |
| SAA  | Statement of Administrative Action on the Uruguay  |

|                 |                                                                    |
|-----------------|--------------------------------------------------------------------|
|                 | Round Trade Agreements                                             |
| SCM Agreement   | Agreement on Subsidies and Countervailing Measures                 |
| SDN List        | The Specially Designated Nationals and Blocked Persons List        |
| SDT             | Special and Differential Treatment                                 |
| SEER            | Seasonal Energy Efficiency Ratio                                   |
| SIMP            | Seafood Import Monitoring Program                                  |
| TBT Agreement   | Agreement on Technical Barriers to Trade                           |
| TRIPS Agreement | Agreement on Trade-Related Aspects of Intellectual Property Rights |
| TTC             | U.S.-EU Trade and Technology Council                               |
| USITC           | United States International Trade Commission                       |
| USMCA           | United States-Mexico-Canada Agreement                              |
| USTR            | The Office of the United States Trade Representative               |
| WTO             | World Trade Organization                                           |

## PREFACE

International trade is an important engine driving global economic growth. The World Trade Organization (hereinafter referred to as “WTO”) is a key pillar of multilateralism and an important platform for global economic governance. The multilateral trading system with the WTO at its core has provided the world economy with an open, stable and predictable institutional foundation, and is the cornerstone of economic globalization and international trade. *The Marrakesh Agreement Establishing the World Trade Organization* emphasizes the substantial reduction of tariffs and other barriers to trade and the elimination of discriminatory treatment in international trade relations by entering into reciprocal and mutually advantageous arrangements. This fully reflects WTO members’ shared aspiration for the open, transparent, inclusive and non-discriminatory multilateral trading system.

The WTO is a member-driven international organization, and the exemplary role of its major members cannot be understated. Currently, the multilateral trading system is facing significant challenges. Large members are required to lead by example more than ever. Regrettably, the United States (hereinafter referred to as “the U.S.”), as the world’s largest economy and an important founder and principal beneficiary of the multilateral trading system after World War II, has in recent years disregarded multilateral trade rules and ignored the expectations of other members. Pursuing “America First” agenda, the U.S. has arbitrarily imposed unilateral tariff measures such as the so-called “reciprocal tariffs”, paralyzed the functioning of the WTO Appellate Body by blocking the appointments of its members, abused trade remedies and export control measures, implemented discriminatory subsidies, disrupted global supply chains, and imposed various forms of economic coercion and sanctions. By pursuing the so-called policy to reduce risks and dependence, economic and trade issues have been politicized, weaponized and pan-securitized by the U.S. These actions have gravely departed from the core values and fundamental principles of the WTO, and seriously violated the U.S. international obligations under the WTO rules. They also have posed severe challenges to the multilateral trading system, undermined the common interests of WTO members and the well-being of peoples around the world, and hindered the global economic recovery process.

The Ministry of Commerce of the People’s Republic of China has released this annual report since 2023, with the aim of safeguarding the common interests of WTO members and upholding international fairness and justice. The report urges the U.S. to fulfill its role as a major WTO member, by adhering to WTO rules, honoring its

commitments, and working together with other WTO members including the People's Republic of China (hereinafter referred to as "China"), to enable the multilateral trading system to play a greater role in global governance.

This annual report is current as of July 15, 2025.

## **EXECUTIVE SUMMARY**

### **1. Structure of this Report**

This Report includes three chapters.

Chapter I provides an overall assessment on the U.S. compliance with its WTO obligations from four perspectives. As an important founder and principal beneficiary of the multilateral trading system, the U.S. is expected to set an example in honoring commitments and upholding the authority and efficacy of the multilateral trading system. However, in order to divert attention from its domestic challenges and maintain international hegemony, the U.S. has disregarded WTO rules and ignored the expectations of other members. By pursuing “America First” agenda, the U.S. has engaged in unilateralism, protectionism and economic bullying, which inflicted severe damages on the multilateral trading system.

Chapter II covers the specific concerns regarding U.S. policy measures. Based on the WTO rules and the U.S. commitments under the WTO agreements, concerns are expressed over the U.S. trade and economic policy and measures that violate WTO rules in 11 key areas, including tariff and non-tariff barriers, industrial subsidies, agricultural subsidies, trade remedies, standards and technical regulations, trade in services, intellectual property rights, export controls and economic sanctions, investment review mechanism, “Buy American” policy, and discriminatory arrangements in international economic and trade cooperation.

Chapter III introduces the joint efforts of China and other members to address the U.S. actions that violate the WTO rules and undermine multilateralism. These efforts include upholding true multilateralism, promoting the restoration of proper functioning of the Appellate Body, safeguarding the legitimate rights and interests of developing members, making full use of the trade policy review and monitoring functions of the WTO, and safeguarding the authority of the dispute settlement mechanism.

### **2. Main Contents of the 2025 Report**

Since China first released this Report in 2023, the U.S. has continued paying lip service to its obligations under WTO rules and kept inconsistency between its words and deeds. The year 2025 marks the 30th anniversary of the establishment of the WTO. In its report *the WTO at Thirty and U.S. Interests*, the U.S. claimed, “During the Uruguay Round, we were a key architect of the WTO and since 1995, the United States has been deeply engaged in every facet of work in the organization”. However, the trade policy measures and actions taken by the U.S. not only seriously depart from

such professed policy stance but also seriously violate the WTO rules. All facts demonstrate that the U.S. is still a destroyer of the multilateral trading system, a practitioner of unilateralism and bullying behaviors, a manipulator of double standards in industrial policy, and a disrupter of global industrial and supply chains. In addition to updating the previous reports, the 2025 Report highlights a series of unilateral measures imposed by the new U.S. administration, such as the so-called “reciprocal tariffs”.

In January 2025, the U.S. released *the Memorandum on the America First Trade Policy*. In February, the U.S. released *the Memorandum on the America First Investment Policy*. On April 2, the U.S. announced the so-called “reciprocal tariffs” policy on all its trading partners, threatening to impose a 10% “baseline tariff”. Such policy even covered the uninhabited Penguin Island. It also imposed higher tariff rates on certain trading partners. In the so-called “reciprocal tariffs” list, the U.S. imposed tariffs as high as over 40% on a number of WTO members, including some of the least developed countries (LDCs) members. Among LDCs, Lesotho faced the highest tariff rate at 50%, followed by Cambodia (49%), Laos (48%), Madagascar (47%), and Myanmar (44%). Other developing members, such as Vietnam, Sri Lanka, and Mauritius, were subject to rates of 46%, 44%, and 40%, respectively. The so-called “reciprocal tariffs” rate on China had been raised from 34% to as high as 125%, with certain products facing a cumulative tariff as high as 245%. In July, leaders of some countries received letters from the U.S., which stated that the U.S. would impose tariffs ranging from 20% to 50% on imports from Japan, South Korea, South Africa, Bangladesh, Cambodia, Myanmar, and other countries starting from August 1.

The so-called “reciprocal tariffs” imposed by the U.S. severely infringe upon the legitimate rights and interests of other countries, seriously violate the rules of the WTO, and cause significant damage to the rules-based multilateral trading system. Such actions are typical manifestations of unilateralism, protectionism and economic bullying.

The risk of U.S. violations of the rules in the following areas also warrants continued attention. Regarding tariffs and non-tariff barriers, the U.S. has been wielding the tariffs stick and used the “national security” as a pretext to create new trade injustices. Regarding industrial subsidies, the U.S. has continued to apply discriminatory subsidy policies to suppress the competitive industries of other countries. Regarding agricultural subsidies, the U.S. has continued to take a variety of measures to conceal its large amount of extensive domestic support that distort international trade. Regarding trade remedies, the U.S. has frequently resorted to

unilateral trade remedy tools. Regarding technical regulations, standards and conformity assessment procedures, the U.S. has violated WTO rules to restrict imports from other members. Regarding trade in services, the U.S. has been stepping up government intervention to interfere with the normal business operations of enterprises in an attempt to maintain its leading edge. Regarding intellectual property rights, the U.S. has been keen on manipulating double standards to stifle its competitors. Regarding export control and economic sanctions, the U.S. has disregarded WTO rules and kept escalating its bullying behaviors. Regarding investment review policies, the U.S. has been overstretching the concept of national security, continuously expanding the scope of review, and even adopting measures such as retrospective reviews or interfering with other members' investment reviews. Regarding "Buy American" policy, the U.S. has disregarded the concerns of other WTO members, adopting measures that seriously distort the global trade and investment in the related industries. Regarding discriminatory arrangements in international economic and trade cooperation, the U.S. has continued to advance discriminatory bilateral and regional arrangements based on non-economic factors, sowing division among WTO members.

In short, the U.S. unilateral actions, driven by its domestic political considerations and short-term self-interests, stand in opposition to the WTO rules and severely undermine the security and stability of the global industrial and supply chains. In response, China, together with other WTO members, firmly upholds the rules-based multilateral trading system, defends international fairness and justice, opposes unilateralism and bullying practices, and promotes the necessary reforms of the WTO to provide more certainty and predictability to the global economy.

## CHAPTER I

### OVERALL ASSESSMENT ON THE U.S. COMPLIANCE WITH ITS WTO OBLIGATIONS

The U.S., as the world's largest economy and trading nation, has long maintained a leading position in global trade. It has made significant contributions to establishing the multilateral trading system, advancing multilateral economic and trade negotiations, solving disputes via multilateral mechanism, and maintaining the smooth operation of the trade policy review mechanism.

The U.S. is an important founder of the multilateral trading system. It had contributed to the conclusion of *the General Agreement on Tariffs and Trade* (hereinafter referred to as "GATT") after World War II and initiated the Uruguay Round negotiations in the 1980s. As one of the most important founding members of the WTO, the U.S. had played a key role in the formulation of the WTO rules. After the establishment of the WTO, the positive outcomes and progress in areas such as *the Information Technology Agreement* and its expansion, *the Trade Facilitation Agreement*, *the Agreement on Fisheries Subsidies* as well as new issues like services domestic regulation and e-commerce, could not have been achieved without the participation and efforts of the U.S. The U.S. had been a strong advocate of the WTO dispute settlement mechanism and settled trade disputes with other members through active resort to the multilateral mechanism.

The U.S. has been and still is a principal beneficiary of the multilateral trading system. Its financial, internet and high-tech giants, multinational corporations, farmers and ranchers as well as consumers have all benefited greatly from free trade. According to a study by the Peterson Institute for International Economics, from 1950 to 2022, the cumulative trade benefits for the U.S. reached \$2.6 trillion, and trade expansion increased per capita income in the U.S. by more than \$7,800.<sup>1</sup> According to World Bank data, measured in constant 2015 U.S. dollars, since the establishment of the WTO in 1995, the growth of U.S. GDP far exceeded those of other developed countries and major developing countries. However, for domestic problems such as inequality of income and employment opportunities among different social strata, current account deficits and trade deficits, the U.S. government put the blames on the so-called "unfair trade", globalization and the WTO as the scapegoat of its domestic policy failures.

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<sup>1</sup> America's payoff from engaging in world markets since 1950, Gary Clyde Hufbauer

Since 2017, the U.S. has adopted a series of unilateralist and protectionist measures. In particular, the U.S. government unveiled the America First Trade Policy and the America First Investment Policy in 2025. It also instructed the relevant departments to echo the legislative proposals of Congress to examine the revocation of China's Permanent Normal Trade Relations (PNTR). On April 2, the U.S. announced so-called "reciprocal tariffs". These actions seriously contravened the core values and fundamental principles of the WTO, severely undermined the authority and efficacy of the multilateral trading system, disrupted the process of economic globalization, and caused significant damage to the stable development of the global economy and trade.

## **1.1 A Destroyer to the Multilateral Trading System**

1.1.1 The U.S. puts its domestic laws over and above international rules, disregards the multilateral trading rules and concerns of other WTO members, defies and challenges the fundamental principles of the WTO, and paralyzes the normal functioning of the WTO. These actions seriously threaten the survival and development of the multilateral trading system.

1.1.2 **Undermining the dispute settlement mechanism.** The dispute settlement mechanism, regarded as the "crown jewel" of the WTO, provides an important safeguard for the effective implementation of the WTO rules with its binding recommendations and rulings. As the terms of Appellate Body members expired and vacancies arose since 2017, the U.S. has been blocking appointments of new Appellate Body members on the grounds of the so-called "systemic concerns", which led to the paralysis of the Appellate Body. As of June 2025, the U.S. has consecutively vetoed proposals to initiate the selection process for new Appellate Body members at 88 regular meetings of the WTO Dispute Settlement Body (hereinafter referred to as DSB). Even though 130 WTO members explicitly supported the early launch of this process, the U.S. still refused to join the extensive consensus under the excuse of unresolved systemic concerns.<sup>2</sup> This contradicted Article 17.2 of the Dispute Settlement Understanding (hereinafter referred to as "DSU"), which provides that "vacancies shall be filled as they arise". On the one hand, the U.S. has kept blocking the appointments of new Appellate Body members thus leaving the Appellate Body in limbo. On the other hand, the U.S. has taken full advantage of the paralysis of the Appellate Body by intentionally appealing unfavorable panel rulings into the void, to prevent the panels' reports from being adopted and entering into effect. For instance, the U.S. has appealed several rulings

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<sup>2</sup> WT/DSB/M/472.

issued by the panels that its Section 232 steel and aluminum tariff measures and country of origin labeling requirements violated the WTO rules, and the Office of the United States Trade Representative (hereinafter referred to as “USTR”) claimed that the U.S. would not comply with the panels’ decisions and groundlessly criticized the WTO dispute settlement mechanism.<sup>3</sup>

**1.1.3 Selectively implementing DSB recommendations and rulings.** Full and complete implementation of DSB recommendations and rulings is a basic obligation to all WTO members and also the common expectation of original members and those members acceded into the WTO later on. However, the U.S. departed from its original purpose when establishing the WTO, and had a very poor record in implementing DSB recommendations and rulings, with the highest number of cases placed on the surveillance agenda of DSB regular meetings and the most concerns received from other members over its implementation. In the past 30 years since the establishment of the WTO, as of June 2025, the U.S. has been the respondent in 164 dispute cases, 28 of which concerning the U.S. repetitive non-compliance with DSB rulings, accounting for about 17% of all cases where the U.S. was the respondent. The DSB has authorized the complainant to take retaliatory measures against the U.S. in seven cases.<sup>4</sup> What concerns other members more is that, under the current situation where the Appellate Body is “paralyzed” due to the continued obstruction by the U.S., the U.S. appealed against nine unfavourable panels’ rulings into the void, maliciously preventing the implementation of the rulings. It is the member with the most “fruitless appeals”.

**1.1.4 Obstructing the WTO Development Agenda.** First, the U.S. challenged the special and differential treatment of developing members. In the WTO, the status of developing members is self-declared and they are entitled to enjoy special and differential treatment. This is determined by the development level of developing members, is a legitimate right of all developing members in the WTO, and is an integral part of the WTO agreements.<sup>5</sup> However, the U.S. argued that the special and differential treatment provided most members a pass with exemptions to new rules in the name of self-designation developing status.<sup>6</sup> The U.S. submitted proposals to the WTO General Council and used a “carrot-and-stick” approach in bilateral negotiations to put pressure on members, forcing them to give up the special and

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<sup>3</sup> Statement from USTR Spokesperson Adam Hodge, available at: <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2022/december/statement-ustr-spokesperson-adam-hodge>.

<sup>4</sup> Disputes by Member, available at: [https://www.wto.org/english/tratop\\_e/dispu\\_e/dispu\\_by\\_country\\_e.htm](https://www.wto.org/english/tratop_e/dispu_e/dispu_by_country_e.htm)

<sup>5</sup> The WTO has confirmed this multiple times in official written forms, such as in the Ministerial Declaration at the Fourth WTO Ministerial Conference in 2001 (Document WT/MIN(01)/DEC/1).

<sup>6</sup> WT/MIN(17)/ST/128.

differential treatment in the current and future WTO negotiations. This departed from the original inspiration of the WTO to bridge gaps among members with different levels of development and to maintain the fairness of international trade rules.

Second, the U.S. used special and differential treatment as a pretext to obstruct negotiation progress. Citing the imbalance of obligations under special and differential treatment, the U.S. refused to make substantial commitments in a series of negotiations related to development. For instance, it refused to engage substantively in negotiations on the G90 proposal on special and differential treatment, the proposal on the smooth graduation of least developed countries, and the proposal on policy space for industrialization in developing countries. This had led to a stalemate in negotiations on development-related issues.

Third, the U.S. refused to fulfill its obligation to pay its contribution to WTO. Timely and full payment of contribution is an obligation of WTO members. As the world's largest trading nation and the largest contributor to WTO, the U.S. is a major beneficiary of the multilateral trading system and should pay its contribution in time. However, citing so-called internal reviews, the U.S. had refused to pay its contribution for 2024 and has not paid its dues for 2025 by the time of the release of the Report. According to its financial regulations, the WTO listed the U.S. as a member in arrears and reported this at the General Council meetings in February and May 2025. The U.S. arrears in its contribution has severely impacted the daily operations of the WTO Secretariat, and most of the WTO's technical assistance activities had to be shifted from in-person to online or even canceled.

## **1.2 A Practitioner of Unilateralism and Bullying Behaviors**

1.2.1 The WTO prohibits its members from taking unilateral measures against other members without authorization. But the U.S. has a long history of taking unilateral measures against other members under the guise of “national security”, “human rights violation”, “forced technology transfer”, etc. and in particular abused a series of tariff measures since 2025. By leveraging its superior positions in economy, technology and finance, the U.S. coerces other members and their entities into following its diplomatic policies and accepting its illegitimate demands. These practices wreak havoc on international trade.

1.2.2 **Arbitrary Imposition of Tariffs.** Since 2017, the U.S. government has frequently imposed tariffs on imported products. At present, it relies even more heavily on the use of tariffs to suppress other countries and expanded the scope of such excessive tariff measures to all its trading partners. In February 2025, the U.S.

government imposed an additional 10% tariff on Chinese goods entering the U.S., citing the so-called “fentanyl issue”. In March, the U.S. used the same excuse to impose an additional 10% tariff on Chinese goods. On April 2, the U.S. announced the so-called “reciprocal tariffs”, threatening to impose a “baseline tariff” of 10% to all trading partners. Such policy even covered the uninhabited Penguin Island. As a result, the tariff rates on trading partners registering a higher trade surplus with the U.S. were raised significantly. For instance, the “reciprocal tariff” rate imposed on China was 34%, which was later raised to 125%, with some products facing a total tariff rate as high as 245%. Many other developing members were also facing high tariffs, even the LDCs. Among LDCs, Lesotho faced the highest tariff rate at 50%, followed by Cambodia (49%), Laos (48%), Madagascar (47%), and Myanmar (44%). Other developing members, such as Vietnam, Sri Lanka, and Mauritius, were subject to rates of 46%, 44%, and 40%, respectively. In July, leaders of some countries received letters from the U.S., which stated that the U.S. would impose tariffs ranging from 20% to 50% on imports from Japan, South Korea, South Africa, Bangladesh, Cambodia, Myanmar, and other countries starting from August 1. As of the release of the Report, the U.S. has not stopped its arbitrary imposition of tariffs and may introduce more such measures in the future.

**1.2.3 Abuse of the National Security Exceptions.** Since 2017, the U.S. has initiated a number of Section 232 investigations on various products, including steel and aluminum, from around the world under the pretext of “national security” and imposed additional tariffs as a result. Under U.S. coercion, some WTO members reached agreements with the U.S. in exchange for tariff exemptions. For instance, in order to obtain exemptions from the Section 232 tariffs on steel and aluminum, Canada and Mexico had to conclude *the United States-Mexico-Canada Agreement* (USMCA), in the interest of the U.S.<sup>7</sup> During the negotiations to revise *the U.S.-Korea Free Trade Agreement*, the U.S. also used steel product quotas as a bargaining chip to unreasonably pressure South Korea.<sup>8</sup> The U.S. even raised the Section 232 tariffs on Turkish steel products from 25 % to 50 % to punish Türkiye for its policy divergence from the U.S. on certain political issues.<sup>9</sup> Since 2018, the U.S. also banned the use of telecommunications and communication equipment from

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<sup>7</sup> Commerce Secretary Ross: Tariffs are ‘motivation’ for Canada, Mexico to make a ‘fair’ NAFTA deal, available at: <https://www.cnbc.com/2018/03/08/commerce-secretary-ross-tariffs-are-motivation-for-canada-mexico-to-make-a-fair-nafta-deal.html>.

<sup>8</sup> President Donald J. Trump is Fulfilling His Promise on the U.S. – Korea Free Trade Agreement and on National Security, available at: <https://trumpwhitehouse.archives.gov/briefings-statements/president-donald-j-trump-fulfilling-promise-u-s-korea-free-trade-agreement-national-security/>.

<sup>9</sup> Statement from President Donald J. Trump Regarding Türkiye’s Actions in Northeast Syria, available at: <https://trumpwhitehouse.archives.gov/briefings-statements/statement-president-donald-j-trump-regarding-türkiyes-actions-northeast-syria/>.

relevant Chinese companies citing “national security” concerns,<sup>10</sup> revoked the licenses of relevant telecommunication companies to operate in the U.S.,<sup>11</sup> and blocked investments from China. The U.S. continuously expanded the scope of “national security” in investment reviews, imposing discriminatory restrictions on investments from certain WTO members, and at the same time, strengthened the “security review” of overseas investment activities of U.S. companies. The two-way review of international investment by the U.S. directly interfered with and disrupted the normal flow of international finance and technology exchanges. In addition, the U.S. banned or restricted data flows to “countries of concern”, with a view to combining export controls and investment reviews and to upgrading its policy “toolbox”, consolidating and expanding its own advantages, and curbing the industrial development of “countries of concern”. The trade policy analysis website Borderlex published a commentary article stating that the U.S. refusal to implement the panel’s ruling on the U.S. government’s steel and aluminum tariffs indicated that the U.S. government could declare any issue a matter of “national security” in order not to apply the rules.<sup>12</sup>

**1.2.4 Widespread practices of economic coercion.** First, coercing companies into submitting trade secrets. In order to achieve a dominant position in high-tech fields such as semiconductors and new energy, the U.S. never hesitates to use state power to coerce relevant companies into submitting the core confidential information and to force members and their entities to “take sides”. In 2021, The U.S. Department of Commerce (hereinafter referred to as “DOC”) required companies involved in semiconductor supply chains to provide information “voluntarily” within 45 days, including the core data on 26 items covering inventories, production capacity, delivery cycle, and customer information, among others.<sup>13</sup> The U.S. government even threatened to resort to the compulsory measures under *the Defense Production Act of 1950* if those companies failed to submit their information as requested.<sup>14</sup>

Second, linking tariffs to non-economic and non-trade issues to force other members

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<sup>10</sup> National Defense Authorization Act for Fiscal Year 2019, Sec. 889 9(a)(1)(B), available at: <https://www.congress.gov/115/bills/hr5515/BILLS-115hr5515enr.pdf>.

<sup>11</sup> FCC Revokes and Terminates China Telecom America’s Authority to Provide Telecom Services in America, available at: <https://docs.fcc.gov/public/attachments/DOC-376902A1.pdf>; FCC Revokes China Unicom Americas’ Authority to Provide Telecom Services in America, available at: <https://docs.fcc.gov/public/attachments/DOC-379680A1.pdf>.

<sup>12</sup> Perspectives: Adjusting to a new world of trade rules, Borderlex, available at: <https://borderlex.net/2023/02/02/perspectives-adjusting-to-a-new-world-of-trade-rules/>.

<sup>13</sup> Notice of Request for Public Comments on Risks in the Semiconductor Supply Chain, available at: <https://www.federalregister.gov/documents/2021/09/24/2021-20348/notice-of-request-for-public-comments-on-risks-in-the-semiconductor-supply-chain>.

<sup>14</sup> White House Weighs Invoking Defense Law to Get Chip Data, available at: <https://www.bloomberg.com/news/articles/2021-09-23/white-house-weighs-invoking-defense-law-to-get-chip-supply-data#xj4y7vzkg>.

to accept its non-economic and non-trade conditions. In 2025, for instance, the U.S. forced Colombia to accept the repatriation of illegal immigrants from the U.S. by threatening of imposing tariffs, and pressured Canada and Mexico on issues of fentanyl and illegal immigration in the same way. It also threatened to impose secondary tariffs on members with economic and trade relations with Venezuela.

Third, abusing export control and sanction measures. The export control regime was designed to prevent the proliferation of weapons of mass destruction and the spread of their means of delivery. However, the U.S. has made this regime an instrument for hindering other countries' development and cracking down on foreign enterprises. *The Export Control Reform Act of 2018* even explicitly called for the imposition of export controls to reinforce the U.S. industrial base and maintain its dominance in the science, technology, engineering, and manufacturing sectors.<sup>15</sup> In 2025, the Bureau of Industry and Security (BIS) of U.S. Department of Commerce issued new regulations claiming that the use of Huawei Ascend chips and other advanced Chinese artificial intelligence chips may be considered a violation of U.S. export controls.<sup>16</sup> The U.S. has also abused “national security” and used “human rights violation” as a pretext to place a large number of entities from many WTO members on export control entity lists and sanctions lists, such as the Specially Designated Nationals and Blocked Persons List, and abused sanctions, severely hindering the normal foreign economic and trade activities enterprises from relevant members.

### **1.3 A Manipulator of Double Standards on Industrial Policies**

1.3.1 WTO members shall not implement industrial policies that violate the non-discriminatory principle of the WTO and *the Agreement on Subsidies and Countervailing Measures* (hereinafter referred to as “SCM Agreement”). For a long time, the U.S. used different standards with regard to industrial policies between other WTO members and itself. On the one hand, the U.S. implemented exclusive and discriminatory industrial policies based on its own needs and stage of industrial development. It provided subsidies on a large scale in violation of WTO rules, which distorted the global market of the relevant products. On the other hand, the U.S. blamed arbitrarily other members especially developing members on their legitimate policies aiming at developing domestic industries, and even hyped up the “overcapacity” of China’s new energy products in an attempt to justify its unilateralist and protectionist trade policies.

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<sup>15</sup> Export Control Reform Act of 2018, Sec. 102, available at: <https://www.congress.gov/bill/115th-congress/house-bill/5040/text>.

<sup>16</sup> Department of Commerce Rescinds Biden-Era Artificial Intelligence Diffusion Rule, Strengthens Chip-Related Export Controls, available at <https://media.bis.gov/sites/default/files/documents/05.07%20Recission%20of%20AI%20Diffusion%20Press%20Release.pdf>.

**1.3.2 Continuous implementation of protectionist industrial policies.** The U.S. championed the infant industry theory in its early years and emphasized protection of domestic industries through measures including tariffs and government subsidies. After World War II, the U.S. industry became highly competitive in the world. To facilitate greater access of its products to global markets, the U.S. advocated for integrating the industrial subsidy rules into the GATT, placing restriction or prohibition on other members' support for their domestic industries through subsidies. However, the U.S. did not restrain its own use of industrial policies. In the 1980s, the U.S. protected industries such as steel and textiles through trade remedies and import quotas. In recent years, the U.S. government recklessly subsidized the production of electric vehicles, critical minerals, clean energy and power generation facilities, semiconductors and other products to support the development of relevant industries in the U.S., completely defying the WTO disciplines on subsidies. For instance, in *the Inflation Reduction Act of 2022* (hereinafter referred to as "IRA"), the U.S. government planned to provide actionable and even prohibitive subsidies amounting to as much as \$369 billion to industries such as electric vehicles, power batteries, photovoltaics and critical minerals. In July 2025, *the One Big Beautiful Bill Act of 2025* further increased the tax credit rate for semiconductor manufacturers building new factories in the U.S. from 25 % to 35 %, thereby strengthening the support.

**1.3.3 Large amount of non-compliance subsidies to domestic industries in the name of mitigating climate change.** In terms of Clean Vehicle Credit, the IRA stipulated the domestic content requirements for critical minerals as a precondition for subsidies, i.e., the minimum percentage of the value of the applicable critical minerals contained in such batteries that are extracted, processed or recycled in the U.S. or in any country with which the U.S. has a free trade agreement in force, and the requirement that the battery components shall be manufactured or assembled in North America. In addition, the IRA also required that the critical minerals contained in the batteries and the battery components shall not be manufactured or assembled by a "foreign entity of concern" (hereinafter referred to as "FEOC"), and the final assembly of new electric vehicles must occur within North America. The U.S. considered countries with which it signed critical mineral agreements to be countries with free trade agreements, and established the concept of FEOC to restrict products from certain countries from obtaining subsidies, in violation of the WTO's most-favored-nation treatment principle. In terms of Clean Energy Credit, for the purpose of getting tax credit, taxpayers were required to demonstrate that a certain percentage of the steel, iron or finished products used as components of the production facilities were produced in the U.S. and to meet a certain domestic content

threshold in order to qualify for the tax credit. This constituted an import-substitution subsidy prohibited by the WTO.

**1.3.4 Forcing companies to take sides.** *The Chips and Science Act of 2022* (hereinafter referred to as “CSA”) came with strong “guardrails”, requiring subsidies recipients to enter into a ten-year agreement with the DOC prohibiting any significant transaction involving material expansion of semiconductor manufacturing capacity with FEOC in China or “any other countries of concern”. Meanwhile, the U.S. also adopted measures such as export controls and restrictions on outbound foreign investment to curb the industrial development of other members. Former Secretary of Commerce Gina M. Raimondo stated publicly that by the end of the implementation of CSA, the U.S. must be the only country in the world where every company capable of producing leading-edge chips possesses both significant R&D capacities and high-volume manufacturing presence, and that by 2030, the U.S. would have designed and produced the world’s most advanced chips on its shores.<sup>17</sup>

**1.3.5 Frequently putting blames on other countries’ legitimate industrial policies.** While the U.S. is aggressively subsidizing its own domestic industries through industrial policies, it positions itself as the “defender” and “chief referee” of market economy. It frequently labeled other countries as “non-market economies” and put blames on their using of industrial policies to support and develop their own economies. The CSA and other discriminatory subsidies, as well as the so-called “reciprocal tariffs”, severely distorted the market and disrupted the normal order of international trade and investment. However, instead of self-reflection, the U.S. hyped up the concept of “overcapacity” to curb and suppressed other countries’ advantageous industries. In fact, there is no universally accepted standard or method for judging or calculating “overcapacity”, and supply-demand imbalances are normals. Chinese enterprises enhance their product competitiveness through technological innovation and coordinated development and supplies products with comparative advantages to the global market. The U.S., however, worried about its declining competitiveness and market share, used “overcapacity” as an excuse to create anxiety, smeared and suppressed Chinese enterprises, and made excuses for its unilateralist and protectionist measures. This seriously undermined the global confidence in working together to achieve economic recovery and green transition.

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<sup>17</sup> Remarks by U.S. Secretary of Commerce Gina Raimondo: The CHIPS Act and a Long-term Vision for America’s Technological Leadership, available at: <https://www.commerce.gov/news/speeches/2023/02/remarks-us-secretary-commerce-gina-raimondo-chips-act-and-long-term-vision>.

## 1.4 A Disrupter of Global Industrial and Supply Chains

1.4.1 Driven by hegemonism and Cold War mentality, the U.S. adopted various protectionist practices, such as abusing national security, raising tariffs or imposing restrictions, providing substantial subsidies to support domestic industries, the instigation of “decoupling” and “disconnection”, and adopting “near-shoring/friend-shoring” policies. These actions pursued a narrow definition of so-called “security” and “resilience” of the supply chain, severely disrupting the safety and stability of the global industrial and supply chains. Even for the U.S. itself, “decoupling” and “disconnection” did not shift the supply chain back to the U.S. as expected, but instead imposed additional tariff burdens on American businesses and families.<sup>18</sup> From a global perspective, the U.S. approach will not enhance the resilience of the global industrial and supply chains. On the contrary, it will make them more fragile and even divided.

1.4.2 **Utilizing unilateral tariff measures to force industrial chain re-shoring.** One of the important purposes of the U.S. government imposing Section 301 tariffs on China as well as the Section 232 tariffs was to force the U.S. importers to procure domestically or from countries other than China, to realize its so-called “Made in America” goal. Its fundamental purpose was to protect the U.S. industries and maintain U.S. hegemony. Taking Section 301 tariffs as an example, since 2017, one of the important factors for the USTR to decide whether to exempt a product from the Section 301 list on China was whether the related product or like product could be obtained from the U.S. or third countries. In the four-year review of Section 301 tariffs, the USTR even began to assess the effectiveness of shifting supply chains away from China.<sup>19</sup> The U.S. also imposed additional tariffs on semiconductors from Japan, airplanes from Europe and steel from India and Vietnam in order to suppress their related industries. These unilateral tariff measures not only seriously deviated from the WTO rules and disrupted the normal operation of global industrial chains, but also harmed the interests of many members, even including the U.S. itself. To a large extent, the high inflation in the U.S. and other issues were also direct consequences of these measures. A study showed that the negative impacts of increased U.S. tariffs on itself included slower economic growth, impeded exports and imports, higher prices for consumers, and job losses in some industries.<sup>20</sup> A study

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<sup>18</sup> 2022 U.S.-China Trade Data Shows No Signs of Widespread Decoupling, available at: <https://www.cato.org/blog/2022-us-china-trade-data-shows-no-signs-widespread-decoupling>.

<sup>19</sup> Four-Year Review, Request for Comments in Four-Year Review of Actions Docket, available at: <https://ustr.gov/issue-areas/enforcement/section-301-investigations/section-301-china-technology-transfer/china-section-301-tariff-actions-and-exclusion-process/four-year-review>.

<sup>20</sup> Lukas Boer and Malte Rieth, “The Macroeconomic Consequences of Import Tariffs and Trade Policy Uncertainty”, IMF Working Paper, January 19, 2024, available at: <https://www.imf.org/en/Publications/WP/Issues/>

conducted by Yale University in May 2025 showed that even after an agreement was reached between the U.S. and China in Geneva, the average effective tariff rate imposed by the U.S. remained as high as 17.8 %, which would add \$2,800 to the cost of an average American household in the short term. However, these losses didn't bring industrial chains back to the U.S. or enable substitution of import sources as expected. A study suggested that the trade diversion effect of the U.S. tariff measures was limited. The policy goal of reducing dependence on China failed and its own import costs increased.<sup>21</sup>

**1.4.3 Reviewing supply chains for implementing “America First” agenda.** In 2021, the U.S. released *the Executive Order 14017 on America’s Supply Chains* and *the 100-Day Reviews under Executive Order 14017*,<sup>22</sup> which proposed policy recommendations to rebuild American manufacturing and innovation capabilities and strengthen monitoring and early warning. Then the U.S. continuously expanded the scope of industries subject to investment review. In February 2025, the U.S. issued *the Memorandum on the America First Investment Policy*. Reflecting a narrow perspective of zero-sum game as well as ideas of protectionism and isolationism, it called for expanding restrictions on greenfield investments by “adversary countries” such as China in the key areas of the U.S., aiming ultimately to achieve a two-way decoupling of investments between the U.S. and “adversary countries” in the strategic fields.<sup>23</sup> However, the U.S. government’s carrot-and-stick investment policies could conceal neither the isolationist nature of its agenda, nor the risks posed by its policy uncertainty to investors.

**1.4.4 Severing industrial and supply chains through “near-shoring/friend-shoring” and discriminatory measures.** The issue of supply chain’s safety and resilience are incorporated into the U.S.-led Indo-Pacific Economic Framework (hereinafter referred to as “IPEF”), Chip 4 Alliance, U.S.-EU Trade and Technology Council (hereinafter referred to as “TTC”), Minerals Security Partnership, as well as the proposed Americas Partnership for Economic Prosperity in Latin America all incorporated issues of supply chain security and resilience. Its fundamental goal was to rebuild the new U.S.-dominated industrial and supply chains that serve the interests of U.S. hegemony. These arrangements excluded non-allied

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2024/01/19/The-Macroeconomic-Consequences-of-Import-Tariffs-and-Trade-Policy-Uncertainty-543877.

<sup>21</sup> Simone Cigna, Philipp Meinen, Patrick Schulte, Nils Steinhoff, “The Impact of US Tariffs Against China on US Imports: Evidence for Trade Diversion?”, *Economic Inquiry*, October 13, 2021, pp.162-173.

<sup>22</sup> Biden-Harris Administration Announces Supply Chain Disruptions Task Force to Address Short-Term Supply Chain Discontinuities, available at: <https://www.whitehouse.gov/briefing-room/statements-releases/2021/06/08/fact-sheet-biden-harris-administration-announces-supply-chain-disruptions-task-force-to-address-short-term-supply-chain-discontinuities/>.

<sup>23</sup> America First Investment Policy, available at: <https://www.whitehouse.gov/presidential-actions/2025/02/america-first-investment-policy/>.

countries and significantly undermined the stability and healthy development of global industrial and supply chains. In addition, the massive discriminatory and distorted subsidies provided under the IRA and the CSA, restrictions or bans on exports of controlled items to certain countries using “national-security” as a pretext, the labeling of others’ policies as “non-market” and “supply-chain disruptions”, and erratic tariff policies all seriously disrupted global industrial and supply chains.

## CHAPTER II

### SPECIFIC CONCERNS OVER POLICIES AND MEASURES OF THE U.S.

#### 2.1 Tariff and Non-Tariff Barriers

Since 2017, the U.S. has frequently used tariff as a main tool to suppress or coerce other countries by arbitrarily increasing tariff or non-tariff barriers to restrict the export of other countries into the U.S. under the pretext of “forced technology transfer”, “national security”, “human rights violation”, etc.

##### 2.1.1 “Reciprocal Tariffs”

2.1.1.1 On April 2, 2025, the U.S. announced so-called “reciprocal tariffs” against all trading partners, threatening to impose a 10% “minimum baseline tariff”. Such policy even covered the uninhabited “Penguin Island”. Higher tariff rates were imposed even to some small and vulnerable WTO members. Under the so-called “reciprocal tariff” list, the U.S. imposed excessive tariff rates on a number of WTO members, including LDCs with rates over 40%. Among LDCs, Lesotho faced the highest tariff rate at 50%, followed by Cambodia (49%), Laos (48%), Madagascar (47%), and Myanmar (44%). Other developing members, such as Vietnam, Sri Lanka, and Mauritius, were subject to rates of 46%, 44%, and 40%, respectively. For China, the so-called “reciprocal tariff” rate were raised multiple times from 34% to 125%, and the cumulative tariff rate on certain individual products even reached as high as 245%.<sup>24</sup> In July, leaders of some countries received letters from the U.S., which stated that the U.S. would impose tariffs ranging from 20% to 50% on imports from Japan, South Korea, South Africa, Bangladesh, Cambodia, Myanmar, and other countries starting from August 1.

2.1.1.2 **The U.S. so-called “reciprocal tariffs” seriously infringed upon the legitimate rights and interests of other WTO members.** The tariff levels of WTO members shall not exceed the bound levels committed in their schedules in the WTO. The U.S. unilateral and significant increase in tariff has hindered normal trade relations and infringed upon the rights of trading partners to obtain legitimate trade gains. At the same time, the U.S. used tariffs as leverage in trade negotiations to exert trade coercion, placing certain trading partners in an even more disadvantaged position. In response to the countermeasures taken by trading partners to safeguard their legitimate rights and interests, the U.S. intensified its “tariff blackmail” and put

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<sup>24</sup> Regulating Imports with a Reciprocal Tariff to Rectify Trade Practices that Contribute to Large and Persistent Annual United States Goods Trade Deficits, Executive Orders, April 2, 2025, available at: <https://www.whitehouse.gov/presidential-actions/2025/04/regulating-imports-with-a-reciprocal-tariff-to-rectify-trade-practices-that-contribute-to-large-and-persistent-annual-united-states-goods-trade-deficits/>.

forward even more unreasonable demands.

**2.1.1.3 The U.S. so-called “reciprocal tariffs” seriously violated WTO rules.** The U.S. abuse of tariffs is a typical act of bullying, placing its own short-term and narrow interests above its WTO obligations. Tariff binding are legal commitments that all WTO members are obliged to comply with. According to the WTO’s most-favored-nation principle, a member shall treat all members equally, and any advantage, favor, privilege or immunity granted by any member to any product of any other country shall be accorded immediately and unconditionally to all other members. This means that the U.S. shall not raise tariffs beyond its bound rates, shall apply the same tariff to all WTO members, and shall extend any exemptions universally, without discriminatory preferences based on partial trade deals. The U.S. imposed differentiated tariff rates beyond its bound levels on different trading partners in the name of “reciprocal trade”. This obviously violated its commitments on tariff binding and the most-favored-nation treatment principle.

**2.1.1.4 The U.S. so-called “reciprocal tariffs” seriously undermined the rules-based multilateral trading system.** Even though the U.S. was one of the founders of the post-war multilateral trading system, it has long taken an exceptionalist view regarded itself vis-à-vis the WTO rules, pursuing a hegemonic logic of “to use when it suits, to discard if it doesn’t.” In recent years, the U.S. has increasingly pursued unilateralism, frequently imposed economic sanctions and initiated trade frictions against other trading partners. The so-called “reciprocal tariffs” is an extreme manifestation of the weaponization of trade policy tools. The U.S. abuse of tariffs has disregarded the balance of outcomes from successive rounds of multilateral trade negotiations, replaced rules and multilateralism with hegemony and unilateralism, and seriously violated fundamental WTO principles such as the most-favored-nation principle and tariff binding. It also attempted to coerce other members into violating rules through bilateral pressure, undermining the foundation of the multilateral trading system.

**2.1.1.5 The U.S. abuse of tariffs caused massive disruption to international trade and the global economy.** Under the disguise of pursuing “reciprocity” and “fairness”, the U.S. engaged in zero-sum games, essentially prioritizing “America First” and “American Exceptionalism”. It sought to subvert the existing international economic order through tariff, achieving U.S. interests at the expense of the common interests of the international community, and sacrificing the legitimate interests of countries worldwide to serve U.S. hegemonic interests. This has brought turmoil and significant losses to the global economy. According to WTO predictions, the “reciprocal tariffs”

and trade policy uncertainty will lead to a 1.5% decline in global merchandise trade volume in 2025. The International Monetary Fund (hereinafter referred to as “IMF”) also stated that, against the backdrop of weak global economic growth, these measures clearly posed a major risk to the outlook for global economic growth.

**2.1.1.6 The U.S. abuse of tariffs cannot conceal its government’s governance failure.** In recent years, the U.S. government has faced the intensifying issues of mounting debt, political polarization, social fragmentation, and industrial hollowing-out. Contradictions among different social groups have intensified, leading to frequent social unrest and riots. Faced with these issues, the U.S. government did not take measures to improve governance effectiveness as the fundamental solution to its problems, but instead attempted to shift internal crises through the misuse of tariffs and other measures. This approach not only failed to resolve the crisis but also breed an even greater one. In April 2025, the IMF released its World Economic Outlook, revising the U.S. GDP growth forecast for 2025 downward from 2.7% to 1.8%, citing the impact of U.S. government tariff policies. In recent years, the high inflation in the U.S. were largely caused by its misuse of tariff measures. This demonstrated that the U.S. misuse of tariffs not only failed to resolve its own issues but also exacerbated existing contradictions and triggered many new ones.

**2.1.1.7 The U.S. abuse of tariffs has severely harmed the interests of American consumers and businesses.** The multiple negative impacts brought about by the U.S. misuse of tariffs were primarily borne by its domestic consumers and businesses. The misuse of tariffs could drive up inflation in the U.S., increase the cost of living for its citizens and the operating costs for businesses, suppress corporate investment plans, potentially trigger economic recession, and lead to large-scale unemployment. Among these, the most price-sensitive low-income groups and small and medium-sized business will suffer the most.

**2.1.1.8** At the same time, the U.S. measures have violated basic economic rules and market principles, disregarded the balance of outcomes of successive rounds of multilateral trade negotiations, and ignored the fact that the U.S. long reaped substantial gains from international trade, particularly its overwhelming advantages in services trade. The U.S. has exaggerated and misattributed its trade deficit issues. WTO Director-General Ngozi Okonjo-Iweala highlighted in an article that the U.S. was not only a beneficiary of the global trading system but also held absolute dominance in services trade.<sup>25</sup> In 2023, U.S. service exports exceeded \$1 trillion, accounting for 13% of the world total, with annual intellectual property licensing fees

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<sup>25</sup> Available at: <https://insidetrade.com/daily-news/okonjo-iweala-amid-tariff-focus-us-clear-winner-services-trade>.

surpassing \$134 billion.<sup>26</sup> In 2024, the U.S. services trade surplus reached nearly \$300 billion.<sup>27</sup>

2.1.1.9 Following the announcement of the U.S. “reciprocal tariff” policy, the international community expressed widespread and strong opposition. WTO Director-General Okonjo-Iweala issued a statement stating that the “reciprocal tariff” measures would have a substantive impact on global trade and economic prospects, calling on all parties to manage differences responsibly and seek cooperative solutions within the WTO framework.<sup>28</sup> According to WTO predictions, the “reciprocal tariffs” and trade policy uncertainty would lead to a 1.5% decline in global merchandise trade volume in 2025.<sup>29</sup> IMF Managing Director Kristalina Georgieva also stated that, against the backdrop of weak global economic growth, these measures clearly posed a major risk to the outlook for global economic growth.<sup>30</sup> Since April 2025, WTO members continuously criticized the U.S. so-called “reciprocal tariff” measures through the WTO Council for Trade in Goods (CTG), the 30th-anniversary commemoration event of the WTO, the WTO General Council, and the WTO Council for Trade in Services (CTS), calling for strengthening the multilateral trading system to effectively address current trade turbulence. In May 2025, the U.S. Court of International Trade ruled that the U.S. government’s so-called “reciprocal tariffs” exceeded the authority granted by *the International Emergency Economic Powers Act* and should be fully revoked.

## **2.1.2 “Fentanyl” Tariffs**

2.1.2.1 In February 2025, the U.S. government issued an executive order imposing an additional 10% tariffs on Chinese goods exported to the U.S. under the pretext of the “fentanyl issue.” In March, the U.S. again imposed another 10% tariffs on Chinese goods under the same pretext. These actions are unreasonable acts of bullying and will not help resolve the issue. In fact, China has one of the strictest and most thoroughly enforced drug control policies in the world. In the spirit of humanitarian goodwill, China has assisted the U.S. in tackling the fentanyl crisis, with results that are plain for all to see. However, the U.S. disregarded these facts and unilaterally imposed so-called “fentanyl” tariffs on Chinese goods, violating its WTO tariff binding commitments and most-favored-nation treatment principle, and severely undermining mutual trust and dialogue in anti-drug cooperation.

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<sup>26</sup> Available at: <https://unctadstat.unctad.org/datacentre/dataviewer/US.TradeServCatTotal>; <https://apps.bea.gov/>.

<sup>27</sup> Available at: <https://www.bea.gov/>.

<sup>28</sup> Available at: [https://www.wto.org/english/news\\_e/spno\\_e/spno57\\_e.htm](https://www.wto.org/english/news_e/spno_e/spno57_e.htm).

<sup>29</sup> Available at: [https://www.wto.org/english/news\\_e/news25\\_e/tfore\\_16apr25\\_e.htm](https://www.wto.org/english/news_e/news25_e/tfore_16apr25_e.htm).

<sup>30</sup> Available at: <https://www.imf.org/en/News/Articles/2025/04/03/pr2587-statement-by-imf-managing-director-kristalina-georgieva>.

### **2.1.3 Tariff Peaks and Tariff Escalations**

2.1.3.1 Although the U.S. simple average tariff rate remains low, 6.9% of all tariff lines are peak tariffs. The U.S. tariff schedule contains 10 tariff lines over 300%, including two tariff lines over 400%. The tariffs of some products such as clothing, textiles, fish, sugar, minerals range from 30% to 50%, while tariffs of products such as coffee, dairy products, leather, shoes range from 50% to 100%. The tariffs of products such as fruits, vegetables, and tobacco exceed 100%.<sup>31</sup> The tariff peaks set by the U.S. on certain products make it more difficult and less competitive for products from other members to enter the U.S. market. In addition, the tariff escalation in the U.S. or the threat thereof is still severe, and the deeper the level of processing, the higher the tariffs on finished goods or semi-processed products.

2.1.3.2 The U.S. tariff structure obviously restricted the export of higher-value-added semi-processed or finished goods to the U.S., suppressed the industrial upgrading pathways of developing countries, harmed the interests of other countries' exporters and domestic consumers, and hindered WTO's efforts for inclusive development.

### **2.1.4 Duty for Packages with De Minimis Value**

2.1.4.1 In April 2025, the U.S. announced the cancellation of the *de minimis* exemption for packages under \$800 from China (including Hong Kong, China), while raising the ad valorem duty rate for postal channel cross-border small packages to 120% or to a specific duty of \$100 per package (effective May 2). From June 1, the specific duty increased to \$200 per package. After the release of the China-U.S. Geneva trade talks joint statement on May 12, the U.S. reduced the ad valorem duty rate for postal channel packages from China to 54% and the specific duty to \$100 per item, but the overall rates remained high.

2.1.4.2 The U.S. cancellation of the *de minimis* exemption for packages hindered trade facilitation, and the increased ad valorem and specific tariffs violated U.S. WTO tariff binding commitments and most-favored-nation treatment principle. These practices damaged the resilience of global industrial chains, including that of textile, while increased the burden on U.S. small and medium-sized enterprises and consumers.

### **2.1.5 “Section 301”**

2.1.5.1 From 1974 to June 2025, the U.S. initiated 137 investigations under Section

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<sup>31</sup> <https://hts.usitc.gov/>.

301.<sup>32</sup> Even though the WTO Dispute Settlement Body ruled in 2020 that U.S. Section 301 tariff measures violated WTO rules, the USTR once again took unilateral action by announcing the launch of a Section 301 investigation into China's maritime, logistics and shipbuilding industries in April 2024. In December 2024, USTR initiated a Section 301 investigation into China's semiconductor industry. In May 2024, the U.S. released the results of the four-year review of its Section 301 measures against China, announcing further increase of tariffs on certain imports from China, including electric vehicles, lithium-ion batteries, photovoltaic cells, critical minerals, semiconductors, as well as steel and aluminum, port cranes, and personal protective equipment. The tariffs on electric vehicles were increased from 25% to 100%, lithium-ion batteries from 7.5% to 25%, and photovoltaic cells from 25% to 50%. In February 2025, USTR resumed Section 301 investigations into digital services taxes in Austria, France, Italy, etc.<sup>33</sup>

2.1.5.2 In response to the concerns of GATT contracting parties including EC, Japan and Canada on the abuse of Section 301 investigations by the U.S., in *the Statement of Administrative Action on the Uruguay Round Trade Agreements*<sup>34</sup> (hereinafter referred to as "SAA") in 1994, the U.S. promised to base any Section 301 determination on the panel or Appellate Body findings adopted by the DSB, if there has been a violation or denial of U.S. right under relevant WTO agreements<sup>35</sup>. In the United States – Sections 301–310 of the Trade Act 1974 (DS152), the U.S. also expressly, formally, repeatedly and unconditionally confirmed the commitment mentioned above.<sup>36</sup> Therefore, the Panel of DS152 cautioned that should the undertaking be repudiated or in any other way removed by the U.S. government, the finding of conformity of Section 301 with WTO agreements would no longer be warranted.<sup>37</sup>

2.1.5.3 Since 2017, the U.S. government repeatedly violated its commitments under the SAA. Taking the U.S. Section 301 investigation on China as an example, in March 2018, USTR issued the Section 301 Investigation Report, unilaterally determining that China's laws, policies, and practices regarding technology transfer, intellectual property and innovation were unreasonable or discriminatory, causing

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<sup>32</sup> US Congressional Research Services, Section 301 of the Trade Act of 1974: Origin, Evolution, and Use, December 14, 2020, available at :<https://crsreports.congress.gov/product/pdf/R/R46604>; See also: <https://ustr.gov/issue-areas/enforcement/section-301-investigations>.

<sup>33</sup> Available at: <https://www.whitehouse.gov/fact-sheets/2025/02/>

[fact-sheet-president-donald-j-trump-issues-directive-to-prevent-the-unfair-exploitation-of-american-innovation/](https://www.whitehouse.gov/fact-sheets/2025/02/fact-sheet-president-donald-j-trump-issues-directive-to-prevent-the-unfair-exploitation-of-american-innovation/).

<sup>34</sup> Statement of Administrative Action on The Uruguay Round Trade Agreements, available at: <https://www.govinfo.gov/content/pkg/CREC-1994-10-08/html/CREC-1994-10-08-pt1-PgE143.htm>.

<sup>35</sup> Panel Report, United States – Sections 301–310 of the Trade Act of 1974, para. 7.112.

<sup>36</sup> Ibid., paras. 7.114-7.126.

<sup>37</sup> Ibid., para. 7.136.

restrictions and burdens on U.S. commerce. The U.S. government issued a memorandum directing USTR to take three actions against China, including increasing tariffs on Chinese imports.<sup>38</sup> Subsequently, the U.S. government imposed four rounds of Section 301 tariffs on approximately \$360 billion worth of Chinese imports, ranging from 7.5% to 25%. In April 2025, USTR released the final measures for the Section 301 investigation into China's maritime, logistics, and shipbuilding industries,<sup>39</sup> explicitly stating that port service fees would be implemented in phases and adding a new proposal to impose additional tariffs on Chinese port equipment, demonstrating clear discriminatory tendencies.

2.1.5.4 In order to address the U.S. non-compliance, China repeatedly raised concerns on the U.S. policies and practices regarding their inconsistency with U.S. commitments under the WTO on various occasions in the WTO, including meetings of the General Council and the CTG. Since April 2018, China requested several consultations on the Section 301 tariffs under the WTO dispute settlement mechanism, i.e., DS543, DS565 and DS587. In September 2020, the Panel circulated the Report for DS543 and found that the challenged measures were *prima facie* inconsistent with Articles I and II regarding General Most-Favoured-Nation Treatment and Schedule of Concessions of *the General Agreement on Tariffs and Trade 1994* (hereinafter referred to as "GATT 1994"), and that the U.S. failed to demonstrate that the measures were provisionally justified under Article XX(a) of the GATT 1994.<sup>40</sup> These restrictions have not only violated the WTO rules and jeopardized the fair access of other members' products to the U.S. market, but also harmed U.S. importers. In February 2024, the U.S. importers pleaded with the USTR to include certain products in the Section 301 tariff exclusions.<sup>41</sup>

## 2.1.6 "Section 232"

2.1.6.1 Since 2017, after being dormant for 16 years, Section 232<sup>42</sup> has re-emerged as

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<sup>38</sup> Actions by the United States Related to the Section 301 Investigation of China's Laws, Policies, Practices, or Actions Related to Technology Transfer, Intellectual Property, and Innovation, Memorandum for the Secretary of the Treasury, the United States Trade Representative, the Senior Advisor for Policy, the Assistant to the President for Economic Policy, the Assistant to the President for National Security Affairs, and the Assistant to the President for Homeland Security and Counterterrorism, available at: <https://www.govinfo.gov/content/pkg/FR-2018-03-27/pdf/2018-06304.pdf>.

<sup>39</sup> Available at: <https://ustr.gov/about/policy-offices/press-office/press-releases/2025/april/ustr-section-301-action-chinas-targeting-maritime-logistics-and-shipbuilding-sectors-dominance>.

<sup>40</sup> Panel Report, United States - Tariff Measures on Certain Goods from China, para. 8.1.

<sup>41</sup> Available at:

<https://insidetrade.com/daily-news/importers-tell-ustr-they-need-longer-move-supply-chains-out-china>.

<sup>42</sup> Section 232 of the U.S. Trade Expansion Act of 1962 provides that, for the protection of national security, the Department of Commerce may either on application, at the request of another party, or on its own initiative initiate an investigation into the impact of a particular import on national security. On the basis of the Department's findings, the President is authorized, whenever he determines that the quantity or circumstances of imports from other members threaten to impair national security, to take such measures as he deems necessary to adjust the imports of the product and its derivatives so that they will no longer threaten national security.

a major tool for the U.S. to launch “trade wars”. In 2025, the U.S. resumed Section 232 investigations into a series of products, including steel and aluminum and their derivatives, automobiles and automobile parts, uranium ore and products, titanium sponge, transformers, transformer cores, portable cranes, vanadium, neodymium-iron-boron magnets, copper and derivatives, wood and wood products, pharmaceuticals and pharmaceutical ingredients, critical minerals and derivatives, semiconductors and manufacturing equipment, commercial aircraft and engines, and many more. It arbitrarily expanded the scope of derivatives and imposed multiple import restrictions according to the investigation results, including tariffs or quotas. From 2017 to June 2025, the U.S. government initiated 16 Section 232 investigations (see Table 1), accounting for one-third of all Section 232 investigations since 1962.<sup>43</sup>

**Table 1: Section 232 Investigations Initiated by the U.S. Since 2017**

| <b>Subject of Investigation</b> | <b>Year Initiated</b> | <b>Petitor for investigation</b>   | <b>The Findings of the U.S. Authorities</b> | <b>Relevant Action</b>                                                                                                                                                                                       |
|---------------------------------|-----------------------|------------------------------------|---------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Steel                           | 2017                  | DOC                                | threaten to impair the national security    | Imposed tariffs of 25% on imported steel products from all countries except Canada and Mexico.                                                                                                               |
| Aluminum                        | 2017                  | DOC                                | threaten to impair the national security    | Imposed tariffs of 10% on imported aluminum products from all countries except Canada and Mexico.                                                                                                            |
| Automotive parts                | 2018                  | DOC                                | threaten to impair the national security    | The USTR negotiated with the EU, Japan, and other trade partners to resolve “national security” threat caused by imported automobiles and auto parts.                                                        |
| Uranium ore and products        | 2018                  | Ur-Energy Inc. & Energy Fuels Inc. | threaten to impair the national security    | The U.S. government decided not to restrict imports of uranium, but to establish the U.S. Nuclear Fuel Working Group to develop recommendations on restoring and expanding domestic nuclear fuel production. |
| Titanium sponge                 | 2019                  | Titanium Metals Corp.              | threaten to impair the national security    | The U.S. government decided not to restrict imports of titanium sponge, but to establish a working group with Japan to ensure the imports of                                                                 |

<sup>43</sup> The US Congressional Research Service, Section 232 Investigations: Overview and Issues for Congress, August 24, 2020, available at: <https://crsreports.congress.gov/product/pdf/R/R45249/30>; <https://www.bis.doc.gov/index.php/other-areas/office-of-technology-evaluation-ote/section-232-investigations>.

| Subject of Investigation                                                      | Year Initiated | Petitor for investigation            | The Findings of the U.S. Authorities     | Relevant Action                                                                                                                                                                                                                                                                                            |
|-------------------------------------------------------------------------------|----------------|--------------------------------------|------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                                               |                |                                      |                                          | sponge titanium.                                                                                                                                                                                                                                                                                           |
| Transformers, transformer cores, transformer regulators, and other pts.&accs. | 2020           | DOC                                  | threaten to impair the national security | N/A                                                                                                                                                                                                                                                                                                        |
| Portable cranes                                                               | 2020           | Manitowoc Company, Inc. T            | threaten to impair the national security | N/A                                                                                                                                                                                                                                                                                                        |
| Vanadium                                                                      | 2020           | AMG Vanadium LLC & U.S. Vanadium LLC | threaten to impair the national security | N/A                                                                                                                                                                                                                                                                                                        |
| NdFeB permanent magnets                                                       | 2021           | DOC                                  | threaten to impair the national security | The U.S. government decided not to restrict imports of NdFeB permanent magnets.                                                                                                                                                                                                                            |
| Copper and Derivatives                                                        | 2025           | DOC                                  | threaten to impair the national security | The DOC initiated an investigation into unmined copper, copper ore, refined copper, copper alloys, scrap copper, and derivatives on the grounds that they pose a threat to U.S. national security.                                                                                                         |
| Timber and Wood Products                                                      | 2025           | DOC                                  | threaten to impair the national security | The DOC initiated an investigation to determine the impact of timber, wood, and derivatives on national security.                                                                                                                                                                                          |
| Semiconductors and Semiconductor Manufacturing Equipment                      | 2025           | DOC                                  | threaten to impair the national security | The DOC initiated an investigation into the impact on national security of imports of semiconductors, semiconductor manufacturing equipment, and derivatives.                                                                                                                                              |
| Pharmaceuticals and Pharmaceutical Ingredients                                | 2025           | DOC                                  | threaten to impair the national security | The DOC initiated an investigation to determine the impact on national security of imports of pharmaceuticals and pharmaceutical ingredients, including finished pharmaceuticals, medical countermeasures, active pharmaceutical ingredients, and other key inputs, as well as derivatives of these items. |
| Processed Critical                                                            | 2025           | DOC                                  | threaten to impair the national          | The DOC initiated an investigation to determine the                                                                                                                                                                                                                                                        |

| <b>Subject of Investigation</b>     | <b>Year Initiated</b> | <b>Petitor for investigation</b> | <b>The Findings of the U.S. Authorities</b> | <b>Relevant Action</b>                                                                                                                                                             |
|-------------------------------------|-----------------------|----------------------------------|---------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Minerals and Derivatives            |                       |                                  | security                                    | impact on national security of imports of processed critical minerals and derivatives.                                                                                             |
| Trucks                              | 2025                  | DOC                              | threaten to impair the national security    | The DOC initiated an investigation to determine the impact on national security of imports of medium and heavy trucks, medium and heavy truck parts, and derivatives.              |
| Commercial Aircraft and Jet Engines | 2025                  | DOC                              | threaten to impair the national security    | The DOC initiated an investigation to determine the impact on national security of imports of commercial aircraft, jet engines, and parts for commercial aircraft and jet engines. |

Source: U.S. Congressional Research Service and U.S. Department of Commerce.

2.1.6.2 The provisions of Section 232 have no definition for national security. Although WTO members have the right to invoke the national security exception, such a right is not without limit. WTO members shall invoke the security exception in good faith and with due restraint. Also, there should be a necessary connection between the restrictive measures at issue and the “essential security interests” that members aim to protect. Taking the U.S. investigation into steel and aluminum products as an example, the U.S. DOC concluded in its investigation report that the quantities and circumstances of importation of steel and aluminum products were “weakening the U.S. economy” and threatened to impair U.S. “national security”. In March 2025, the U.S. imposed an additional 25% tariff on all imported steel and aluminum products. In the same month, the U.S. government announced that it would impose a 25% tariff on automobiles and certain auto parts under Section 232. In addition, the announcement stated that measures would be taken to impose tariffs on more parts if necessary. In May, the U.S. DOC initiated a Section 232 investigation into imported commercial aircraft, jet engines, and aircraft parts. The investigation focused on foreign government subsidies to domestic companies and export restrictions, among other things.<sup>44</sup> In June, the U.S. government announced an increase of 50% tariff rate on steel and aluminum. On June 12, the U.S. DOC announced that effective from June 23, eight types of household appliances, including dishwashers, washing machines, refrigerators, and dryers, would be included in the

<sup>44</sup> Available at: <https://www.supplychaindive.com/news/us-232-probe-tariffs-aircraft-industry/747812/>.

category of steel derivatives and subject to a 50% Section 232 tariff based on the value of the steel content in the relevant products.

2.1.6.3 The U.S. practiced trade protectionism under the pretext of “national security” and blatantly violated the WTO rules, triggering widespread opposition from WTO members. China and other WTO members questioned the U.S. problematic policies and practices on various occasions in the WTO, such as the General Council and the CTG, etc. Since April 2018, ten WTO members successively brought WTO cases against the U.S. concerning Section 232 tariffs on steel and aluminum products.<sup>45</sup> The Panel reports issued in December 2022 found that Section 232 tariffs were inconsistent with Article II of the GATT 1994 and the commitments in the U.S. Schedule of Concessions in the WTO,<sup>46</sup> and that exempting steel and aluminum products from Australia, Argentina, Brazil, and South Korea from Section 232 tariffs was inconsistent with the Article I “General Most-Favoured-Nation Treatment” of the GATT 1994,<sup>47</sup> and that the Section 232 tariffs were inconsistent with the provisions of Article XXI “Security Exceptions” of the GATT 1994.<sup>48</sup> The findings of the Panel reports once again demonstrated that national security exceptions shall not become the “safe harbor” for unilateralism and protectionism.

### **2.1.7 Telecommunications Equipment**

2.1.7.1 In recent years, the U.S. arbitrarily expanded restrictions on telecommunications and communications equipment produced in China in the name of “national security” without any factual evidence. The U.S. excluded leading Chinese telecommunications enterprises from U.S. government procurement. The Section 889 of the *National Defense Authorization Act for Fiscal Year 2019* prohibited administrative agencies of the U.S. from procuring or obtaining equipment produced by leading Chinese telecommunications enterprises.<sup>49</sup> The *Secure and Trusted Communications Networks Act of 2019* required the Federal Communications Commission (hereinafter referred to as “FCC”) to publish the Covered Communications Equipment or Services List that threatened the security of information networks of the U.S. Once a supplier or its device was included in the List, it was prohibited from using the federal subsidy to purchase, rent, lease or

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<sup>45</sup> These dispute-settlement cases are: DS544 (China), DS547 (India), DS548 (European Union), DS550 (Canada), DS551 (Mexico), DS552 (Norway), DS554 (Russia), DS556 (Switzerland), DS564 (Türkiye), and DS635 (Canada).

<sup>46</sup> Panel Report, United States – Certain Measures on Steel and Aluminium Products, para. 7.47.

<sup>47</sup> Ibid., para. 7.59.

<sup>48</sup> Ibid., para. 7.149.

<sup>49</sup> National Defense Authorization Act for Fiscal Year 2019, Sec. 889(a)(1)(B), available at: <https://www.congress.gov/115/bills/hr5515/BILLS-115hr5515enr.pdf>.

otherwise obtain any covered communications equipment or service in the List.<sup>50</sup> Subsequently, the FCC included nine Chinese companies on the “untrusted supplier list”. In March 2025, the FCC again initiated investigations into nine leading Chinese communications companies.<sup>51</sup>

2.1.7.2 To further ban Chinese-produced telecommunications equipment from entering its market, the U.S. also prohibited the use of private fund and non-federal fund, in addition to the federal fund, to purchase any covered equipment.<sup>52</sup> *The U.S. Security Devices Act of 2021* authorized FCC to suspend reviewing or approving any applications from entities on the designated list and the corresponding services they provide.<sup>53</sup> In November 2022, the FCC issued an order explicitly banning the authorization of telecommunications and video surveillance equipment manufactured by entities in the List, which made it impossible for relevant products to be exported to or sold in the U.S.<sup>54</sup> *The U.S. National Defense Authorization Act for Fiscal Year 2025* allegedly provided \$3 billion to U.S. telecommunications companies as compensation for replacing equipment from Chinese suppliers.<sup>55</sup>

2.1.7.3 On May 22, 2025, the FCC passed the FCC 25-27 order by a 4-0 vote, prohibiting foreign laboratories (with state ownership exceeding 10%) deemed to pose a threat to U.S. national security from obtaining FCC authorization and proposing to expand the ban to cover all laboratories in relevant countries. This has forced telecommunications companies in relevant countries to ship their equipment abroad for FCC certification, significantly increasing testing costs, extending the time to market and reducing product competitiveness.

2.1.7.4 The U.S. listed Chinese telecommunications equipment companies on the grounds of threatening information network security and banned Chinese-produced telecommunications equipment from entering the U.S. market, which increased the testing and compliance costs for telecommunications equipment companies in relevant countries. Compared with telecommunications equipment manufactured in the U.S. and other countries which could obtain certification to enter the U.S. market,

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<sup>50</sup> Secure And Trusted Communications Networks Act of 2019, Sec. 2, available at: <https://www.congress.gov/bill/116th-congress/house-bill/4998/text>.

<sup>51</sup> Carr Announces Sweeping New Investigation into CCP-Aligned Entities, available at: <https://www.fcc.gov/document/carr-announces-sweeping-new-investigation-ccp-aligned-entities>.

<sup>52</sup> 2 CFR § 200.216, available at: <https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200/subpart-C/section-200.216>.

<sup>53</sup> Secure Equipment Act of 2021, Sec. 2, available at: <https://www.congress.gov/bill/117th-congress/house-bill/3919/text>.

<sup>54</sup> FCC Bans Authorizations for Devices That Pose National Security Threat, available at: <https://www.fcc.gov/document/fcc-bans-authorizations-devices-pose-national-security-threat>.

<sup>55</sup> Available at: <https://www.reuters.com/world/us/us-house-vote-provide-3-billion-remove-chinese-telecoms-equipment-2024-12-08/>

equipment manufactured by Chinese and other related countries' enterprises clearly suffered from unfavorable treatment. The above-mentioned policies and practices discriminated against products from China and other related countries, set obstacles to normal international trade and ran counter to the WTO principles.

## **2.2 Industrial Subsidies**

In recent years, the U.S. frequently provided subsidies to support the development of its domestic industries. These subsidy programs were more devastating than ever in terms of the degree of discrimination, the scale of subsidies, and their market-distorting effects. Certain subsidy programs were even contingent upon the use of U.S. domestic products or prohibition on procuring foreign products.

### **2.2.1 Electric Vehicles**

2.2.1.1 In order to develop domestic electric vehicle industry, the U.S. introduced numerous subsidies for R&D, production, manufacture, consumption as well as charging equipment. Through these subsidies, the U.S. aimed to achieve the goal of having domestic electric vehicles account for 50% of total U.S. auto sales by 2030.<sup>56</sup> The "Clean Vehicle Credit" in the IRA provided a credit of up to \$7,500 for the purchase of new electric vehicles which could satisfy the critical minerals and battery components requirements.<sup>57</sup> Specifically, to be eligible for the tax credit of critical minerals, the vehicle's battery should contain a threshold percentage of critical minerals extracted or processed in the U.S. or in a country with which the U.S. has a free trade agreement in effect, or recycled in North America.<sup>58</sup> To satisfy the "battery components" requirement, a threshold percentage of the components contained in the vehicle's battery should be manufactured or assembled in the U.S., Canada or Mexico.<sup>59</sup> In addition to the two requirements mentioned above, the following restrictive requirements should be satisfied to qualify for a tax credit up to \$7,500. First, starting from 2024, electric vehicle subsidies shall not include any battery components manufactured or assembled by a FEOC. Beginning from 2025, electric vehicle subsidies shall not include any critical minerals extracted, processed, or recovered by FEOC. Second, the final assembly of new electric vehicles shall occur

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<sup>56</sup> President Biden's Economic Plan Drives America's Electric Vehicle Manufacturing Boom, available at: <https://www.whitehouse.gov/briefing-room/statements-releases/2022/09/14/fact-sheet-president-bidens-economic-plan-drives-americas-electric-vehicle-manufacturing-boom/>.

<sup>57</sup> Inflation Reduction Act of 2022, Sec. 13401, available at: <https://www.congress.gov/bill/117th-congress/house-bill/5376/text>.

<sup>58</sup> For vehicles placed into service before January 1, 2024, the percentage is 40 %, increasing by 10 percentage points each year until it reaches a ceiling of 80 % in 2028.

<sup>59</sup> For vehicles placed into service before 1 January 2024, the percentage is 50 %, increasing by 10 percentage points each year thereafter until it reaches 100 % from 2028 onward.

within North America.<sup>60</sup> In February 2023, the U.S. announced *the National Electric Vehicle Infrastructure Standards and Requirements – Final Rule* which required that all electric vehicle chargers funded through *the Infrastructure Investment and Job Act of 2021*<sup>61</sup> (hereinafter referred to as “IIJA”) shall be built in the U.S., and that by July 2024, the cost of the components that manufactured domestically shall account for at least 55 % of the total component costs as well.<sup>62</sup>

2.2.1.2 In addition, the U.S. provided financial assistance for EV-related infrastructure. The IIJA planned to allocate \$18.6 billion to fund existing and new EV-related projects. As of FY2023, the U.S. appropriated more than \$8.5 billion for the above projects.<sup>63</sup> IIJA authorized the U.S. Department of Energy (hereinafter referred to as “DOE”) to allocate \$3 billion to *the Program of Battery Materials Processing Grants*<sup>64</sup> and the Program of Battery Manufacturing and Recycling Grants<sup>65</sup> respectively for fiscal years 2022-2026 and required DOE to give priority to an eligible entity that (i) is located and operates in the U.S.; (ii) is owned by a U.S. entity; (iii) deploy North American-owned intellectual property and content; (iv) represent consortia or industry partnerships; and (v) shall not use battery material supplied by or originating from FEOC.<sup>66</sup> In January 2025, the U.S. Department of Transportation announced a grant of \$635 million to continue the construction of electric vehicle charging and alternative fuel infrastructure.<sup>67</sup>

2.2.1.3 Certain new energy enterprises in the U.S. have long received huge subsidies from the U.S. government in the form of tax incentives and policy loans, etc. According to *the Los Angeles Times*, government support was a crucial source of income for the new energy enterprises. States of Nevada, California, and Texas used tax breaks, incentive grants, and preferential policies to attract the new energy enterprises to build vehicle and battery factories.<sup>68</sup> Nevada offered a package of

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<sup>60</sup> Electric Vehicle (EV) and Fuel Cell Electric Vehicle (FCEV) Tax Credit, available at: <https://afdc.energy.gov/laws/409>.

<sup>61</sup> Infrastructure Investment and Jobs Act, available at: <https://www.congress.gov/bill/117th-congress/house-bill/3684/text>.

<sup>62</sup> Fact Sheet: Biden-Harris Administration Announces New Standards and Major Progress for a Made-in-America National Network of Electric Vehicle Chargers, available at: <https://www.whitehouse.gov/briefing-room/statements-releases/2023/02/15/fact-sheet-biden-harris-administration-announces-new-standards-and-major-progress-for-a-made-in-america-national-network-of-electric-vehicle-chargers/>.

<sup>63</sup> Guidebook to the Bipartisan Infrastructure Law for State, Local, Tribal, and Territorial Governments, and Other Partners, available at: <https://www.whitehouse.gov/wp-content/uploads/2022/05/BUILDING-A-BETTER-AMERICA-V2.pdf>.

<sup>64</sup> Supra note 52, Sec. 40207(b)(4).

<sup>65</sup> *ibid.*, Sec. 40207(c)(4).

<sup>66</sup> *ibid.*, Sec. 40207(a)(5).

<sup>67</sup> Available at: <https://www.transportation.gov/briefing-room/investing-america-biden-harris-administration-announces-635-million-awards-continue>

<sup>68</sup> Elon Musk’s growing empire is fueled by \$4.9 billion in government subsidies, available at: <https://www.latimes.com/business/la-fi-hy-musk-subsidies-20150531-story.html>.

incentives in 2014 that provided a new energy enterprise with \$1.3 billion in tax breaks.<sup>69</sup> As of FY2023, the Nevada plant of the new energy enterprise saved more than \$460 million in payroll tax and other tax.<sup>70</sup> Under *the Advanced Technology Vehicles Manufacturing Loan Program*, the DOE announced a \$2.5 billion loan to certain automotive enterprise for battery-manufacturing facilities in States of Ohio, Tennessee, and Michigan.<sup>71</sup>

2.2.1.4 The U.S. provided huge financial subsidies to the electric vehicle industry as well as its upstream and downstream industries in the forms of grants, loans and tax incentives in a bid to rapidly establish, develop and expand the electric vehicle industry and the supporting industries in the U.S. The purpose of these subsidies was to displace or hinder other countries' electric vehicles from entering the U.S. market. The domestic content requirements mentioned above led to the situation where only electric vehicles produced with critical minerals and battery components from the U.S. are eligible for the tax credit, a violation of the WTO rules on prohibited subsidies. These requirements may also give a competitive edge to domestic electric vehicles and put like products imported from other members at a disadvantage, which is inconsistent with the WTO rules on national treatment. In addition, the relevant subsidies are contingent upon production or assembly in countries with which the U.S. has a free trade agreement in effect or in North America and the FEOC are excluded as a result, a violation of the relevant WTO rules.

## 2.2.2 Semiconductors

2.2.2.1 The CSA enacted by the U.S. provided huge subsidies for domestic semiconductor research and manufacturing.<sup>72</sup> The CSA has provided \$52.7 billion for "CHIPS for America Fund". The CSA amended *the Internal Revenue Code of 1986* to provide a tax credit of 25% for investment in the manufacturing of semiconductors and related equipment. The CSA established "guardrails" requiring that the covered entity shall sign an agreement with the DOC on or before the date when it receives federal financial assistance from the DOC. During the ten-year period of the agreement beginning on the date of the award, the covered entity shall not engage in any significant transaction as defined in the agreement, involving the material

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<sup>69</sup> Tesla is taking Nevada for a ride, available at: <https://www.latimes.com/business/hiltzik/la-fi-0914-hiltzik-20140914-column.html>; Nevada Governor signs \$1.3 billion tax break package for electric car maker Tesla, available at: <https://www.reuters.com/article/us-usa-tesla-motors-nevada-idUSKBN0H704A20140912>.

<sup>70</sup> Tesla-Annual Report-FY23, September 29, 2023, available at: <https://goed.nv.gov/wp-content/uploads/2024/01/NRS-360.975-3.5B-Annual-Tesla-ReportV2.pdf>.

<sup>71</sup> Biden Administration Launches \$2.5 Billion Fund to Modernize and Expand Capacity of America's Power Grid, available at: <https://www.energy.gov/articles/biden-administration-launches-25-billion-fund-modernize-and-expand-capacity-americas-power>.

<sup>72</sup> Chips and Science Act, available at: <https://www.congress.gov/bill/117th-congress/house-bill/4346>.

expansion of semiconductor manufacturing capacity in foreign country of concern.<sup>73</sup> In October 2024, the U.S. government determined a 25% tax credit provision for semiconductor manufacturing projects and further expanded the scope of enterprises eligible under CSA.<sup>74</sup>

2.2.2.2 In February 2024, the White House issued a statement that the U.S. government would invest more than \$5 billion in semiconductor-related R&D under the CSA to enhance U.S. leadership in semiconductor R&D.<sup>75</sup> The U.S. Congress had appropriated \$500 million to the government, and the National Telecommunications and Information Administration would also allocate \$1.5 billion to advance the development and use of “Open Radio Access Networks” (Open RAN) as well as secure semiconductor technologies to enable its companies to dominate the U.S. communications market.<sup>76</sup> Then-U.S. Secretary of Commerce Gina Raimondo said in a video address at Intel’s first foundry event that the CSA was not enough to allow the U.S. to regain leadership in the semiconductor supply chain, and that the U.S. needed “CHIPS Two” to lead the world.<sup>77</sup>

2.2.2.3 The U.S. government continued to provide large-scale industrial subsidies to the semiconductor industry through the CSA to facilitate domestic manufacturing, enhance supply chain resilience, and reduce dependence on foreign chips. As of March 2025, the U.S. DOC had announced grants of \$32.54 billion and loans of up to \$5.85 billion to 32 companies, relating to 48 projects. According to the agreement between the DOC and the relevant companies, the DOC would disburse funds to compensate the companies for the cost spent in reaching a certain goal when the project reaches that certain goal. In September 2024, Intel Corporation confirmed that it had received \$3 billion in direct funding from the U.S. government for the “secure enclave” program.<sup>78</sup>

2.2.2.4 The CSA provided substantial subsidies to strengthen the manufacturing capability and market leadership of U.S. semiconductor products. It unduly interfered in normal economic and trade relations, adversely affected the global economic and

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<sup>73</sup> CHIPS and Science Act Will Lower Costs, Create Jobs, Strengthen Supply Chains, and Counter China, available at: <https://www.whitehouse.gov/briefing-room/statements-releases/2022/08/09/fact-sheet-chips-and-science-act-will-lower-costs-create-jobs-strengthen-supply-chains-and-counter-china/>.

<sup>74</sup> US Extends 25% Chip Tax Credit to Wafers, Including Solar, available at: <https://www.bnnbloomberg.ca/business/company-news/2024/10/22/us-extends-25-semiconductor-tax-credit-to-chip-and-solar-wafers/>.

<sup>75</sup> Available at: <https://www.whitehouse.gov/briefing-room/statements-releases/2024/02/09/fact-sheet-biden-harris-administration-announces-over-5-billion-from-the-chips-and-science-act-for-research-development-and-workforce/>.

<sup>76</sup> Available at: <https://www.washingtonpost.com/technology/2024/02/12/oran-biden-china-huawei-technology/>.

<sup>77</sup> Available at: <https://asia.nikkei.com/Business/Tech/Semiconductors/>

U.S.-needs-another-CHIPS-Act-to-lead-world-says-Raimondo

<sup>78</sup> Available at: <https://www.semiconductors.org/chip-supply-chain-investments/>.

trade environment and jeopardized the legitimate rights and interests of the WTO members. A study showed that the CSA ran counter to the U.S. policy stance of favouring an open and rules-based multilateral trading system, using “guardrail provisions” to serve geopolitical and geo-economic purposes and thereby weaponized global value chains.<sup>79</sup>

### 2.2.3 Photovoltaic

2.2.3.1 While taking anti-dumping, countervailing, anti-circumvention and safeguard measures against imported photovoltaic products and using the so-called “forced labor” as a pretext for cracking down on other countries’ photovoltaic industries, the U.S. at the same time has heavily subsidized its own photovoltaic industry. With respect to solar panel, a new energy enterprise received \$497.5 million from the U.S. Department of the Treasury.<sup>80</sup> The State of New York allocated \$750 million to a clean energy enterprise for building a solar-panel factory in Buffalo, including approximately \$350 million for facility construction and \$400 million for manufacturing equipment.<sup>81</sup>

2.2.3.2 The IRA provided significant subsidies to the U.S. photovoltaic industry to secure its leading position in the photovoltaic market. First, Section 13102 “the Extension and Modification of Energy Credit” of the IRA provides that the taxpayer would be eligible for a 30% tax credit of the cost of a solar PV system and the duration of such credit would be extended to 2032. Second, the IRA has extended the production tax credit from wind farms to solar facilities. Third, the IRA has also extended the tax credit to the whole photovoltaic industry chain (including polysilicon, PV wafers, cells, modules, backplates, inverters, etc.) to boost domestic manufacturing capacity through credits of different amounts.<sup>82</sup> Meanwhile, the IRA provides that an additional “Domestic Content Bonus Credit” of 10% would be given if the taxpayer could prove that any steel, iron, or manufactured product which was a component of such facility was produced in the U.S.<sup>83</sup> In January 2025, the U.S. Department of the Treasury issued guidelines on the local content reward of the “clean electricity production and investment tax credit” in the IRA in a bid to

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<sup>79</sup> Yadong Luo and Ari Van Assche, “The Rise of Techno-geopolitical Uncertainty: Implications of the United States CHIPS and Science Act,” *Journal of International Business Studies*, Vol. 54, April 1, 2023, pp.1423-1440.

<sup>80</sup> Elon Musk’s growing empire is fueled by \$4.9 billion in government subsidies, available at: <https://www.latimes.com/business/la-fi-hy-musk-subsidies-20150531-story.html>.

<sup>81</sup> Tesla promises to help build solar panels in New York - but only if the SolarCity merger passes, available at: <https://www.businessinsider.com/tesla-solarcity-panasonic-buffalo-billion-solar-2016-10>.

<sup>82</sup> Inflation Reduction Act Could Provide Major Boost for Renewable Energy and CleanTech Industries, available at: <https://www.globalxetfs.com/inflation-reduction-act-could-provide-major-boost-for-renewable-energy-and-cleantech-industries/>.

<sup>83</sup> Supra note 46, Sec. 13101.

encourage the use of U.S.-made solar modules and materials.<sup>84</sup>

2.2.3.3 These subsidies may displace or hinder the entry of other countries' photovoltaic products into the U.S. market. The "Local Content Bonus Credit" is also contrary to the WTO rules on prohibited subsidies.

## **2.2.4 Clean Energy**

2.2.4.1 In order to secure a leading position in the clean energy market, the U.S. government enacted the IRA. It provided nine tax credit measures in the clean energy sector,<sup>85</sup> ensuring that huge governmental subsidies were used in the domestic clean energy industry so as to support the rapid establishment and development of the industry. In January 2025, the U.S. Department of the Treasury and the Internal Revenue Service issued the final rules on technology-neutral tax credits in the IRA, involving Clean Electricity Production Tax Credits (PTC) and Clean Electricity Investment Tax Credits (ITC).<sup>86</sup> In January 2025, the Internal Revenue Service announced that it would provide \$6 billion in tax credit support for the second round of the program.<sup>87</sup> These tax credits are not only market distortive, but also discriminatory due to the local content requirements involved.

2.2.4.2 The U.S. offered industry-specific tax credits to attract clean energy companies to invest and build factories in the country so as to increase U.S. clean energy production capacity. This has seriously distorted the global market and industrial distribution of clean energy products. Such tax credits may displace or hinder the entry of clean energy products from other members into the U.S. market.

2.2.4.3 To obtain the above-mentioned tax credits with local content requirements, the taxpayer should prove that any steel, iron, or manufactured product which is a component of such facility is produced in the U.S. and reach a certain percentage. Taking Renewable Electricity Production Tax Credit for example, qualified facilities that produced renewable electricity shall contain steel or iron that was produced in the U.S., or at least 40% of the total costs of the finished products are mined, produced, or manufactured in the U.S. Such provision extends the tax credits to steel, iron, and manufactured products necessary for the production facilities, which encourage manufacturers of renewable electricity production facilities to purchase steel, iron, and finished products produced in the U.S. and exclude foreign competitors in the

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<sup>84</sup> Available at: <https://home.treasury.gov/news/press-releases/jy2788>.

<sup>85</sup> Including Sustainable Aviation Fuel Credit, Credit for Production of Clean Hydrogen, Advanced Manufacturing Production Credit, Clean Fuel Production Credit, Clean Electricity Production Credit, Renewable Electricity Production Credit, Energy Credit, Clean Electricity Investment Credit, etc.

<sup>86</sup> Available at: <https://www.paulhastings.com/insights/client-alerts/irs-and-treasury-issue-final-rules-for-technology-neutral-clean-electricity-credits-under-sections-45y-and-48e>.

<sup>87</sup> Available at: <https://eco.energy.gov/48C/s/>.

upstream industry. In January 2025, the Internal Revenue Service released the first list of non-combustion or gasification facilities, including wind, hydro, solar and other facilities, which are recognized as eligible for relevant credits for having a greenhouse gas emission rate of no more than zero.<sup>88</sup> The local content requirements in the IRA has violated the WTO rules on prohibited subsidies.

## 2.2.5 Critical Minerals

2.2.5.1 In recent years, the U.S. increasingly subsidized the domestic production of critical minerals and materials. The U.S. government will invest \$325 million in the fiscal year 2025 to support the R&D of critical minerals and materials to increase domestic sustainable supply.<sup>89</sup> In accordance with *the Industrial Base Analysis and Sustainment Program* (IBAS Program), the U.S. Department of Defense will award \$35 million to certain U.S. rare earth companies to support their factories which separate and process heavy rare earth elements, as well as to establish a completed “end-to-end” domestic permanent magnet supply chain. Encouraged by this government “catalytic funding”, a rare earth company announced a further \$700 million investment for the construction of the magnet supply chain.<sup>90</sup> The DOE supported two local lithium mining companies with loans of \$700 million and \$2.26 billion respectively.<sup>91</sup>

2.2.5.2 The DOE also used funds up to \$156 million received from the IIJA to build its first facility to strip and extract rare earth elements and critical minerals from non-traditional sources, such as mining waste, in order to change the current situation where more than 80% of rare earth elements in the U.S. are imported from overseas suppliers.<sup>92</sup> In December 2024, the DOE announced that it would invest \$17 million to aid 14 projects involving critical materials such as lithium, nickel, cobalt, rare earth elements, platinum-group metals, silicon carbide, copper and graphite, with a bid to reduce the risks of critical materials innovation and accelerate the landing and

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<sup>88</sup> Available at: <https://www.paulhastings.com/insights/client-alerts/irs-and-treasury-issue-final-rules-for-technology-neutral-clean-electricity-credits-under-sections-45y-and-48e>.

<sup>89</sup> Budget of the U.S. Government Fiscal Year 2025, available at: [https://www.whitehouse.gov/wp-content/uploads/2024/03/budget\\_fy2025.pdf](https://www.whitehouse.gov/wp-content/uploads/2024/03/budget_fy2025.pdf).

<sup>90</sup> Securing a Made in America Supply Chain for Critical Minerals, available at: <https://www.whitehouse.gov/briefing-room/statements-releases/2022/02/22/fact-sheet-securing-a-made-in-america-supply-chain-for-critical-minerals/>.

<sup>91</sup> U.S. Department of Energy Offers Conditional Commitment for a Loan of Up to US\$700 Million for the Rhyolite Ridge Project, January 13, 2023, available at: <https://www.ioneer.com/news/u-s-department-of-energy-offers-conditional-commitment-for-a-loan-of-up-to-us700-million-for-the-rhyolite-ridge-project/>; Lithium Americas Receives Conditional Commitment for \$2.26 Billion ATVM Loan from the U.S. DOE for Construction of Thacker Pass, March 14, 2024, available at: <https://www.lithiumamericas.com/news/news-details/2024/Lithium-Americas-Receives-Conditional-Commitment-for-2.26-Billion-ATVM-Loan-from-the-U.S.-DOE-for-Construction-of-Thacker-Pass/default.aspx>.

<sup>92</sup> Biden-Harris Administration Announces \$156 Million for America’s First-of-a-Kind Critical Minerals Refinery, available at: <https://www.energy.gov/articles/biden-harris-administration-announces-156-million-america-first-kind-critical-minerals>.

promotion of commercial projects.<sup>93</sup> In March 2025, the U.S. government issued an executive order aimed at increasing the domestic production capacity of critical minerals and rare earths. The executive order allowed the use of the *U.S. Defense Production Act* to provide funding, loans and other investment support to increase domestic critical mineral production capacity.<sup>94</sup> The financial contribution in the form of grants provided by the U.S. government covered every step of the critical minerals industrial chain, including detection, mining, extraction, separation, marketing, and recycling. Such subsidies may displace or hinder the entry of other members' critical minerals into the U.S. market and seriously distort the international trade.

## **2.2.6 Aviation**

2.2.6.1 The aviation industry is a sector in which the U.S. has held a dominant position for a long time, and the U.S. government never ceased providing subsidies to it. The U.S. aviation industry has long received high subsidies from both federal and state governments. Under the *Payroll Support Program* (PSP), the U.S. Department of the Treasury provided the domestic aviation industry with \$59 billion in financial contribution in three rounds (PSP1, PSP2 and PSP3). As of May 2024, the Department of the Treasury completed the finalization for approximately 641 large and small enterprises that had received financial assistance under the PSP.<sup>95</sup>

2.2.6.2 In the US Large Civil Aircraft Case (DS353), the WTO Appellate Body found that the National Aeronautics and Space Administration, the Department of Defense, the DOC, and the states of Washington, Kansas and Illinois, etc. had provided subsidies inconsistent with WTO rules of more than \$5.3 billion to an aerospace enterprise, in the form of R&D subsidies and tax incentives. The Appellate Body's finding and the DSB ruling required the U.S. to take appropriate steps to remove the adverse effects or withdraw the subsidies.<sup>96</sup> As the U.S. failed to fully implement the Appellate Body's recommendations and DSB rulings, the WTO authorized the EU to take countermeasures on goods and services against the U.S. at a level not exceeding \$3.99 billion annually.<sup>97</sup> Although the EU and the U.S. agreed on a cooperative framework stating that each side intended to suspend application of its

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<sup>93</sup> Available at: <https://www.energy.gov/articles/us-department-energy-invests-17-million-shore-americas-energy-robust-supply-chain>.

<sup>94</sup> Available at: <https://www.whitehouse.gov/fact-sheets/2025/03/fact-sheet-president-donald-j-trump-takes-immediate-action-to-increase-american-mineral-production/>.

<sup>95</sup> Airline and national security relief programs, available at: <https://home.treasury.gov/policy-issues/coronavirus/assistance-for-american-industry/airline-and-national-security-relief-programs>.

<sup>96</sup> One-page Summary of Key Findings of DS353, available at: [https://www.wto.org/english/tratop\\_e/dispu\\_e/cases\\_e/ds353\\_e.htm](https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds353_e.htm).

<sup>97</sup> *ibid.*

countermeasures for five years, this does not mean that the U.S. would totally abolish its subsidies to the aerospace enterprise. On the contrary, the U.S. maintained huge subsidies for its aviation industry in various forms.<sup>98</sup> The subsidies mentioned above also made a negative impact on the U.S. itself. A study on U.S. subsidies to the “Boeing 7E7 Project” (later named the “Boeing 787 Project”) showed that U.S. subsidy policies caused many problems such as violations of international trade rules, waste of public resources, reduction of domestic employment opportunities and induction of trade disputes.<sup>99</sup>

## **2.2.7 Biotechnology and Bio-manufacturing**

2.2.7.1 The U.S. government attaches great importance to biotechnology and bio-manufacturing and has announced more than \$2 billion support in the forms of government investment and financial aid, for its new projects in national biotechnology and bio-manufacturing initiatives. In September 2022, the U.S. government issued an executive order to formulate a biotechnology development plan. In February 2025, the Strategic Capital Office of the U.S. Department of Defense released its investment direction for the fiscal year 2025, focusing on 15 industry fields that affect U.S. national security, including biochemical products, bioenergetics, biomass research and synthetic biology.<sup>100</sup> The U.S. Department of Energy’s Bioenergy Technology Office announced that it would provide up to \$23 million in funding to support the development of domestic chemicals and fuels from biomass and waste resources.<sup>101</sup> The U.S. invested heavily to advance R&D in domestic biotechnology and bio-manufacturing, with the aim of maintaining its global leading position in such areas. Such subsidies could lead to unfair competition and harm the bio-manufacturing sector of other countries. The U.S. was also likely to follow the precedent in the semiconductor and communications sectors by restricting normal trade in other members’ bio-manufacturing products under the pretext of “national security”, which would be inconsistent with the WTO principles.

## **2.2.8 Notification of Subsidies**

2.2.8.1 The U.S. often publicly criticized other members for their incomplete and

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<sup>98</sup> USTR Announces Joint U.S.-E.U. Cooperative Framework for Large Civil Aircraft, available at: <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2021/june/ustr-announces-joint-us-eu-cooperative-framework-large-civil-aircraft>.

<sup>99</sup> David Pritchard and Alan MacPherson, “Industrial Subsidies and the Politics of World Trade: The Case of the Boeing 7e7,” *The Industrial Geographer*, Vol. 1, No. 2, 2004, pp. 57-73.

<sup>100</sup> Office of strategic capital announces release of fiscal year 2025 investment strategy, available at: <https://www.defense.gov/News/Releases/Release/Article/4020461/office-of-strategic-capital-announces-release-of-fiscal-year-2025-investment-st/>.

<sup>101</sup> Funding notice: U.S. department of energy announces up to \$23 million to propel renewable chemicals and fuels, available at: <https://www.energy.gov/eere/bioenergy/funding-notice-us-department-energy-announces-23-million-propel-renewable-chemicals>.

untimely notifications of subsidies to the WTO and their failure to comply with the transparency requirements of the WTO. The U.S. implemented various forms of industrial subsidy policies including tax incentives and grants in high-tech industries like semiconductors, computers, new materials, new energy and biomedicine. However, many of these subsidy programs have not been notified to the WTO as required, and even the programs that had been notified still contained numerous flaws.

2.2.8.2 The notification of subsidies submitted by the U.S. had four main problems. First, duration of subsidy is not certain. The duration of many subsidy programs at federal level is “indefinite”, and only a few programs at sub-federal level specified the duration. Second, the amount of subsidies is not clear. At the federal level, programs such as the “Second Generation Biofuel Credit”, are notified without specific subsidy amount.<sup>102</sup> At the sub-federal level, criteria and standard for providing subsidies are notified instead of the amount of subsidy granted or maintained in many programs. Third, industries supported are unidentified. The notifications have failed to specify the goals and legal basis of many sub-federal subsidy policies, and the program titles and industries aimed to support are rather ambiguous or and vague. It is hard to identify the specific industries benefiting from these programs. Fourth, it has failed to notify all subsidy policies that are required to be notified in accordance with the WTO rules.

### **2.3 Agricultural Subsidies**

The U.S. is one of most productive and competitive agricultural producers in the world, and also one of the largest exporters of agricultural products. According to statistics from the U.S. Department of Agriculture, the U.S. agricultural product export value reached \$175.98 billion in 2024, ranking first in the world.<sup>103</sup> The US exports 20% of its total agricultural production. To maintain its competitive advantage in the international agricultural market, the U.S. has maintained a high level of agricultural subsidies for a long time, particularly by expanding the scale of Amber Box subsidies, which is contrary to the WTO objectives of sustained and substantial reductions in agricultural support and protection, as well as correcting and preventing restrictions and distortions in the global agricultural markets. The U.S. agricultural subsidies had a negative impact on the global agricultural and trading systems. A study shows that the U.S. long-standing support for agricultural production through various subsidies have resulted in market distortions, price dumping and trade imbalances, with significant negative impacts on agriculture in developing

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<sup>102</sup> *Ibid.*

<sup>103</sup> 2024 United States Agricultural Export Yearbook, available at: <https://www.fas.usda.gov/sites/default/files/2025-05/2024-Final.pdf>.

countries.<sup>104</sup>

### 2.3.1 Amount of Agricultural Subsidies

2.3.1.1 In December 2018, the U.S. enacted *the Agriculture Improvement Act of 2018*.<sup>105</sup> The budget for agricultural subsidies increased significantly compared with *the Agriculture Act of 2014*. It continued and strengthened *the Price Loss Coverage (PLC)* program and *Agriculture Risk Coverage (ARC)* program, which are “Amber Box” subsidies with market-distorting effect. Producers are allowed to choose between the two programs, making the subsidy methods more flexible. *The Agricultural Improvement Act of 2018* was originally scheduled to expire in 2023 but has been extended several times. In 2024, the U.S. Congress passed *the American Relief Act of 2025*, which not only extended *the Agricultural Improvement Act of 2018* but also provided \$9.8 billion in market relief subsidies for 20 kinds of crops, with corn, soybeans, and wheat being the main targets, accounting for about 80% of the total subsidy amount.<sup>106</sup>

2.3.1.2 Since the implementation of *the Agriculture Improvement Act of 2018*, the U.S. has significantly increased the subsidies to farmers in terms of availability, frequency and amount. According to the estimates by the U.S. Congress, the agricultural subsidy budget for the fiscal years 2019–2028 will reach \$867.2 billion.<sup>107</sup> The U.S. practices are inconsistent with the direction of WTO’s reform to reduce trade-distorting agricultural subsidies.

### 2.3.2 Amber Box Spending

2.3.2.1 The U.S. has always maintained a high level of “Amber Box” subsidies. According to the notifications submitted by the U.S. to the WTO, the “amber box” subsidies (including “*de minimis*” subsidies) for the 2022–2023 marketing year were \$18.9 billion, and for the 2020–2021 marketing year, they were as high as \$37.3 billion. The U.S. also enjoys a \$19.1 billion Aggregate Measurement of Support (AMS) entitlement in addition to the “*de minimis*” subsidies. For the 2019–2020 marketing year, the U.S. AMS was as high as \$18.2 billion, close to the upper limit of the \$19.1 billion commitment;<sup>108</sup> for the 2020–2021 marketing year, it was over \$16.36 billion.<sup>109</sup> Some WTO members expressed concerns on the U.S. policies

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<sup>104</sup> Sophia Murphy and Karen Hansen-Kuhn, “The True Costs of US Agricultural Dumping,” *Renewable Agriculture and Food Systems*, Vol.35, No.4, 2020, pp.376-390.

<sup>105</sup> Agriculture Improvement Act of 2018, available at: <https://www.congress.gov/bill/115th-congress/house-bill/2>.

<sup>106</sup> Available at: <https://www.agweb.com/news/policy/ag-economy/breaking-down-2025-american-relief-act-what-it-means-you>.

<sup>107</sup> The 2018 Farm Bill (P.L. 115-134): Summary and Side-by-Side Comparison, available at: <https://www.congress.gov/bill/crs-product/R45525>.

<sup>108</sup> G/AG/N/USA/157.

<sup>109</sup> G/AG/N/USA/166/Rev.1.

which were contrary to the objectives of substantial progressive reductions in agricultural support and protection, and correcting and preventing trade distortions as contained in *the Agreement on Agriculture*.

### **2.3.3 Product-Specific Support**

2.3.3.1 Product-specific supports of the U.S. are highly concentrated on products for export, such as soybean, cotton and corn, which may constitute disguised export subsidies. According to the U.S. notifications to the WTO, in the marketing year of 2018-2019, it provided \$8.497 billion subsidies to soybean, accounting for 23.08% of the annual value of production, a sharp increase comparing with the level of \$1.6 billion in the previous year.<sup>110</sup> In the marketing year of 2022-2023, the U.S. provided \$1.567 billion subsidies to cotton, accounting for 20.78% of the annual value of production.<sup>111</sup> The subsidies provided to corn significantly rose from \$2.132 billion in the marketing year of 2018-2019 to \$5.131 billion in the marketing year of 2020-2021.<sup>112</sup>

2.3.3.2 Such supports indirectly contributed to the sustained growth of U.S. exports of major agricultural products. The soybean export significantly expanded between 2019 and 2022, reaching \$34.37 billion in 2022, an increase of 83.8% from 2019. The soybean export decreased in 2023, while still amounting to \$27.9 billion.<sup>113</sup> The corn export reached \$18.57 billion in 2022, an increase of 40% from 2019.<sup>114</sup> In 2022, U.S. cotton exports amounted to \$8.91 billion, an increase of 45.1% from 2020.<sup>115</sup>

### **2.3.4 Notification of Agricultural Subsidies**

2.3.4.1 There are two types of problems in the U.S. notification of agriculture domestic support.

2.3.4.2 First, the categorization of measures. The U.S. notified the PLC and ARC as “non-product specific supports”. Some WTO members hold the view that the above-mentioned supports are in fact related to the production and pricing of specific products and therefore should be notified as “product-specific supports”. Some other WTO members have also challenged the U.S. on notifying the funds for the management of *the Federal Crop Insurance Program* in the “infrastructure services” of “Green Box”. If the above supports are categorized as “product-specific supports”,

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<sup>110</sup> G/AG/N/USA/150.

<sup>111</sup> G/AG/N/USA/173.

<sup>112</sup> G/AG/N/USA/150, G/AG/N/USA/166/Rev.1

<sup>113</sup> Foreign Agricultural Service, U.S. Department of Agriculture, available at: <https://fas.usda.gov/data/commodities>.

<sup>114</sup> *ibid.*

<sup>115</sup> *Ibid.*

the U.S. current total AMS would exceed its commitment.

2.3.4.3 Second, the suspected intention to circumvent the WTO rules on “*de minimis*” to avoid exceeding its AMS limit. The U.S. combined “Amber Box” programs covering certain different specific products in its domestic support notifications, and failed to reflect the specific “Amber Box” spending for each product. For instance, the U.S. notified *the Livestock Indemnity Program* and *the Livestock Forage Disaster Program* under the program for livestock covering specific livestock such as beef cattle, calves, sheep and lambs. Some WTO members have required the U.S. to explain why the supports are notified on a combined basis.<sup>116</sup>

## **2.4 Trade Remedies**

The U.S. applies trade remedies on a discriminatory basis in its anti-dumping and countervailing duty investigations against some WTO members, weaponizing trade remedy measures as a tool to weaken the economic competitiveness of other members. As a result, in most such investigations, unjustified high anti-dumping and countervailing duties are imposed on the respondents who would then be forced to give up the U.S. market. Some involved products are even excluded from the U.S. market for a long time.

### **2.4.1 “Surrogate Country” Methodology**

2.4.1.1 Pursuant to Section 771(18) of *the Tariff Act of 1930*, the DOC may determine at any time that a foreign country is a “non-market economy (hereinafter referred to as “NME”) country”. Under this Act, if the DOC believes that a country does not operate on market principles in terms of cost and pricing, and sales of merchandise in such country do not reflect the fair value of the merchandise, it will determine such country as a “NME country”. According to the U.S. legislation, the DOC bases its evaluations on the following six factors, i.e., the extent to which the currency of the foreign country is convertible into the currency of other countries; the extent to which wage rates in the foreign country are determined by free bargaining between labor and management; the extent to which joint ventures or other investments by firms of other foreign countries are permitted in the foreign country; the extent of government ownership or control of the means of production; the extent of government control over the allocation of resources and over the price and output decisions of enterprise and such other factors as the administering authority considers appropriate. In anti-dumping investigations against “NME countries”, the DOC refused to recognize the genuine domestic sales, cost, expense and profit data of the exporting country’s

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<sup>116</sup> G/AG/W/226.

enterprises, and determined normal value and calculated dumping margins based on corresponding data from a third country (the “surrogate country”) selected by the DOC instead. This violates WTO rules, and is totally unilateralist, subjective and arbitrary, seriously jeopardizing the legitimate rights and interests of the enterprises under investigation.

2.4.1.2 First, no definition of “NME” could be found in WTO rules and members not allowed to employ a discriminatory anti-dumping investigation methodology against other WTO members based on whether they are designated as “NME countries”. The adoption of the “surrogate country” methodology by the U.S. has flagrantly violated the WTO anti-dumping rules and the basic principle of most-favoured-nation treatment, thus has breached its international obligations.

2.4.1.3 Second, the U.S. law seems to have stipulated some criteria for identifying “NME countries”, but in practice, the identification process is arbitrary, subjective, politicized and non-transparent. For instance, the U.S. recognized Russia as a “market economy” in 2002 and reconfirmed in 2021. However, just one year later, the U.S. decided to treat Russia as a “NME country” in 2022. Similarly, in August 2024, the DOC announced that it would continue to maintain Vietnam’s “non-market economy status”,<sup>117</sup> and the trade agreement reached between the U.S. and Vietnam in July 2025 failed to recognize Vietnam’s “market economy status”.

2.4.1.4 Third, the DOC has excessive discretion in selecting “surrogate country” and often chose substitute data of prices, costs, expenses and profits that would maximize dumping margins to achieve its stated goal of strictly enforcing anti-dumping laws. In anti-dumping cases related to “surrogate country”, the so-called “dumping margins” of enterprises in exporting countries are artificially increased to a level far higher than the results obtained using normal investigation methods permitted by WTO rule, which is significantly inconsistent with the objective economic reality. The anti-dumping duties imposed on such basis have seriously hindered the export of products from China and other countries recognized as “NME country” to the U.S., undermining the interests of the enterprises concerned, as well as the downstream users and consumers in the U.S.

## **2.4.2 Separate Rates**

2.4.2.1 According to Article 6.10 of *the Anti-Dumping Agreement*, the authorities shall, as a rule, determine an individual margin of dumping for each known exporter or producer of the concerned product under investigation. However, in anti-dumping

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<sup>117</sup> Available at: <https://www.trade.gov/press-release/department-commerce-final-decision-review-non-market-economy-status-vietnam>.

investigations involving a so-called “NME country”, the DOC has developed the “rebuttable presumption” approach, which provides that all firms in a “NME country” will be subject to a uniform anti-dumping duty rate unless the firms can demonstrate that they are, both *de jure* and *de facto*, not controlled by the government.

2.4.2.2 Under the WTO dispute settlement mechanism, Vietnam and China have successively challenged the U.S. on the separate rate issue. In *the U.S. –Anti-Dumping Measures on Certain Shrimp from Viet Nam (DS429)* and *the U.S.–Certain Methodologies and their Application to Anti-Dumping Proceedings Involving China (DS471)*, the Panel Reports, adopted by DSB, found that the DOC’s “rebuttable presumption” violated Article 6.10 and Article 9.2 of *the Anti-Dumping Agreement*.<sup>118</sup> As the U.S. failed to implement the DSB rulings and recommendations, China requested authorization from the WTO to impose trade retaliation against the U.S. The WTO ruled that China might impose trade retaliation of up to \$3.579 billion annually in the field of trade in goods.<sup>119</sup> Judges of the U.S. Court of International Trade also raised questions and criticism about this policy in specific judicial review cases and required the DOC to correct the ruling method in the 2015-2016 annual administrative review of wood flooring from China. The DOC ultimately had to determine the dumping margin of the Chinese enterprises involved in the case to be zero based on this opinion. However, the DOC so far has refused to implement the effective WTO DSB rulings and recommendations and has not systematically corrected its non-compliance practices on the issue of individual rates.

### **2.4.3 Public Body**

2.4.3.1 In countervailing duty investigations, the DOC considers governmental ownership over an entity as the major criterion to determine whether such entity is a “public body”, and therefore has identified all Chinese state-owned commercial banks and state-owned enterprises as “public body”. The DOC has identified loans provided by Chinese state-owned banks and production inputs provided by state-owned enterprises to exporters as financial contribution and took countervailing measures on that basis. For this reason, China challenged the U.S. practices under the WTO dispute settlement mechanism (DS379). The Appellate Body held that a “public body” must be “an entity that possesses, exercises, or was vested with governmental authority”, and the U.S. use of the ownership criterion to identify a “public body” is

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<sup>118</sup> Panel Report, United States – Anti-Dumping Measures on Certain Shrimp from Viet Nam, para. 7.166 and para. 7.208; Panel Report, US – Certain Methodologies and their Application to Anti-Dumping Proceedings Involving China, para. 7.388.

<sup>119</sup> US – Anti-Dumping Methodologies (China), available at: [https://www.wto.org/english/tratop\\_e/dispu\\_e/cases\\_e/ds471\\_e.htm](https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds471_e.htm).

inconsistent with WTO rules.<sup>120</sup> The Appellate Body further elaborated on several possible cases for identifying a “public body”, in particular whether the government has a “meaningful control” over an entity and its conduct.<sup>121</sup>

2.4.3.2 Regrettably, the U.S. failed to implement the Appellate Body’s rulings and recommendations in good faith. In its countervailing duty investigations against China, the DOC identified state-owned enterprises as “public bodies” without exception, and any respondent’s purchase of raw materials, water, electricity, gas and other production inputs from state-owned enterprises would be deemed to have obtained subsidies. The DOC even identified many private businesses as public bodies by imposing unreasonable burdens of proof. In its countervailing duty investigations involving China, the major source of the subsidy margin came from the “*Less Than Adequate Remuneration*” (hereinafter referred to as “LTAR”) Programs determined on the basis of arbitrary determination of “public bodies”. For instance, in the countervailing duty investigation against paper shopping bags from China, the DOC identified all Chinese kraft paper producers as public bodies, and the subsidy margin of the so-called “provision of kraft paper at LTAR” accounted for as much as 69.5% of the total subsidy margin for the mandatory respondents. In fact, the so-called “LTAR” Programs for Chinese products are artificially fabricated by the U.S. For instance, in the DOC’s subsidy investigation on stainless steel plate and strip originating from China, it used the “adverse facts” to presume that all raw material suppliers were “public bodies” on the grounds that Chinese enterprises did not cooperate, and thus determined the existence of subsidies and calculated high tax rates.

#### **2.4.4 External benchmark**

2.4.4.1 Article 14(d) of the SCM Agreement provides that the adequacy of remuneration shall be determined in relation to prevailing market conditions for the good or service in question in the country of provision or purchase. After identifying the raw material or production input purchased by a respondent from a state-owned enterprise as subsidies, the DOC, in its calculation of benefits, abused adverse presumption to determine that the domestic price of the relevant production input had been distorted by the intervention of the government, and thus not a proper benchmark for calculating the benefits. The DOC then used external benchmarks instead, such as “international market price” to calculate the amount of subsidies obtained by the respondents, according to which artificially inflated countervailing

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<sup>120</sup> Appellate Body Report, US - Anti-Dumping and Countervailing Duties (China), para. 317.

<sup>121</sup> *Ibid.*, para. 318.

duties were then imposed.

2.4.4.2 China challenged the U.S application of external benchmarks under the WTO dispute settlement mechanism (DS437). The Appellate Body held that in all of the investigations at issue, the U.S. acted inconsistently with its obligations under Article 14(d) and 1.1(b) of the SCM Agreement by rejecting domestic prices in China as benchmarks of benefit without explaining whether such prices are market-determined or distorted by the government.<sup>122</sup>

2.4.4.3 In the compliance proceedings, the Appellate Body held that the inquiry under Article 14(d) of the SCM Agreement was whether government intervention resulted in price distortion. Thus, government intervention in market alone would not justify the decision by an investigating authority to reject domestic prices.<sup>123</sup> Due to the U.S. failure to implement the DSB recommendations and rulings, China requested DSB authorization to suspend concessions or other obligations to the U.S. The WTO determined that China may request authorization from the DSB to suspend concessions or other obligations at a level not exceeding \$645 million annually.<sup>124</sup>

2.4.4.4 The U.S. continued in its wrong practice of using external benchmark in the countervailing duty investigations against China, which resulted in the imposition of high countervailing duties on Chinese respondents. This erroneous practice was further abused in so-called “transnational subsidy” investigations, and by artificially constructing external benchmarks, it calculated extremely high subsidy margins.

## **2.4.5 Transnational Subsidy Investigations**

2.4.5.1 The so-called transnational subsidies refer to financial support provided by the government or public body of one country outside its territory. For a long time, the U.S. has acknowledged the basic principle that the WTO SCM Agreement does not apply to transnational subsidies and therefore maintained a strict limitation on transnational subsidy investigations. In March 2012, the U.S. amended *the Tariff Act of 1930*, formally authorizing the DOC to implement countervailing measures against so-called non-market economies. In April 2024, the U.S. Department of Commerce revised its countervailing duty regulations, abolishing Section 351.527 of *the Code of Federal Regulations*, completely lifting the restrictions on “transnational subsidy” investigations. Since then, the DOC initiated transnational subsidy investigations in several countervailing duty cases, mainly targeting countries and industries associated

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<sup>122</sup> Appellate Body Report, United States - Countervailing Duty Measures on Certain Products from China, WT/DS437/AB/R, para. 4.107.

<sup>123</sup> Appellate Body Report, US = Countervailing Measures (China) (Article 21.5), para. 5.141.

<sup>124</sup> United States-Countervailing Duty Measures on Certain Products from China, available at: [https://www.wto.org/english/tratop\\_e/dispu\\_e/cases\\_e/ds437\\_e.htm](https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds437_e.htm).

with China's industrial chain.

2.4.5.2 In April 2024, the DOC officially launched anti-dumping and countervailing duty investigations on photovoltaic products from Cambodia, Malaysia, Thailand, and Vietnam in accordance with the newly revised regulations, and included Chinese investment and support for the photovoltaic industries in these four members within the scope of the investigation. In early 2025, in the countervailing duty investigation on photovoltaic modules from Thailand, the DOC included the so-called subsidies provided by China to Thai photovoltaic factories in the review of transnational subsidies. Subsequently, without sufficient evidence and reasoning, the U.S. DOC erroneously determined that the loans and raw materials provided by China to the four Southeast Asian countries were financial contribution and made affirmative determinations on the transnational subsidies, significantly increasing the countervailing duty rates for transnational manufacturers. In March 2025, the DOC announced the initiation of anti-dumping and countervailing duty investigations on certain automotive chassis and components originating from Mexico, Thailand, and Vietnam, accusing their production of relying on policy-related loans or low-cost raw materials support from the Chinese government.<sup>125</sup>

2.4.5.3 The above-mentioned regulatory amendments and investigation practices by the U.S. clearly violated the WTO rules. Article 1.1 of the SCM Agreement, with the limiting condition of “within the territory of a Member”, explicitly states that the subsidies regulated are those provided by the government or public body of the exporting country to its domestic producers and exporters. Article 2.1 of the SCM Agreement, regarding specificity, stipulates that the recipients of the subsidies shall be “within the jurisdiction of the granting authority”, that is, the granting authority shall be in the same territorial scope as the enterprises receiving the subsidies. Furthermore, Footnote 63 of Annex IV of the SCM Agreement clearly states that “the recipient firm is a firm in the territory of the subsidizing Member”. In other words, even if there is a situation where the government or public body of a WTO Member provides financial contribution to producers and exporters in the territory of another Member, it does not constitute a countervailable subsidy under the SCM Agreement. On this basis, Article 32.1 of the SCM Agreement also clearly states that no specific action against a subsidy of another Members can be taken except in accordance with the provisions of the GATT 1994. Therefore, only subsidies provided by a WTO Member to enterprises within its own territory can be subject to countervailing investigations under the SCM Agreement.

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<sup>125</sup> Available at: <https://www.trade.gov/commerce-initiates-antidumping-and-countervailing-duty-investigation-certain-chassis-and>.

2.4.5.4 It can also be seen from the negotiation history and background of the SCM Agreement that the Agreement was not intended to apply to transnational subsidies. Researches showed that the drafters of the SCM Agreement intentionally added the phrase “within the territory of a Member” to limit the scope of application of Article 1.1(a)(1). In the context of the prevalence of transnational subsidies in the 1980s, it allowed transnational financial assistance such as World Bank loans, post-war reparations, and “Marshall Plan” funding to be exempt from the constraints of the SCM Agreement.<sup>126</sup> Therefore, under the SCM Agreement framework, only subsidies provided by the government of the exporting country to enterprises within its own territory can become the target of countervailing measures.

2.4.5.5 The transnational subsidy investigations initiated by the U.S., through expanding the definition of “subsidies” and abusing “adverse facts available”, has gone beyond the traditional territorial limitations of subsidies under the SCM Agreement, clearly has violated the WTO rules, and has led to widespread controversy. The transnational subsidy investigations initiated by the U.S. artificially exaggerated the dumping or subsidy margins of other Members’ exports to the U.S., disrupted the normal international trade order and economic and trade cooperation, and harmed the interests of all parties, including the U.S. and its enterprises and consumers. It also seriously harmed the legitimate rights and interests of other WTO Members under the WTO rules.

## **2.4.6 Adverse Facts Available**

2.4.6.1 Article 6.8 and Annex 2 of the *Anti-Dumping Agreement* and Article 12.7 of the SCM Agreement allow investigating authorities to make determinations based on available facts. A similar provision can also be found in Section 776(a)(2) of the *Tariff Act of 1930*. However, the *Trade Preferences Extension Act of 2015* amended the rule of “Adverse Facts Available” in anti-dumping and countervailing investigations, adding procedural rules on the application of “Adverse Facts Available”, granting extensive discretion to investigating authorities, and allowing the DOC to use such a rule to the largest extent to determine high punitive tariff rates against exporters.

2.4.6.2 In countervailing duty investigations, the U.S. investigating authority repeatedly ignored the factual situation of the respondents and required a large amount of evidence without considering whether such evidence would help the investigating authority with the determination. If the respondents failed to provide the

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<sup>126</sup> Gary Horlick, ‘An Annotated explanation of Article i and 2 of the WTO Agreement on Subsidies and Countervailing Measures’, (2013) 8 *Global Trade and Customs Journal* 297, at 278

information requested, irrespective of whether the information was relevant to the investigation, the investigating authority would apply the “Adverse Facts Available” against the respondents solely on that basis. The DOC imposed a burden of proof on other Members or their respondents in its investigations that was almost impossible to meet, which went far beyond the scope of “necessary information” required by Article 6.8 of *the Anti-Dumping Agreement* and Article 12.7 of the SCM Agreement. Moreover, the U.S. also didn’t comply with the requirement of “special circumspection” in using the information from a secondary source when making its determinations as required by Article 7 of Annex 2 of *the Anti-Dumping Agreement*.

#### **2.4.7 Sunset Review**

2.4.7.1 Pursuant to Article 11.3 of *the Anti-Dumping Agreement* and Article 21.3 of the SCM Agreement, any definitive anti-dumping duty and countervailing duty shall be terminated on a date not later than five years from its imposition unless the investigating authorities initiates a sunset review on their own initiative or upon a duly substantiated request made by the domestic industry. The purpose of the sunset review set up by the WTO is to permit periodic reviews of anti-dumping or countervailing measures and terminate subsequently the measures that no longer need to be maintained. However, in practice, the sunset review has been deployed by the U.S. to maintain anti-dumping and countervailing measures indefinitely.

2.4.7.2 According to Section 751(c) of *the Tariff Act of 1930*, the sunset review is initiated automatically, and there is no need for the domestic industry to file a duly substantiated request. Therefore, the sunset review in the U.S. is more easily initiated. The U.S. adopted a rather low standard when assessing the likelihood of continuation or recurrence of dumping and injury. As a result, the probability of terminating anti-dumping and countervailing measures after such reviews were quite low. The DOC’s investigations and decisions are not based on “sufficient evidence”, and the determination standards are relatively low, which are inconsistent with Article 11.3 of *the Anti-Dumping Agreement* and Article 21.3 of the SCM Agreement. The responding enterprise finds it difficult to have substantial room for defense.

2.4.7.3 As of February 2024, among the effective anti-dumping measures which the U.S. had taken against China, 18% of which had been in force for 15 to 20 years, 16.7% for 10 to 15 years and 21.35% for 5 to 10 years. Among the 668 sunset reviews initiated by the U.S. over the past decade, 50 were determined to expire, accounting for only 7%.<sup>127</sup> As of 2025, the longest-lasting anti-dumping measure imposed by the U.S. is the one against prestressed concrete steel wire strand from Japan in December

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<sup>127</sup> Source: China Trade Remedies Information, available at: <https://cacs.mofcom.gov.cn/>.

1978, which has lasted for more than 47 years.<sup>128</sup> In addition, the anti-dumping measures against potassium permanganate from China imposed in January 1984<sup>129</sup> and carbon steel tubing from Chinese Taipei imposed in May 1984 have lasted for over 40 years.<sup>130</sup>

2.4.7.4 In March 2024, the DOC comprehensively upgraded its trade remedy toolbox, significantly expanding the scope of anti-dumping and countervailing investigations, mainly in four aspects. First, it relaxed the “special market situation” rule in anti-dumping regulations, under which a special market situation could be recognized and third-country costs used to calculate higher duty rates as long as there is a “significant likelihood” of a causal link between the situation and distortions in production costs. Second, for the first time, it introduced the elements of compliance levels in areas such as labor, environment and intellectual property protection and its impact on product costs and prices and may use third-country costs to calculate anti-dumping duties accordingly. Third, foregone fines for violations of labor, environment or intellectual property laws would be treated as subsidies and countervailing measures could be taken accordingly. Fourthly, it removed restrictions in the U.S. domestic law on countervailing duty investigations of transnational subsidies.<sup>131</sup> These U.S. new rules would threaten trade remedies abuses on a wider scale to suppress its “competitors”.

2.4.7.5 In November 2024, the DOC announced the final results of the fourth anti-dumping rapid sunset review on hot-rolled carbon steel plates imported from China, India, Indonesia, Thailand, Ukraine, and Chinese Taipei. It determined that if the current anti-dumping measures were to expire, the dumping margin of the relevant involved products would continue or recur. At the same time, it reached similar conclusions in the fourth countervailing duty rapid sunset review on hot-rolled carbon steel plates imported from India, Indonesia, and Thailand. On November 15, 2024, the U.S. International Trade Commission made an affirmative final determination in the fourth anti-dumping sunset review on concrete reinforcing bars imported from China, Belarus, Indonesia, Latvia, Moldova, Poland, and Ukraine. According to the final determination, the current anti-dumping measures in this case would remain in

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<sup>128</sup> Sunset Review A-588-068, available at: <https://access.trade.gov/Resources/frn/summary/japan/04-10485-1.pdf>.

<sup>129</sup> Light-Walled Welded Rectangular Carbon Steel Tubing from Taiwan: Final Results of the Expedited Sunset Review of the Antidumping Duty Order, available at: <https://www.federalregister.gov/documents/2022/10/25/2022-23218/light-walled-welded-rectangular-carbon-steel-tubing-from-taiwan-final-results-of-the-expedited>.

<sup>130</sup> Light-Walled Welded Rectangular Carbon Steel Tubing from Taiwan: Final Results of the Expedited Sunset Review of the Antidumping Duty Order, available at: <https://www.federalregister.gov/documents/2022/10/25/2022-23218/light-walled-welded-rectangular-carbon-steel-tubing-from-taiwan-final-results-of-the-expedited>.

<sup>131</sup> Available at: <https://www.federalregister.gov/documents/2024/03/25/2024-05509/regulations-improving-and-strengthening-the-enforcement-of-trade-remedies-through-the-administration>.

effect.<sup>132</sup> These sunset review determinations caused harm to the international trade order.

## **2.5 Standards, Technical Regulations and Conformity Assessment Procedures**

In recent years, the U.S. unduly restricted the export of other members' products to the U.S. by adopting technical barriers to trade. The U.S. practices are contrary to the principles of *the WTO Agreement on Technical Barriers to Trade* (hereinafter referred to as "TBT Agreement"), such as not creating unnecessary obstacles to international trade and not constituting unjustifiable discrimination, etc.

### **2.5.1 Energy Conservation Standards for Room Air Conditioners**

2.5.1.1 In April 2022, the U.S. notified the WTO of its draft revision to the energy conservation standards for room air conditioners, which involved room air conditioners, motors, fans, temperature and humidity regulating components, and relevant alternative refrigerants. The U.S. energy conservation standards for room air conditioners affected the normal trade flows. The main concerns are as follows: First, the notified testing methods of energy efficiency for room air conditioners are different from the testing methods adopted by most members. The EU, Japan, Republic of Korea and Australia have adopted seasonal energy efficiency ratio (hereinafter referred to as "SEER") as standards for product performance evaluation, while the U.S. is still using the combined energy efficiency ratio (hereinafter referred to as "CEER") as the evaluation standards. Second, under the U.S.-notified energy efficiency standards for room air conditioners, the CEER testing method include two types: one for fixed-speed AC and one inverter AC. Using two calculation methods for a single metric could not accurately reflect the actual differences between fixed-speed AC and inverter AC and may lead to confusion in the metric's application during specific calculations. Third, compared with the current standards, the CEER improvement under the U.S.-notified energy efficiency standards for room air conditioners generally goes up by 20% to 50%. Such a rapid increase in efficiency standards may lead to substantial increases in cost of design, manufacturing, and logistics for exporting companies.<sup>133</sup> In March 2025, the WTO released a proposal submitted by the U.S. Energy Department regarding the planned revision of the energy-efficiency standards for indoor air conditioner products. This draft maintained the 16 categories of indoor air conditioners under the 2015 standards, but redefined the integrated energy efficiency ratio of each category. If the proposed standards are

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<sup>132</sup> Available at: <https://www.oreaco.com/steel/usitc-extends-anti-dumping-shield-on-rebar-imports-from-seven-nations>.

<sup>133</sup> United States – Energy Conservation Program: Energy Conservation Standards for Room Air Conditioners (ID 755), available at: <https://tradeconcerns.wto.org/ES/stcs/details?imsId=755&domainId=TBT>.

adopted, all room air conditioners manufactured in or imported into the U.S. have to comply with the new standards.<sup>134</sup>

## **2.5.2 Certification for Civil Aviation Security Screening Equipment**

2.5.2.1 In the certification of the civil aviation security screening equipment, the U.S. Transportation Security Administration failed to publish the certification standards and refused to explain the reasons for refusing to certify Chinese products. The TBT Agreement requires that conformity assessment procedures shall be prepared, adopted and applied in a manner which is consistent with the non-discriminatory principle and does not create unnecessary obstacles to international trade. When implementing the conformity assessment procedure, the competent body should inform the applicants in a precise and complete manner of all deficiencies as well as the results of the assessment.

2.5.2.2 In addition, the U.S. lobbied its partners or allies to refuse using equipment made by some countries. The U.S. Ambassador to Mexico sent a letter to Mexico's foreign minister, and urged Mexico not to purchase baggage and cargo security scanners made by Chinese companies, because "no Chinese scanning equipment meets the U.S. standards for quality control".<sup>135</sup> The U.S. also tried to press its European allies to accept that security equipment made by Chinese companies posed a threat to the security and operation of Western equipment.<sup>136</sup>

## **2.5.3 Participation of Foreign Enterprises in Standardization Activities**

2.5.3.1 In practice, it is difficult for foreign enterprises including Chinese enterprises to participate in the U.S. standard-setting process. Also, it is difficult for their voices to be heard. Some standardization bodies of the U.S. held negative attitude toward foreign enterprises including Chinese enterprises participating in the standard-setting process and even excluded foreign stakeholders from this process. For instance, the U.S. professional standardization organizations such as the High Definition Multimedia Interface Organization restricted Chinese companies from participating in their standard-setting process. The National Institute of Standards and Technology of the DOC requested the information on Chinese participation in international standards development from a wide range of domestic sectors.<sup>137</sup> The DOC also excluded

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<sup>134</sup> Available at: <https://www.angi.com/articles/hvac-standards-whats-changed-your-region.htm>.

<sup>135</sup> U.S. urges Mexico not to buy Chinese scanners for the border, available at:

<https://www.washingtonpost.com/world/2022/10/21/mexico-border-china-technology/>.

<sup>136</sup> U.S. Presses Europe to Uproot Chinese Security-Screening Company, available at: <https://www.wsj.com/articles/u-s-presses-europe-to-uproot-chinese-security-screening-company-11593349201>.

<sup>137</sup> NIST Requests Information on Chinese Participation in International Standards Development, available at: <https://www.asme.org/government-relations/capitol-update/nist-requests-information-on-chinese-participation-in-international-standards-development>.

Chinese enterprises from the international standard organizations that were registered in the U.S. so as to restrict their participation in the activities of standardization.

2.5.3.2 According to the requirements of Annex 3 of the TBT Agreement, the standardization bodies of the U.S. shall ensure that standards are not prepared, adopted, or applied with a goal of, or with the effect of, creating unnecessary obstacles to international trade and shall treat all WTO members equally. Regrettably, the U.S. didn't comply with these rules. In recent years, as the U.S. placed increasing emphasis on the key technology areas such as artificial intelligence and semiconductors, the continued exclusion of foreign enterprises from the standard-setting process in these areas may constitute discrimination against foreign enterprises, including those from China.

#### **2.5.4 Seafood Import Monitoring Program**

2.5.4.1 The U.S. National Oceanic and Atmospheric Administration (hereinafter referred to as "NOAA") started to implement *the Seafood Import Monitoring Program* (hereinafter referred to as the "SIMP") in 2018. The Program set the reporting and record-keeping requirements for imports of up to 1,000 species of fish and fish products in 13 major categories, including abalone, Atlantic cod, blue crab (Atlantic), etc.<sup>138</sup> The importers must obtain the International Fisheries Trade Permit issued by the NOAA and report the key chain of custody on the seafood from harvest to entry into the U.S. at the time of each entry application.<sup>139</sup> In November 2024, NOAA released an action plan to expand the coverage of SIMP, focusing on high-risk species such as squid and salmon, and for the first time formally included the issue of "forced labor" in the regulatory scope of the global seafood supply chain. NOAA proposed to establish a two-tier priority system to optimize the traceability process according to the risk level of species. It would introduce a pre-screening procedure to prevent non-compliance seafood from entering the U.S. market. It would also intensify the monitoring of transshipment at sea and tracking of fishing voyages durations.<sup>140</sup>

2.5.4.2 The main concerns on the SIMP are as follows. First, it treats imported and domestic products differently and discriminated against imported products. Second, the selection criteria for monitoring objects of the SIMP are not transparent. Third, the SIMP doesn't consider the differences between aquaculture products and

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<sup>138</sup> Magnuson-Stevens Fishery Conservation and Management Act; Seafood Import Monitoring Program, available at: <https://www.federalregister.gov/documents/2016/12/09/2016-29324/magnuson-stevens-fishery-conservation-and-management-act-seafood-import-monitoring-program>.

<sup>139</sup> Seafood Import Monitoring Program Facts and Reports, available at: <https://www.fisheries.noaa.gov/international/international-affairs/seafood-import-monitoring-program-facts-and-reports>.

<sup>140</sup> Available at: [https://www.fisheries.noaa.gov/s3/2024-11/SIMP-Action-Plan\\_final.pdf](https://www.fisheries.noaa.gov/s3/2024-11/SIMP-Action-Plan_final.pdf).

wild-captured seafood and relevant monitoring lacked scientific basis. The excessive and cumbersome information and data requirements of the SIMP imposed a heavy burden on seafood exporters to the U.S. As a “conformity assessment procedure”, the SIMP has not been notified to the TBT Committee, which has impaired the rights of other members under the TBT Agreement.

### **2.5.5 Import Alert 99-30**

2.5.5.1 In 2008, the U.S. Food and Drug Administration (FDA) issued Import Alert 99-30, namely “Detention Without Physical Examination of All Milk Products, Milk Derived Ingredients and Milk Containing Finished Food Products from China Due to the Presence of Melamine and/or Melamine Analogs”. Under this alert, all such products (covering 51 categories) from China—except those produced by companies on the FDA’s “Green List” (only 38 companies as of May 31, 2025)—were subject to automatic detention. The FDA also required relevant companies to submit an FDA-recognized melamine test report for each shipment. However, China promulgated the Food Safety Law of the People’s Republic of China in 2009, which explicitly stipulated the legal liability for the intentional addition of melamine to food and imposed heavy fines. *The China Dairy Association’s China Dairy Quality Report (2024)* showed that as of 2024, percent of pass for sampling inspection of melamine and other key monitored prohibited additives in China’s milk and dairy products stood at 100% for 16 consecutive years. Based on the quality of China’s dairy products, the European Union, Singapore, and other countries and regions removed the requirement for providing melamine test reports for the import of dairy and dairy products from China.

2.5.5.2 *The Phase One Economic and Trade Agreement between China and the U.S.* stipulated in Annex II that from the date of entry into force of the Agreement, the General Administration of Customs of China and the FDA of the U.S. should, as soon as feasible, initiate bilateral technical discussions to review Import Alert 99-30 and clarify the steps for its removal. The General Administration of Customs of China has held several rounds of technical consultations with and the U.S. FDA and provided various technical materials as required by the U.S., but the U.S. has not yet given an assessment conclusion and continued to automatically detain related products from China. From 2013 to June 2025, many dairy products, milk-derived ingredients, and milk-containing foods produced by Chinese food enterprises underwent complex inspection procedures when entering the U.S. China repeatedly held bilateral consultations with the U.S. and raised special trade concerns at the WTO but has not received a substantive reply. The measures and practices of the U.S. are not based on

scientific risk assessment, lacked scientific basis, and created unnecessary barriers to trade, which violated the relevant principles of the WTO.

## **2.6 Trade in Services**

The U.S. government claimed that it has suffered from a huge trade deficit and is a “victim” in international trade, but the fact is that the U.S. is the world’s largest service trade surplus country. WTO Director-General Ngozi Okonjo-Iweala pointed out in an article that the U.S. was a clear winner in trade in services.<sup>141</sup> The U.S. narrative of “reciprocal tariffs” based on its trade in goods deficit is highly one-sided and misleading.

Between 2020 and 2024, the U.S. service trade surplus averaged over \$250 billion per year, maintaining a surplus with the vast majority of WTO members. In 2023, the value of U.S. service exports exceeded \$1 trillion, accounting for 13% of the global total. In 2024, U.S. service exports increased by 8%, with a surplus close to \$300 billion, of which income from intellectual property licensing and royalties alone exceeded \$144 billion. The WTO estimated that by 2040, the share of trade in services in international trade would reach 37.2%, with the U.S. expected to hold a significant portion of this.<sup>142</sup> Despite its competitive advantage in trade in services, the U.S. continued to create various trade barriers and used administrative and legal measures to interfere with the normal business operations of enterprises, negatively impacting the global economic and trade landscape.

### **2.6.1 Telecommunication Services**

2.6.1.1 The U.S. used to advocate for the market openness of telecommunications and ICT. However, in recent years, the U.S. government regarded the supply chain of communications equipment and services as a national security issue. The U.S. government had politicized, weaponized and overstretched the security issue of supply chain, and restricted the operation and development of foreign ICT companies in the U.S. market.

2.6.1.2 As a type of regulatory measures of communication services, the “214 licence” is an authorization issued by the FCC under Section 214 of *the Communications Act of 1934* to provide international common carrier communication services between the U.S. and foreign countries, and to provide interstate common carrier communications

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<sup>141</sup> Ngozi Okonjo-Iweala, America’s Big Trade Win, available at <https://www.project-syndicate.org/commentary/us-government-should-recognize-promote-booming-services-trade-by-ngozi-okonjo-iweala-2025-03>.

<sup>142</sup> Ngozi Okonjo-Iweala, America’s Big Trade Win, available at: <https://www.project-syndicate.org/commentary/us-government-should-recognize-promote-booming-services-trade-by-ngozi-okonjo-iweala-2025-03>.

services in the U.S. The FCC on multiple occasions rejected license applications from foreign telecommunications companies<sup>143</sup> or revoked licenses that had already been granted<sup>144</sup> under the pretext of “national security”, thus seriously affected the normal operation of the foreign enterprises concerned in the U.S.<sup>145</sup>

2.6.1.3 The U.S. abused the concept of “national security” in the field of telecommunications by imposing restrictions on the normal operations of foreign telecommunications service providers without substantial evidence. In recent years, it has gone worse. In December 2024, the U.S. government considered banning the few remaining operations of China Telecom in the U.S. without substantial evidence.<sup>146</sup> Since January 2025, the FCC has taken multiple restrictive measures. In January, the FCC announced measures to protect the U.S. national communication system from significant cybersecurity threats, “especially from Chinese cyber actors”.<sup>147</sup> In March, the FCC announced the establishment of the Council for National Security for the purpose of national security of the U.S. and counter threats from foreign adversaries. The ultimate goal is to reduce the telecommunications sectors’ dependency on foreign countries and ensure that the U.S. could prevail in its strategic competition with China.<sup>148</sup> On March 21, the FCC, citing national security, announced a sweeping investigation into 9 Chinese communication equipment and service providers,<sup>149</sup> affecting the normal business activities of Chinese companies in the U.S.

2.6.1.4 In addition, the U.S. government issued the TikTok Sale-or-Ban Act in April 2024, requiring ByteDance, the parent company of TikTok, to sell it to a non-Chinese company, if not the application would be banned in the U.S. These bans have violated the basic principles of the market economy and harmed the legitimate rights and interests of companies operating in the U.S.

2.6.1.5 In its WTO commitments on value-added telecommunication services and on basic telecommunication services, the U.S. has made commitments on market access, specifying as “none” for the limitations on the cross-border supply and commercial

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<sup>143</sup> FCC Denies China Mobile Telecom Services Application, available at:

<https://www.fcc.gov/document/fcc-denies-china-mobile-telecom-services-application>.

<sup>144</sup> FCC REVOKES AND TERMINATES CHINA TELECOM AMERICA’S AUTHORITY TO PROVIDE TELECOM SERVICES IN AMERICA, and FCC REVOKES CHINA UNICOM AMERICAS’ AUTHORITY TO PROVIDE TELECOM SERVICES IN AMERICA, available at: <https://docs.fcc.gov/public/attachments/DOC-376902A1.pdf>; see also: <https://docs.fcc.gov/public/attachments/DOC-379680A1.pdf>.

<sup>145</sup> Communications Act of 1934, Sec. 214, available at: <https://transition.fcc.gov/Reports/1934new.pdf>.

<sup>146</sup> Biden Administration Takes First Step to Retaliate Against China Over Hack, available at: <https://www.nytimes.com/2024/12/16/us/politics/biden-administration-retaliation-china-hack.html>.

<sup>147</sup> FCC Focus on National Security, Public Safety, & Protecting Consumers, available at: <https://docs.fcc.gov/public/attachments/DOC-408863A1.pdf>.

<sup>148</sup> Chairman Carr Establishes New Council on National Security, available at: <https://www.fcc.gov/document/chairman-carr-establishes-new-council-national-security>.

<sup>149</sup> Carr Announces Sweeping New Investigation into CCP-Aligned Entities, available at: <https://www.fcc.gov/document/carr-announces-sweeping-new-investigation-ccp-aligned-entities>.

presence.<sup>150</sup> The above measures of the U.S. has deprived foreign enterprises that have obtained corresponding telecommunication authorizations of their legitimate business rights and interests in the U.S., disrupted the cross-border provision of telecommunication services and caused huge costs to providers and users of telecommunication services and products, a violation of the U.S. commitments under *the General Agreement on Trade in Services* (hereinafter referred to as “GATS”).

## 2.6.2 Digital Services and Internet Services

2.6.2.1 Since 2020, the U.S. government issued several executive orders (including *Executive Orders 13942, 13943 and 13971*) under the pretext of national security. The orders imposed comprehensive restrictions on foreign software applications, required their removal from app stores in the U.S., prohibited internet services providers from providing technical support,<sup>151</sup> banned certain transactions and activities with persons that “develop or control” connected software applications,<sup>152</sup> and even forced the foreign internet enterprises concerned to sell or spin off the U.S. operations of connected software applications.<sup>153</sup> The U.S. government released *the Rules on Securing the Information and Communications Technology and Services Supply Chain*,<sup>154</sup> granting the DOC the authority to review certain transactions between U.S. persons and foreign persons and assess whether such transactions bring risk to the national security of the U.S., which involve ICT technology services “designed, developed, manufactured, or supplied by persons owned by, controlled by, or subject to the jurisdiction or direction of a foreign adversary”.<sup>155</sup>

2.6.2.2 Although the U.S. government has revoked the three aforementioned

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<sup>150</sup> GATS/SC/90, GATS/SC/90/Suppl.2 (1997).

<sup>151</sup> TikTok; Steps to Address the Threat and National Emergency with Respect to Information and Communications Technology and Services Supply Chain (EO 13942); WeChat; Steps to Address the Threat and National Emergency with Respect to Information and Communications Technology and Services Supply Chain (EO 13943), available at: <https://www.federalregister.gov/documents/2020/08/11/Commerce-Department-Prohibits-WeChat-and-TikTok-Transactions-to-Protect-the-National-Security-of-the-United-States>, available at: <https://2017-2021.commerce.gov/news/press-releases/2020/09/commerce-department-prohibits-wechat-and-tiktok-transactions-protect.html>.

<sup>152</sup> Addressing the Threat Posed by Applications and Other Software Developed or Controlled by Chinese Companies, available at: <https://www.federalregister.gov/documents/2021/01/08/2021-00305/addressing-the-threat-posed-by-applications-and-other-software-developed-or-controlled-by-chinese>.

<sup>153</sup> Regarding the Acquisition of Musical.ly by Bytedance Ltd., available at: <https://home.treasury.gov/system/files/136/EO-on-TikTok-8-14-20.pdf>.

<sup>154</sup> Securing the Information and Communications Technology and Services Supply Chain, available at: <https://www.federalregister.gov/documents/2021/01/19/2021-01234/securing-the-information-and-communication-s-technology-and-services-supply-chain>.

<sup>155</sup> Ibid.

executive orders by issuing a new executive order<sup>156</sup> and has announced that the U.S. would adopt a rule-based decision-making framework and rigorous, evidence-based analysis against the potential risk caused by certain transactions on ICT and relevant services, the U.S. government has not fundamentally changed its discriminatory attitude toward foreign technology companies. The new executive order still directed the DOC to conduct security assessments of software applications associated with “foreign adversaries” and to take actions as appropriate. The Section 102 of *the Consolidated Appropriations Act 2023* stated that the Director of the Office of Management and Budget shall develop a list of standards and guidelines for the Executive Branch to remove the applications covered by this Act from federal government devices. The “covered application” in this Act refers to Chinese software applications and subsequent applications or services developed or provided by Chinese internet technology enterprise or entities owned by them.<sup>157</sup>

2.6.2.3 It is worth noting that the U.S. has gradually developed a bipartisan, discriminatory attitude towards foreign technology companies and constantly pushed for legislative actions to achieve their goals. In February 2024, the U.S. government issued *Executive Order 14117* “Preventing Certain Countries and Related Persons from Accessing U.S. Sensitive Personal Data and Government-Related Data”, restricting U.S. entities from transmitting sensitive data to countries of concern or entities. Subsequently in December 2024, the U.S. Department of Justice issued *the Final Rule on Preventing Certain Countries and Related Persons from Accessing U.S. Sensitive Personal Data and Government-Related Data* (effective on April 8, 2025), which clarified the scope of prohibited data transactions, related activities and regulatory requirements against the so-called “countries of concern”. This is the first time in U.S. history that a review mechanism for cross-border data transfers has been created to restrict the cross-border flow of U.S. personal sensitive information and data with the so-called “countries of concern”. In April 2024, the U.S. issued the Protecting Americans’ Data from *the Foreign Adversaries Act of 2024* (PADFA) and “*the Protecting Americans from Foreign Adversary Controlled Applications Act*” (PAFACA). Under PADFA, data brokers are prohibited from transferring specific personally identifiable sensitive data of U.S. residents to foreign adversaries or entities controlled by them. The definitions of “data broker” and “personally identifiable sensitive data” in this Act are vague, affecting the normal operations of

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<sup>156</sup> Executive Order on Protecting Americans’ Sensitive Data from Foreign Adversaries, available at: <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/06/09/executive-order-on-protecting-americans-sensitive-data-from-foreign-adversaries/>.

<sup>157</sup> Consolidated Appropriations Act, 2023, Sec. 102, available at: <https://www.congress.gov/bill/117th-congress/house-bill/2617/actions>.

relevant countries' internet companies in the U.S. Under PAFACA, any application determined to be “controlled by a foreign adversary” can be required to cease operations in the U.S. unless it is sold to a U.S. company and no longer controlled by a “foreign adversary”.<sup>158</sup>

2.6.2.4 The above-mentioned measures have been criticized within the U.S. and by the international community. Especially the accusation in the executive order that related applications threaten “national security” is widely recognized by the international community as an “abuse of power” and a manifestation of the U.S. abandoning free competition position and taking the path of technological nationalism. Considering the U.S. extensive market access commitments in the WTO on computer and related services and telecommunication services, these measures have severely restricted foreign companies from providing relevant services through Mode 1 (cross-border supply) and Mode 3 (commercial presence) in the U.S. Such measures have violated the U.S. commitments under GATS. China has raised and will continue to raise concerns on these U.S. measures in the WTO Council for Trade in Services.

### **2.6.3 Shipping and Maritime Services**

2.6.3.1 The U.S. has retained many protectionist measures in the field of maritime services, which is contrary to the goal of the WTO to facilitate the liberalization of maritime services and reduce discriminatory measures. WTO members have long criticized *the U.S. 1920 Merchant Marine Act*, known as *the Jones Act*, which is a concrete example of U.S. protectionism in domestic shipping. This Act restricted market access of foreign vessels, hindered fair competition and increased the cost of international trade. In recent years, in face of greater international competition, the U.S. has extended protectionism from domestic shipping to international shipping.

2.6.3.2 In 2022, the U.S. enacted *the Ocean Shipping Reform Act*, which introduced several specific protectionist measures to prioritize U.S. interests.<sup>159</sup> These measures prioritized U.S. export goods, increased the burden on foreign carriers by imposing mandatory data reporting and compliance requirements, restricted the flexibility of foreign carriers, protected U.S. exporters and ports and limited foreign competition. Since 2024, the U.S. Congress continued to advance maritime protectionist legislation, such as *the Shipbuilding and Harbor Infrastructure for Prosperity and Security for America Act* (SHIPS for America Act), and proposed to protect the U.S. shipping and maritime companies by granting priority port access to U.S.-flagged vessels, provide

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<sup>158</sup> DIVISION H, U.S. Public Law 118-50. DIVISION I, U.S. Public Law 118-50.

<sup>159</sup> Ocean Shipping Reform Act, available at: <https://www.congress.gov/bill/117th-congress/senate-bill/3580?q=%7B%22search%22%3A%5B%22Ocean+Shipping+Reform+Act%22%2C%22Ocean%22%2C%22Shipping%22%2C%22Reform%22%2C%22Act%22%5D%7D&s=2&r=1>.

financial support for the construction of ocean-going vessels, and impose discriminatory treatment for Chinese-operated vessels.<sup>160</sup> In April 2025, the U.S. government issued *the Restoring America's Maritime Dominance (Executive Order 14629)*, request to “Restoring American Maritime Dominance”. It specifically focused on China’s shipbuilding, container, crane manufacturing and port operation software,<sup>161</sup> and proposed to charge higher fees for Chinese-flagged and Chinese-operated vessels. In the same month, the USTR released the final measures of the Section 301 investigation on China’s maritime, logistics and shipbuilding industries which proposed five discriminatory measures: (i) port fee to any Chinese vessel operators and owners; (ii) port fee on maritime transport operators and owners of vessels built by China; (iii) port fees on operators of non-U.S.-built roll-on/roll-off ships; (iv) an annual increase in the use of U.S.-built vessels for U.S. liquefied natural gas (LNG) maritime transportation; and (v) tariffs on Chinese ship-to-shore cranes and related products. Given that many commercial services relied on maritime services, these U.S. measures attracted high attention from all stakeholders.

2.6.3.3 WTO rules prohibit members from taking unilateral measures against a specific WTO member, however, the U.S. repeatedly ignored these basic rules and provoked incidents. This is a clear violation and wanton undermining of WTO rules, with a malicious nature and serious consequences. The U.S. government blamed other countries for domestic issues caused by its own industrial decline and domestic policy failures and suppressed other maritime partners and enterprises through unilateral measures. This approach harmed others without benefiting itself. It is a manifestation of unilateral hegemonism and trade protectionism, and a disregard and blatant trampling of the multilateral rules and mechanism under the WTO. In the context of global trade, strengthening cooperation is the fundamental way to develop the U.S. shipping and shipbuilding industries, while hegemonism will only backfire.

#### **2.6.4 Biological, Pharmaceutical, and Chemical Technologies**

2.6.4.1 Since 2018, the U.S. has continuously strengthened the protection of its domestic biotechnology, pharmaceutical and chemical industries and passed several Acts to restrict foreign investment and technology trade in emerging technologies, including bio-pharmaceutical and chemical technologies.

2.6.4.2 Under the pretext of “national security”, the U.S. imposed restrictions on the

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<sup>160</sup> SHIPS for America Act of 2024, H.R.10493, available at: <https://www.congress.gov/bill/118th-congress/house-bill/10493/text/ih>.

<sup>161</sup> Fact Sheet: President Donald J. Trump Restores America’s Maritime Dominance, available at: <https://www.whitehouse.gov/fact-sheets/2025/04/fact-sheet-president-donald-j-trump-restores-americas-maritime-dominance/>.

trade of biological, pharmaceutical, and chemical technologies. In the *Export Control Reform Act of 2018* (ECRA), which came into effect in 2018, Section 1758 required the identification of the “emerging and foundational technologies” and brought them under stricter export controls. In November 2018, the BIS issued an *Advance Notice of Proposed Rulemaking* (ANPRM) that, under the pretext of “national security”, listed 14 technologies for initial review, with biotechnology (including nanobiology, synthetic biology, genomics and genetic engineering, and neurotechnology) at the top.<sup>162</sup> Subsequently, from 2019 to June 2025, BIS issued four export control measures related to biotechnology, medical and chemical technologies,<sup>163</sup> imposing export controls on these technologies. In addition to the BIS, the U.S. government also used other channels to dynamically define and control the export of biotechnology, pharmaceutical, and chemical technologies. In December 2020, the U.S. government released the National Strategy for Critical and Emerging Technologies, identifying 20 technologies, including agricultural technology, biotechnology, and medical and public safety technology, as “critical and emerging technologies” that should be subject to export controls.<sup>164</sup> In April 2025, the U.S. National Institutes of Health (NIH) prohibited granting access to certain databases to institutions in countries such as China, Russia, Cuba and Venezuela<sup>165</sup> and restricted normal scientific research activities.

2.6.4.3 These protectionist measures taken by the U.S. protecting its domestic biological, medical, and chemical industries have severely affected the normal operations of companies in relevant countries. The development of such measures also attracted high attention from stakeholders.

## 2.7 Intellectual Property Rights

Driven by its domestic political agenda and the need for trade protection, the U.S. fabricates the so-called “Notorious Markets List” and spares no effort to smear the intellectual property protection of other WTO members. It repeatedly accuses them of intellectual property infringement, trade secret theft and forced technology

<sup>162</sup> Department of Commerce, Bureau of Industry and Security, Review of Controls for Certain Emerging Technologies, available at: <https://www.federalregister.gov/documents/2018/11/19/2018-25221/review-of-controls-for-certain-emerging-technologies>.

<sup>163</sup> Department of Commerce, Bureau of Industry and Security, available at: <https://www.federalregister.gov/documents/2023/04/20/2023-08269/section-1758-technology-export-controls-on-instruments-for-the-automated-chemical-synthesis-of>; <https://www.federalregister.gov/documents/2023/01/17/2023-00397/implementation-of-australia-group-decisions-from-2021-and-2022-virtual-meetings-controls-on-marine>; <https://www.federalregister.gov/documents/2021/10/05/2021-21493/commerce-control-list-expansion-of-controls-on-certain-biological-equipment-software>; <https://www.federalregister.gov/documents/2020/06/17/2020-11625/implementation-of-the-february-2020-australia-group-intersessional-decisions-addition-of-certain>.

<sup>164</sup> National Strategy of Critical and Emerging Technologies, available at: <https://trumpwhitehouse.archives.gov/wp-content/uploads/2020/10/National-Strategy-for-CET.pdf#page=13.17>.

<sup>165</sup> National Institute of Health, Implementation Update: Enhancing Security Measures for NIH Controlled-Access Data, available at: <https://grants.nih.gov/grants/guide/notice-files/NOT-OD-25-083.html>.

transfer, and frequently provokes intellectual property disputes. The U.S. takes unilateral intellectual property protection enforcement against its “competitors”, suppressing and enforcing technological blockade to foreign leading technology companies. It disrupts normal international trade and negatively affects the international cooperation in intellectual property innovation and protection. The U.S. ignores the multilateral consensus and the basic principles of advancing the transfer and dissemination of technology, protecting the public interest and preventing the abuse of rights as provided in *the Agreement on Trade-Related Aspects of Intellectual Property Rights* (hereinafter referred to as the “TRIPS Agreement”). By exploiting its technological and regulatory discourse power, the U.S. condones its domestic entities in stealing foreign intellectual property and refuses to implement the DSB rulings under the TRIPS Agreement. In addition, the copyright protection in the U.S. is worrying.

### **2.7.1 “Special 301 Report”**

2.7.1.1 The “Special 301 Report” has always been a tool for the U.S. to pursue unilateral policies. Under the pretext of “provision of adequate and effective protection intellectual property rights”, it in fact forces other countries and regions to open their markets to U.S. products and services. The U.S. unilaterally claims that other countries and regions fails to provide effective protection for U.S. intellectual property rights or fair market access, or has specific drawbacks in intellectual property protection, legal enforcement or market access. It establishes the “Priority Watch List”, the “Watch List” and the “Section 306 Monitoring List” and forces the listed countries and regions to modify their policies. For those who refuses to do so, the U.S. would impose retaliatory trade measures or economic sanctions. Meanwhile, the U.S. releases the “Notorious Markets List”, setting biased criteria and falsely accusing enterprises and markets in other countries and regions of intellectual property protection.

2.7.1.2 The “Special 301 Report” leverages the hegemonic position of the U.S. to force other countries and regions to comply with its intellectual property standards by unilateral standards, unilateral interpretations, unilateral investigations, unilateral reports and even unilateral sanctions, the purpose of which is to further consolidate its leading position in the field of intellectual property as well as trade and investment.

### **2.7.2 “Section 337”**

2.7.2.1 Against the backdrop of the intensifying trend of “hollowing-out” American companies, “Section 337” has become an important tool for the U.S. to prevent foreign competitors from entering its domestic market. The U.S. Non-Practicing

Entities (hereinafter referred to as “NPE”) and “hollowed-out” companies – those with faltering operations but extensive patent portfolios—often file “Section 337” investigations with the primary aim of securing patent licensing fees, thus transform the investigation into an important weapon for the U.S. to “target” foreign companies in the fields such as electronic communications. WTO members have raised concerns on this issue for years, and many members have become victims to the abuse of this tool. Since 2017, “Section 337” investigations initiated by the United States International Trade Commission (hereinafter referred to as “USITC”) has increased significantly. According to USITC data, there were 61 new cases filed, 46 completed investigations, and 108 ongoing investigations in FY2024, with a significant decline in the rate of completed investigations (see Table 2).<sup>166</sup>

**Table 2: The U.S. Section 337 Investigations Since FY2017**

| Fiscal Year | New Complaints and Ancillary Proceedings | Investigations and Ancillary Proceedings Completed | Active Investigations |
|-------------|------------------------------------------|----------------------------------------------------|-----------------------|
| 2017        | 64                                       | 61                                                 | 117                   |
| 2018        | 74                                       | 61                                                 | 130                   |
| 2019        | 58                                       | 60                                                 | 127                   |
| 2020        | 52                                       | 67                                                 | 120                   |
| 2021        | 82                                       | 64                                                 | 135                   |
| 2022        | 71                                       | 90                                                 | 142                   |
| 2023        | 55                                       | 60                                                 | 107                   |
| 2024        | 61                                       | 46                                                 | 108                   |

Source: USITC

### 2.7.3 Misappropriation of Intellectual Property and Data

2.7.3.1 The U.S. frequently accuses other WTO members of theft of its intellectual property. In fact, the U.S. has long engaged in various means of misappropriating other members’ trade secrets, data and undisclosed information, seriously violating the basic principles on intellectual property protection of the TRIPS Agreement, failing to fulfill its obligations under Article 39 of the TRIPS Agreement on the protection of undisclosed information, and posing a serious threat to the national or regional security of the affected member.

<sup>166</sup> Number of New, Completed, and Active Investigations by Fiscal Year (Updated Quarterly), available at: [https://www.usitc.gov/intellectual\\_property/337\\_statistics\\_number\\_new\\_completed\\_and\\_active.htm](https://www.usitc.gov/intellectual_property/337_statistics_number_new_completed_and_active.htm).

2.7.3.2 The U.S. military continues to expand and develop its large-scale cyber security forces to systematically attack the global network.<sup>167</sup> Paul Nakasone, former commander of the U.S. Cyber Command and director of the National Security Agency, stated that the U.S. cyber forces undertook cyber-attacks in the mission of “defending the nation”.<sup>168</sup> The U.S. has also conducted global surveillance and information theft of broadcasting, telecommunications, and the Internet through related intelligence-gather programs.<sup>169</sup> Cyber-attacks and telephone surveillance are major methods for the U.S. to steal other members’ secrets, data and information, featuring in a wide range of targets and a high frequency of attacks. The National Security Agency (hereinafter referred to as “NSA”) remotely stole data on 97 billion emails and 124 billion phone calls around the world within 30 days, including 500 million from Germany, 70 million from France and 60 million from Spain. Among the leaders of the 35 countries that it had wiretapped, the former German Chancellor Angela Merkel had been wiretapped for 11 years.<sup>170</sup> The U.S. also wiretapped on António Guterres, Secretary-General of the United Nations, and leaders of countries such as South Korea and Israel.<sup>171</sup> The Northwestern Polytechnical University of China was cyber-attacked by the U.S. NSA. The University’s core technical data, including critical network device configuration, network management data and operation and maintenance data, were stolen during the attack. Investigations unveiled that the U.S. deployed 41 kinds of special cyber-attack weapons for the attack. Moreover, the Tailored Access Operations under the U.S. NSA has carried out tens of thousands of malicious cyber-attacks on cyber targets in China over the years, taking control of relevant network equipment and obtaining large amounts of data.<sup>172</sup>

## 2.7.4 Biopiracy

2.7.4.1 The U.S. biotechnology companies have been engaging in rampant “biopiracy”. By exploiting its economic and technological advantages, the U.S. biotechnology companies acquire genetic resources at a low cost from developing

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<sup>167</sup> China Cybersecurity Industry Alliance, *US Threats and Sabotage to the Security and Development of Global Cyberspace*, available at: <https://china-cia.org.cn/home/WorkDetail?id=663874690200340c642b4cc4>.

<sup>168</sup> 2023 Posture Statement of General Paul M. Nakasone, available at <https://www.cybercom.mil/Media/News/Article/3320195/2023-posture-statement-of-general-paul-m-nakasone/>.

<sup>169</sup> China Cybersecurity Industry Alliance, *A Historical Review of Cyberattacks by US Intelligence Agencies- Based on Analyses from the Global Cybersecurity Community*, available at: [http://www.china-cia.org.cn/AQLMWebManage/Resources/kindeditor/attached/file/20230411/20230411161526\\_0531.pdf](http://www.china-cia.org.cn/AQLMWebManage/Resources/kindeditor/attached/file/20230411/20230411161526_0531.pdf).

<sup>170</sup> Katitza Rodriguez, *Looking Back One Year After The Edward Snowden Disclosures - An International Perspective*, May 15, 2014, available at: <https://www.eff.org/deeplinks/2014/05/looking-back-one-year-after-edward-snowden-disclosures-international-perspective>.

<sup>171</sup> U.S. eavesdropped on U.N. secretary general, leaks reveal, available at <https://www.washingtonpost.com/national-security/2023/04/15/united-nations-leaked-documents/>.

<sup>172</sup> Investigation Report on the Cyber Attack of the US National Security Agency on Northwestern Polytechnical University of China, available at: <http://news.cctv.com/2022/09/27/ARTIHRBJPVBb1QkxfnSM5Zn220927.shtml>.

countries for commercial development and sought patent protection to seize huge profits.

2.7.4.2 An agricultural company in the U.S. hybridized another country's fragrant rice with a variety of American long-grain rice and subsequently applied for 20 patents, severely restricting the export of fragrant rice from that country. The U.S. agribusiness giants took advantage of the inadequate enforcement of international intellectual property rules and the weakness of developing members in the protection and utilization of intellectual property rights, wantonly stole biological genetic resources and seized many local excellent crop trait genes of developing members. For instance, the U.S. applied for many patents around the world on the high-yield soybean trait genes originating from China. After leveraging their technological and market advantages to establish monopolies, they in turn charged high patent licensing fees to numerous countries and regions, including the countries of origin of the genetic resources, severely infringing on the intellectual property rights of developing members and threatening their food security.

### **2.7.5 Inadequate Copyright Protection**

2.7.5.1 The U.S. continues to fail to implement the WTO DSB rulings and recommendations. In 1999, the EU filed a complaint against Article 110(5) of *the U.S. Copyright Law*, arguing that it violated Article 13 of the TRIPS Agreement. The "commercial exemption" clause in Article 110(5) of *the U.S. Copyright Law* allowed the vast majority of a food service or drinking establishments and nearly half of retail places to play music broadcasts without obtaining permission or paying fees. The WTO Panel found that the clause substantially deprived the right holders of their economic interests and thus violated the TRIPS Agreement. The U.S. was required to revoke or amend the clause by July 27, 2001.<sup>173</sup> However, the status report submitted by the U.S. to the WTO DSB on June 12, 2025 showed that the U.S. had not yet amended the "commercial exemption" clause to date<sup>174</sup> and became the only member that didn't comply with the DSB rulings and recommendations based on the TRIPS Agreement. In addition, the open-ended clause of fair use in Article 107 of *the U.S. Copyright Law* did not conform to Article 13 of the TRIPS Agreement's, which requires copyright exceptions to be "limited to special cases". This clause was too elastic in application and lacked restrictive standards, which may conflict with the normal use of copyright works in the market and cause unreasonable damage to the

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<sup>173</sup> DS160: United States - Section 110(5) of US Copyright Act, available at: [https://www.wto.org/english/tratop\\_e/dispu\\_e/cases\\_e/ds160\\_e.htm](https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds160_e.htm).

<sup>174</sup> UNITED STATES - SECTION 110(5) OF THE US COPYRIGHT ACT: <https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:/WT/DS/160-24A236.pdf>

legitimate rights and interests of copyright holders.

2.7.5.2 Piracy has been rampant in the U.S. According to relevant reports, the visit volume of U.S. pirated websites (including publishing, movies, music, software, etc.) has long been at the top of the world. The IPR protection status is a cause for concern. A report from Muso - the UK digital piracy detection agency- showed that in 2024, the U.S. still ranked first in the world in terms of piracy visits, with as high as 26.68 billion visits, accounting for 12.33% of the global total piracy traffic. Among them, the piracy visits in the publishing field in the U.S. reached 8.23 billion times, accounting for 12.39% of the global total; the piracy visits in the TV program field were as high as 14.33 billion times, accounting for 14.81% of the global total, both of which were the highest sources of global piracy traffic.<sup>175</sup>

## **2.8 Export Control and Economic Sanction**

Abuse of export control and economic sanction is an important means for the U.S. to suppress other countries or entities, severely hindering normal trade and economic exchanges among WTO members and undermining the stability and security of the global supply chains.

### **2.8.1 Export Control**

2.8.1.1 The goal of the U.S. export control measures gradually shifted from non-proliferation of weapons of mass destruction and their means of delivery to maintaining its hegemonic dominance in science and technology and cracking down on other countries and their enterprises under the excuse of “national security”, “human rights” and so forth.

2.8.1.2 First, relevant entities are arbitrarily included in the export control list. Section 744.16 of the U.S. Export Administration Regulations (EAR) states that the Entity List identifies individuals or entities reasonably believed to be involved, or to pose a significant risk of being or becoming involved, in activities contrary to the national security or foreign policy interests of the U.S. The standard of proof for “reasonable belief” is very low, even lower than requirement for “prima facie evidence”. In practice, most listed foreign enterprises had no nexus to national security at all. The U.S. government often targets its foreign companies and then searches for the corresponding “grounds” related to so-called “national security” to include them in the Entity List.

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<sup>175</sup> MUSO, 2024 Piracy Trends and Insights: <https://www.muso.com/hubfs/MUSO%202024%20Piracy%20Trends%20and%20Insights.pdf>

2.8.1.3 As of June 2025, the BIS had a total of 3,351 entities in the Entity List,<sup>176</sup> 1,065 of which are Chinese entities. 108, 412, 93, 226, 166, and 324 Chinese entities were added to the list from 2019 to 2024 respectively. More than three quarters of the entities or individuals in the current Entity List were added after 2017, covering a wide range of high-tech areas. The frequently used pretext for adding Chinese entities to the Entity List is the so-called “national security” threat. “Human rights” and other issues are also quoted. However, no factual evidence has been disclosed by the U.S. to demonstrate that these entities jeopardized the “national security” of the U.S. or are involved in “human rights violations”. Other WTO members also expressed concerns about U.S. export control. For instance, the U.S. export control measures against Iran also seriously hindered the transactions between European companies and those of Iran. Many European companies are forced to divest from the Iranian market in fear of U.S. sanctions. These European companies and their governments expressed dissatisfaction with the actions of the U.S.<sup>177</sup>

2.8.1.4 Second, removal from the list is extremely difficult. Pursuant to Section 744.16(e) of the EAR, any entity in the Entity List must apply to the End-User Review Committee (hereinafter referred to as “ERC”) for removal from the Entity List. It is worth noting that the ERC adopts lenient standards for addition and strict standards for removal. Its decision of adding an entity to the List requires approval by a majority vote, while removal requires unanimity vote. Furthermore, the ERC’s decision on applying for removal is a final decision, with no appeal allowed. In practice, this poses great obstacles for the entities applying for removal from the Entity List. So far, very few entities have successfully applied to be removed from the list. Even if the removal was approved eventually, the entities often suffered huge commercial losses.

2.8.1.5 Third, the licensing procedure is complicated and difficult. In recent years, the U.S. has continued to expand the scope of control by adding new controlled items and restricting the use of export license exceptions, resulting in increasing licensing requirements. Enterprises had to complete 29 steps for the verification requirements before exporting, which are complicated and cumbersome, hindering normal trade activities. Even after completing the complicated licensing procedures, companies may still not be able to obtain export licenses. A great deal of U.S. trade with China could not be carried out due to licenses rejection. According to BIS, in 2021 and 2022,

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<sup>176</sup> Code of Federal Regulations, Supplement No. 4 to Part 744-Entity List, <https://www.ecfr.gov/current/title-15/subtitle-B/chapter-VII/subchapter-C/part-744/appendix-Supplement%20No.%204%20to%20Part%20744>.

<sup>177</sup> The Diplomat, Europe’s Misgivings About Sanctions Don’t Bode Well for US Export Controls, available at: <https://thediplomat.com/2023/02/europes-misgivings-about-sanctions-dont-bode-well-for-us-export-controls/>.

the denied license applications and returns without actions (RWA) at the global level totaled 5,531 and 4,977 respectively.<sup>178</sup>

2.8.1.6 Fourth, extensive restrictions are imposed on trade. In addition to the Entity List, the U.S. government also revises specific export control rules to restrict the ability of entities in relevant countries to obtain advanced technologies and products from any part of the world. Since 2024, with the intensification of Sino-U.S. competition in the fields of artificial intelligence and semiconductors, the scope of U.S. export control has expanded rapidly. In September 2024, BIS issued an Interim Final Rule (IFR) to upgrade export controls on technologies related to quantum computing, advanced semiconductor manufacturing and GAAFET.<sup>179</sup> In December, BIS issued another IFR to impose export control on 24 types of semiconductor equipment, high-bandwidth memory and three types of software.<sup>180</sup> In January 2025, BIS issued two IFRs. On January 13, BIS released *the Framework for Artificial Intelligence Diffusion*, which divided all countries in the world into three tiers and imposed licensing requirements on advanced AI chips and set a total export quota for computing power to indirectly implement quantitative restrictions. On January 15, BIS issued a rule that established a “white list” (basically consisting of U.S. and its allies' related companies) and, through long-arm jurisdiction and other means, strictly restricted normal access to foundry and packaging services for companies outside the “white list”.<sup>181</sup> Although the U.S. government abolished *the Framework for Artificial Intelligence Diffusion* in May 2025, BIS simultaneously stated that it would introduce new rules to replace the original rules and announced three additional guidelines aimed at strengthening overseas export controls on AI chips. It baselessly “presumed” that China could not produce high-end chips without U.S. technology and used this as a pretext to exercise long-arm jurisdiction over global companies' use of Chinese-related chips.<sup>182</sup> On May 13, the U.S. Department of Commerce issued the following three measures: *Guidance on Application of General Prohibition 10 (GP10)*

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<sup>178</sup> 2022 Analysis of US Global Trade, available at: <https://www.bis.doc.gov/index.php/country-papers/3403-2022-statistical-analysis-of-us-global-trade/file>

<sup>179</sup> Commerce Control List Additions and Revisions; Implementation of Controls on Advanced technologies Consistent With Controls Implemented by International Partners, <https://www.bis.doc.gov/index.php/documents/federal-register-notices-1/3521-89-fr-72926-quantum-c-1-ifr-0694-aj60-9-6-2024/file>.

<sup>180</sup> Foreign-Produced Direct Product Rule Additions, and Refinements to Controls for Advanced Computing and Semiconductor Manufacturing Items, <https://public-inspection.federalregister.gov/2024-28270.pdf>.

<sup>181</sup> Framework for Artificial Intelligence Diffusion, <https://www.federalregister.gov/documents/2025/01/15/2025-00636/framework-for-artificial-intelligence-diffusion>. Implementation of Additional Due Diligence Measures for Advanced Computing Integrated Circuits; Amendments and Clarifications; and Extension of Comment Period; Correction, <https://www.federalregister.gov/documents/2025/02/14/2025-02655/implementation-of-additional-due-diligence-measures-for-advanced-computing-integrated-circuits>.

<sup>182</sup> Department of Commerce Rescinds Biden-Era Artificial Intelligence Diffusion Rule, Strengthens Chip-Related Export Controls, available at <https://media.bis.gov/sites/default/files/documents/05.07%20Recission%20of%20AI%20Diffusion%20Press%20Release.pdf>.

*to People's Republic of China (PRC) Advanced-Computing Integrated Circuits (ICs), BIS Policy Statement on Controls that May Apply to Advanced Computing Integrated Circuits and Other Commodities Used to Train AI Models and Industry Guidance to Prevent Diversion of Advanced Computing Integrated Circuits.* Later, it took new measures in the semiconductor industry, requiring U.S. chip design software vendors to stop providing services to Chinese companies. These practices severely restricted the normal connections of the global semiconductor industry chain and undermined the autonomy of countries around the world in choosing technological cooperation and chip products.

2.8.1.7 Fifth, the implementation mechanisms and processes are neither open nor transparent. In recent years, the U.S. has frequently used the “specific notice” mechanism under the Section 744.21(b) of the EAR which requires specific export, re-export or transfer (domestic) of any item subject to EAR control to apply for and obtain permission through individual notification or separate notification to the relevant entities. Since such notifications are not made public, the interested parties usually could only be informed of the rules through media or other channels. These interested parties therefore have no opportunity to challenge or comment on the relevant rules. For instance, prior to the release of rules related to export control, the U.S. gave “verbal instructions” to U.S. leading suppliers, requiring them not to export chipmaking equipment capable of producing semiconductors with sub-14 nanometer processes to China unless they obtain the DOC licenses.<sup>183</sup>

2.8.1.8 Sixth, the implementation method is unreasonable. There are various types of export control measures in the U.S. and the time requirements for each measure to entry into force are different. They are trade regulations, but lack basic predictability and stability. In addition, the implementation of each measure is unfair and unreasonable, causing serious obstacles to international trade. This is mainly reflected in two aspects. First, decisions to put entities to the export control lists often take effect on the day of announcement, leaving the listed entities no opportunity to comment or contest the decision before entering into force. Second, the effectiveness of the U.S. export control measures is often chaotic, which is not conducive to the fair, impartial and reasonable implementation of trade regulations nor to the free flow of international trade. For instance, the U.S. export control measures contain “interim final rules” that would come into effect on the date of announcement, but agencies such as BIS might revise these rules based on public comments. There is great

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<sup>183</sup> Exclusive: Biden to hit China with broader curbs on U.S. chip and tool exports -sources, available at: <https://www.reuters.com/business/exclusive-biden-hit-china-with-broader-curbs-us-chip-tool-exports-sources-2022-09-11/>.

uncertainty as to whether and when a “final rule” would be issued. The interested parties have to spend a considerable amount of time to confirm the status and effective date of the rules, which would hinder smooth and efficient operation of international trade.

2.8.1.9 To sum up, the U.S. export control measures are under the guise of “national security”. In fact, they have far exceeded the boundaries of national security, violating the principles of good faith and proportionality in international law. A study argued that unbridled U.S. export control on foreign adversaries disrupted global investment, production chains, and the movement of skilled workers, placing a burden on U.S. private firms.<sup>184</sup> The U.S. export control measures are in fact aimed at restricting the development rights of other countries to maintain its own hegemony. The U.S. think-tank RAND has pointed out that the U.S. adopted export controls on artificial intelligence in the name of “national security”, but put insufficient effort on the security of domestic data centers that truly affected artificial intelligence safety.<sup>185</sup> The Center for a New American Security (CNAS), a bipartisan think tank, reported that U.S. export control policies were outdated and designed for an era of overwhelming U.S. technological dominance, and that their continuation today would harm the U.S. economic and technological competitiveness.<sup>186</sup>

2.8.1.10 The U.S. abuse of export control is a typical example of unilateral bullying and protectionism. It severely affects the stability of the global semiconductor industry chain and supply chain, deprives other countries of the right to develop advanced computing chips and high-tech industries such as artificial intelligence, and harms the interests of countries around the world. Japanese scholars pointed out that the U.S. expansion of the Entity List in December 2020 led to a 44.8% plunge in the export value of Dutch integrated circuit manufacturing equipment and a 78.4% drop in export volume, while equipment prices soared by 33.6%. The U.S. export control regulations in 2022 caused the export price of Dutch integrated circuit manufacturing equipment to fall by 46.8%. Due to the U.S. tightening of the *Foreign-Direct Product Rule* in 2020 and 2022, the export value of South Korean memory granules decreased by 48.8% and 37.0% respectively.<sup>187</sup> The U.S. export control measures against

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<sup>184</sup> Hideki Tomoshige, “The Unintended Impacts of the U.S. Export Control Regime on U.S. Innovation,” July 25, 2022, available at: <https://www.csis.org/blogs/perspectives-innovation/unintended-impacts-us-export-control-regime-us-innovation>.

<sup>185</sup> Lennart Heim, “Understanding the Artificial Intelligence Diffusion Framework Can Export Controls Create a U.S.-Led Global Artificial Intelligence Ecosystem?”, Jan 14, 2025, available at: <https://www.rand.org/pubs/perspectives/PEA3776-1.html>.

<sup>186</sup> Martijn Rasser, “Rethinking Export Controls: Unintended Consequences and the New Technological Landscape,” December 8, 2020, available at: <https://www.jstor.org/stable/resrep27476>.

<sup>187</sup> Kazunobu, Hayakawa. “The Trade Effects of the US Export Control Regulations.” IDE Discussion Paper 911 (2024).

specific Chinese companies led to a 40% reduction in Japanese companies' exports of related products to China.<sup>188</sup> The U.S. export control measures could cause Japan, South Korea, and the EU economies' exports to China to decrease by 13% to 30% due to substitution.<sup>189</sup> Japanese think-tank estimated that if Japan strengthened its coordination with U.S. export control measures, it would lead to a restructuring of Japan's overseas investment, resulting in Japan's GDP decreasing by 2.2% to 2.6%, which would not be offset by the domestic economic growth brought about by investment repatriation.<sup>190</sup>

## 2.8.2 Economic Sanction

2.8.2.1 The U.S., relying on its strong hegemonic power, has become the primary implementer of economic sanction at the global level. As of May 2025, the U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) has managed a total of 38 sanctions programs. These sanctions are mainly related to specific regions, such as the Balkans, Iran, Cuba, Syria, and Hong Kong, China, etc. According to a report from the U.S. Center for a New American Security (CNAS), in 2024, the U.S. "implemented an unprecedented level of financial sanctions and export controls". The number of new entities added to the U.S. Department of the Treasury's Specially Designated Nationals (SDN) list has increased by 25% compared to 2023, with 3,135 new entries.<sup>191</sup> As of May 2025, the number of entities on the U.S. SDN list has exceeded 17,000.<sup>192</sup>

2.8.2.2 The U.S. abuses unilateral sanctions, especially secondary sanctions by means of "long-arm jurisdiction". The U.S. exercises judicial power and comprehensively uses administrative, economic, financial and other means to hold accountable entities and individuals outside the U.S. that fail to comply with U.S. sanction laws so as to ensure that the extraterritorial effects of the U.S. laws are realized. An example is the U.S. secondary sanctions against Iran. If a transaction between a third-country financial institution and Iran meet the criteria for a "significant transaction",<sup>193</sup> the third-country financial institution might be subject to sanctions by a U.S. official

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<sup>188</sup> Hayakawa, Kazunobu, Keiko Ito, Kyoji Fukao, and Ivan Deseatnicov. "The impact of the strengthening of export controls on Japanese exports of dual-use goods." *International Economics* 174 (2023): 160-179.

<sup>189</sup> Park, Do-Joon, and Shuzhi Liu. "A study on the economic effects of US export controls on semiconductors to china." *Journal of International Trade & Commerce* 19, no. 1 (2023): 129-142.

<sup>190</sup> 大和総研, 《経済安全保障の新局面における注目点①》, Sept 26, 2024, [https://www.dir.co.jp/report/research/economics/japan/20240906\\_024600.pdf](https://www.dir.co.jp/report/research/economics/japan/20240906_024600.pdf).

<sup>191</sup> Eleanor Hume and Kyle Rutter, Sanctions by the Numbers: 2024 Year in Review, available at: <https://www.cnas.org/publications/reports/sanctions-by-the-numbers-2024-year-in-review>.

<sup>192</sup> Where is OFAC's Country List? What countries do I need to worry about in terms of U.S. sanctions? Available at: <https://ofac.treasury.gov/sanctions-programs-and-country-information/where-is-ofacs-country-list-what-countries-do-i-need-to-worry-about-in-terms-of-us-sanctions>.

<sup>193</sup> Iranian Financial Sanctions Regulations, § 561.201, available at: <https://www.ecfr.gov/current/title-31/subtitle-B/chapter-V/part-561>.

agency. The measures include prohibiting transactions between U.S. persons and the third-country financial institution or requiring U.S. financial institutions to freeze or restrict the third-country financial institution's correspondent accounts in the U.S., etc. The U.S. secondary sanction measures trigger strong dissatisfaction among WTO members including the EU. Accordingly, the EU passed the blocking statute (*the Council Regulation (EC) No. 2271/96*) and even initiated a dispute settlement procedure in the WTO.<sup>194</sup> In the “Havana Club” dispute, the EU litigated at the WTO over Section 211 of *the U.S. Omnibus Appropriations Act of 1998*, claiming that it barred courts in the U.S. from recognizing trademarks of Cuban origin that were “the same as or substantially similar”<sup>195</sup> to those used by businesses confiscated under the Cuban law, but the former owners have abandoned their marks for decades. The DSB found that Section 211(a)(2) and (b) of *the Omnibus Appropriations Act of 1998* violated the principles of national treatment and the most-favored-nation treatment under the TRIPS Agreement.<sup>196</sup>

2.8.2.3 In addition, the U.S. generalizes the concept of national security and implement a series of economic and trade restrictive measures against China, including the SDN List, the Entity List of *Uyghur Forced Labor Prevention Act* (UFLPA), the China Military Industrial Complex List (CMIC), the Chinese Military Companies List (CMC) and other lists. Such actions have disregarded the rules of international trade and economic cooperation, violated the principle of fair competition and disrupted the international trade order. The U.S. practices not only harmed the legitimate rights and interests of Chinese enterprises, but also seriously affected the interests of U.S. enterprises, which is conducive to global economic recovery. Among these actions, the U.S. ignores the objective fact that Chinese laws explicitly prohibit forced labor and there is no such thing as “forced labor” in Xinjiang. Based on the so-called UFLPA, the U.S. prohibits the import of any products related to Xinjiang. This has seriously harmed the interests of the people and enterprises both of the U.S. and China, undermined the stability of the global supply chains and infringed the fundamental rights and interests of the people of Xinjiang.

2.8.2.4 The long-term and frequent imposition of economic sanctions by the U.S. government has not only failed to resolve disputes, but also intensified tensions among WTO members, disrupted the international order and even triggered humanitarian disasters. Especially in recent years, in order to maintain its leading

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<sup>194</sup> DS38: United States - The Cuban Liberty and Democratic Solidarity Act, available at: [https://www.wto.org/english/tratop\\_e/dispu\\_e/cases\\_e/ds38\\_e.htm](https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds38_e.htm).

<sup>195</sup> United States – Section 211 Omnibus Appropriations Act of 1998, para. 3.

<sup>196</sup> DS176: United States - Section 211 Omnibus Appropriations Act of 1998, available at: [https://www.wto.org/english/tratop\\_e/dispu\\_e/cases\\_e/ds176\\_e.htm](https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds176_e.htm).

position in economy and technology, the U.S. has abused economic sanctions under the pretext of “national security” and “human rights” to intervene in normal international commercial transactions and competition. The U.S. has even used secondary sanctions to prohibit non-U.S. companies from conducting normal trade with the sanctioned entities. The economic sanctions of the U.S. have fundamentally conflicted with the basic goals of trade liberalization and facilitation of the WTO. These measures and actions have violated the basic principles and relevant rules of the WTO, which have aroused strong dissatisfaction among many WTO members and their companies. Moreover, the abuse of economic sanctions by the U.S. has also brought negative impact and has been widely criticized by various sectors of American society. A study has shown that the excessive use of sanctions has in fact accelerated the decline of the U.S. while undermining its international image and interests.<sup>197</sup>

## **2.9 Investment Review Mechanism**

2.9.1 The U.S. is the first country in the world to implement security reviews on foreign investment. In recent years, the U.S. has intensified legislation to continuously expand the scope of its foreign investment security review, continuously advance the pan security of foreign investment review, and continuously increase restrictions and suppression on specific countries and regions, seriously affecting normal cross-border investment.

2.9.2 *The Foreign Investment Risk Review Modernization Act of 2018* (hereinafter referred to as FIRRMA) of the U.S. has not only broadened the scope of review of the Committee on Foreign Investment in the United States (hereinafter referred to as CFIUS), but also required the U.S. Secretary of Commerce to submit a report to Congress and CFIUS on China’s FDI investment in the U.S. biennially.<sup>198</sup> FIRRMA authorized CFIUS to grant preferential treatment to a very small number of specific countries and their investors included in the list of “excepted foreign states”, permitting it to discriminate more explicitly against different countries.<sup>199</sup> A study suggested that CFIUS increasingly became an impediment to cross-border transactions due to its broad remit and its lack of transparency and accountability.<sup>200</sup>

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<sup>197</sup> Daniel W. Drezner, “The United States of Sanctions The Use and Abuse of Economic Coercion,” *Foreign Affairs*, Vol.100, No.5, 2021, pp.142-154.

<sup>198</sup> Foreign Investment Risk Review Modernization Act of 2018, available at: [https://home.treasury.gov/sites/default/files/2018-08/The-Foreign-Investment-Risk-Review-Modernization-Act-of-2018-FIRRMA\\_0.pdf](https://home.treasury.gov/sites/default/files/2018-08/The-Foreign-Investment-Risk-Review-Modernization-Act-of-2018-FIRRMA_0.pdf).

<sup>199</sup> Kristen E. Eichensehr and Cathy Hwang, “National Security Creep in Corporate Transactions,” *Columbia Law Review*, Vol. 123, No.2, 2023,pp. 549-614.

<sup>200</sup> Irene Yu, “Foreign Investment and National Security Challenges in the Data Age: An Assessment of the Current Regime and Recommendations,” *Hastings Law Journal*, Vol. 74, No. 3, 2023, available at: [https://repository.uchastings.edu/hastings\\_law\\_journal/vol74/iss3/9](https://repository.uchastings.edu/hastings_law_journal/vol74/iss3/9).

2.9.3 In September 2022, the U.S. issued the first executive order for the security review on foreign investment in the U.S., requiring CFIUS to focus on investments from competitor and adversarial nations related to specific industries. The executive order essentially provided a basis for CFIUS to undertake discriminatory review on covered transactions in the name of “national security”.<sup>201</sup> The executive order further strengthened CFIUS supervision of foreign investment, particularly regarding U.S.-related mergers and acquisitions that involve competitor and adversarial nations in such sectors as microelectronics, artificial intelligence, biotechnology and quantum computing. Regardless of whether the target company is a U.S. company or not, as long as it has substantial business operation within the U.S., it will be subject to in the CFIUS jurisdiction and its transactions may therefore be obstructed.

2.9.4 In October 2022, CFIUS released its first Enforcement and Penalty Guidelines, announcing a heightened emphasis on enforcement and penalties.<sup>202</sup> In July 2023, CFIUS released its annual report which shows that CFIUS reviewed a total of 286 transactions under its jurisdiction in 2022, the highest level ever and an increase of 66.3% compared with 2016.<sup>203</sup> Under the pretext of “national security”, CFIUS has continued to expand its authority and increase its intervention in normal cross-border investments and mergers and acquisitions, and imposed greater emphasis on certain countries and the industry of science and technology. Fundamentally, the CFIUS review aims to maintain the leading position of the U.S. in science and technology innovation and curb the development of other countries in those fields.

2.9.5 The U.S. rules of security review on foreign investment are full of arbitrariness and discrimination. A study shows that the terms such as “critical infrastructure”, “critical technologies” and “sensitive personal data” lack clarifying definition in FIRRMA, creating uncertainties for foreign investors; there are insufficient public explanations on how CFIUS interpreted and implemented FIRRMA, which leads to a lack of transparency in investment reviews.<sup>204</sup> The CFIUS pan security of foreign investment review has constituted barriers to the services providers of other WTO members to enter the U.S. market, seriously disrupted the liberalization and

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<sup>201</sup> President Biden Signs Executive Order to Ensure Robust Reviews of Evolving National Security Risks by the Committee on Foreign Investment in the United States, available at: <https://www.whitehouse.gov/briefing-room/statements-releases/2022/09/15/fact-sheet-president-biden-signs-executive-order-to-ensure-robust-reviews-of-evolving-national-security-risks-by-the-committee-on-foreign-investment-in-the-united-states/>.

<sup>202</sup> The Department of the Treasury, CFIUS Enforcement and Penalty Guidelines, October 20, 2022, available at: <https://home.treasury.gov/policy-issues/international/the-committee-on-foreign-investment-in-the-united-states-cfius/cfius-enforcement-and-penalty-guidelines>.

<sup>203</sup> CFIUS, Annual Report to Congress – CY 2022, July 2023, available at: [https://home.treasury.gov/system/files/206/CFIUS - Annual Report to Congress CY 2022\\_0.pdf](https://home.treasury.gov/system/files/206/CFIUS_-_Annual_Report_to_Congress_CY_2022_0.pdf).

<sup>204</sup> J. Russell Blakey, “The Foreign Investment Risk Review Modernization Act: The Double-Edged Sword of U.S. Foreign Investment Regulations,” *Loyola of Los Angeles Law Review*, Vol.53, No.4, 2020, pp. 981-1014.

facilitation of international trade and investment, harmed U.S. own interests in attracting investment and boosting employment, and provided a negative example in the WTO. Considering the broad commitments made by the U.S. under the GATS, the abuse of national security measures by the U.S. to conduct investment reviews has violated its WTO commitments of market access and national treatment.

2.9.6 It is worrisome that the U.S. has not only tightened its review of foreign investment in the U.S., but also tightened its review of outward investment from the U.S. In August 2023, the U.S. released *the Executive Order on Addressing United States Investments in Certain National Security Technologies and Products in Countries of Concern* (Executive Order 14105), which requires the establishment of a special review mechanism for relevant investments in Chinese Mainland and the Hong Kong and Macao Special Administrative Regions involving sensitive technologies and products in the areas of semiconductors and microelectronics, quantum information technology and artificial intelligence.<sup>205</sup> In October 2024, the U.S. Department of the Treasury's Office of Investment Security issued the final rule on *Provisions Pertaining to U.S. Investments in Certain National Security Technologies and Products in Countries of Concern*,<sup>206</sup> providing a complete draft of the regulations and an interpretative discussion on the interim final rules<sup>207</sup> to implement Executive Order 14105.<sup>208</sup> The two-way reviews of international investment by the U.S. constituted direct government intervention and disrupted normal international financing and technology exchanges. The enhanced investment reviews by the U.S. increased concerns in the international community about the excessive interference of the U.S. Government in legitimate commercial transactions and affected the stability and predictability of international commercial environment.<sup>209</sup>

2.9.7 In February 2025, the U.S. issued *the Memorandum of America First Investment*

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<sup>205</sup> Executive Order on Addressing United States Investments in Certain National Security Technologies and Products in Countries of Concern, August 9, 2023, available at: <https://www.whitehouse.gov/briefing-room/presidential-actions/2023/08/09/executive-order-on-addressing-united-states-investments-in-certain-national-security-technologies-and-products-in-countries-of-concern/>.

<sup>206</sup> U.S. Department of the Treasury, Additional Information on Final Regulations Implementing Outbound Investment Executive Order (E.O. 14105), available at: <https://home.treasury.gov/news/press-releases/jy2690>.

<sup>207</sup> Office of Investment Security, Department of the Treasury, Provisions Pertaining to U.S. Investments in Certain National Security Technologies and Products in Countries of Concern, August 9, 2023, available at: [https://home.treasury.gov/system/files/206/Provisions\\_Pertaining\\_to\\_U.S.\\_Investments\\_in\\_Certain\\_National\\_Security\\_Technologies\\_and\\_Products\\_in\\_Countries\\_of\\_Concern.pdf](https://home.treasury.gov/system/files/206/Provisions_Pertaining_to_U.S._Investments_in_Certain_National_Security_Technologies_and_Products_in_Countries_of_Concern.pdf).

<sup>208</sup> Provisions Pertaining to U.S. Investments in Certain National Security Technologies and Products in Countries of Concern, July 5, 2024, available at: <http://www.federalregister.gov/documents/2024/07/05/2024-13923/provisions-pertaining-to-us-investments-in-certain-national-security-technologies-and-products-in>.

<sup>209</sup> Christopher W. Jusuf, "Investments and Security: Balancing International Commerce and National Security with Expanded Authority for the Committee on Foreign Investment in the United States," *Catholic University Journal of Law and Technology*, Vol.29, No.1, 2020, pp.145-175.

*Policy*, which was based on a zero-sum game perspective and the concepts of protectionism and isolationism. It calls for expanding restrictions on greenfield investments by so-called “foreign adversaries” such as China in key areas of the U.S., ultimately aiming to achieve a two-way decoupling of investment between the U.S. and “foreign adversary” in the strategic fields.<sup>210</sup> The U.S. government’s coercive and tempting investment policy betrayed the isolationist nature of its policy, and increased the risks that its policy uncertainty would bring to investment. The America First Investment Policy will inevitably prompt countries to seek more stable and less volatile trade partners.<sup>211</sup>

## **2.10 Buy American**

2.10.1 In recent years, the U.S. government has strengthened the procurement of American-made goods and services (the “Buy American” policy) through the use of federal funds as a major measure to encourage investment in domestic production and revitalize the domestic manufacturing sector. As early as 2009, the U.S. promulgated *the American Recovery and Reinvestment Act of 2009*, which stipulates in Section 1605 “Use of American Iron, Steel, and Manufactured Goods” that none of the funds appropriated or otherwise made available by *the American Recovery and Reinvestment Act* may be used, with certain exceptions, in a project of a public building or public work unless all of the iron, steel, and manufactured goods used as construction material are produced in the U.S.

2.10.2 The above U.S. practices have led to widespread controversies and concerns from the manufacturing industries, businesses, and major trading partners. The EU and Canada have strongly criticized these practices and even expressed their intention to resort to the WTO dispute settlement mechanism.<sup>212</sup> In the meantime, a wide range of developing members that neither are parties to *the WTO Agreement on Government Procurement* (hereinafter referred to as the “GPA”) nor have bilateral arrangements with the U.S. are still excluded from the massive economic stimulus package of the U.S.<sup>213</sup>

2.10.3 In 2017, the U.S. government issued an executive order, requiring all relevant government agencies to monitor, implement and comply with *the Buy American Act* from the date of issuance of the executive order and to propose suggestions on how to

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<sup>210</sup> America First Investment Policy, available at:

<https://www.whitehouse.gov/presidential-actions/2025/02/america-first-investment-policy/>.

<sup>211</sup> David Cottam, “Trump’s ‘America First’ stance will harm US interests”, March 4, 2025, available at: <https://www.chinadailyhk.com/hk/article/605997>.

<sup>212</sup> Buy American plan hurts U.S. leadership: EU, Canada, available at: <https://www.reuters.com/article/canada-us-usa-buyamerican-idCATRE5115PM20090202>.

<sup>213</sup> American Recovery and Reinvestment Act of 2009, available at: <https://www.congress.gov/bill/111th-congress/house-bill/1/text>.

maximize the procurement and use of “American goods”. *Buy American Act* includes all statutes, regulations, rules and executive orders relating to Federal procurement or Federal grants including those require or provide a preference for “Buy American”. The DOC and the USTR are also required to assess those provisions in all U.S. free trade agreements and the GPA which may have impact on the implementation of *Buy American Act*. In addition, the Executive Order requires a comprehensive assessment of the use of waivers and imposes stricter requirements on the conditions under which waivers could be applied.<sup>214</sup>

2.10.4 Since 2021, the U.S. government has spared no effort to strengthen its “Buy American” policy. The U.S. government issued *the Ensuring the Future is Made in All of America by All of America’s Workers (Executive Order 14005)*, which not only requires purchase of American-made products and services with \$400 billion government budget in four years, but also imposes stricter restrictions on the federal government’s procurement of foreign products.<sup>215</sup> In March 2022, the U.S. government once again enhanced the “Buy American” policy, officially announcing that the local content requirements in the federal government’s purchases of domestic parts would gradually increase to 60% in 2022, 65% in 2024 and 75% in 2029, respectively. In addition, the U.S. government also indicated it would increase margin of price preference for the federal procurement of critical products, such as semiconductors, active pharmaceutical ingredients, large capacity batteries, etc.<sup>216</sup> In February 2023, the U.S. government announced a new standard in the 2023 State of the Union address, requiring all building supplies utilized in federal infrastructure tasks to be made in America. In January 2024, the U.S. government vetoed a bill submitted by Congress to cancel the domestic manufacturing standard for electric vehicle charging equipment (S.J.Res.38), claiming that the bill would allow federal funds to be used to purchase charging equipment made by “foreign adversaries” and thus would not be consistent with the “Buy American” requirements.<sup>217</sup>

2.10.5 In addition to the above-mentioned measures, the requirements to use federal funds to “Buy American” or to make “manufactured or sold in the U.S.” as a condition of obtaining government subsidies are also extensively incorporated in

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<sup>214</sup> Presidential Executive Order on Buy American and Hire American, available at: <https://trumpwhitehouse.archives.gov/presidential-actions/presidential-executive-order-buy-american-hire-american/>.

<sup>215</sup> Executive Order on Ensuring the Future Is Made in All of America by All of America’s Workers, available at: <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/25/executive-order-on-ensuring-the-future-is-made-in-all-of-america-by-all-of-americas-workers/>.

<sup>216</sup> Biden-Harris Administration Delivers on Made in America Commitments, available at: <https://www.whitehouse.gov/briefing-room/statements-releases/2022/03/04/fact-sheet-biden-harris-administration-delivers-on-made-in-america-commitments/>.

<sup>217</sup> Available at: <https://files.constantcontact.com/ef5f8ffe501/30458c40-b9ab-4da5-99b8-fabae58e2183.pdf>

various acts enacted to boost manufacturing. For instance, “Build America, Buy American”, Division G, Title IX of the IJIA, specifies the requirement of prioritizing the procurement of domestic products. It states that constructing, renovating, maintaining or repairing infrastructure programs within the U.S. must prioritize the procurement of America-made iron, steel, manufactured goods and construction materials if the funds used are from U.S. federal financial assistance programs.<sup>218</sup> To be specific, in the case of iron or steel products, all manufacturing processes, from the initial melting stage through the application of coatings, shall occur in the U.S.;<sup>219</sup> in the case of manufactured products, the products shall be manufactured in the U.S. and the cost of the components that are mined, produced, or manufactured in the U.S. shall be greater than 55% of total cost of all components;<sup>220</sup> and in the case of construction materials, all manufacturing processes shall occur in the U.S.<sup>221</sup>

2.10.6 Challenges to the “Buy American” policy of the U.S. have been raised constantly from both the U.S. society and its trading partners. A report by the Cato Institute, a leading U.S. think tank, found that while measures mandating the purchase of American products had a certain superficial appeal, they came with rising costs of goods purchased by the government, resulting in reduced purchases and additional pressure on fiscal deficit.<sup>222</sup> And the “Buy American” review imposed a regulatory burden on the U.S. government while increasing enforcement costs significantly and slowing down project construction, thus not serving the nation’s purpose of improving infrastructure.<sup>223</sup> WTO members also expressed concerns over “Buy American”. The EU indicated that the “Buy American” requirement is a key deterrent for EU suppliers to seeking access to the U.S. government procurement market.<sup>224</sup>

2.10.7 The U.S. government has also promulgated laws and regulations targeting China. *The FY2019 National Defense Authorization Act* prohibited U.S. federal government agencies from purchasing communication equipment and services from certain Chinese enterprises, as well as video surveillance equipment and communication equipment. *The FY2020 National Defense Authorization Act* required that federal funds be prohibited from being used to purchase rail transit vehicles or commuter buses produced by state-owned, controlled, or subsidized enterprises of China, even if the products of the Chinese enterprises meet the federal localization

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<sup>218</sup> Supra note 52, Sec. 70914(a).

<sup>219</sup> Ibid., Sec. 70912(6)(A).

<sup>220</sup> Ibid., Sec. 70912(6)(B).

<sup>221</sup> Ibid., Sec. 70912(6)(C).

<sup>222</sup> Rethink “Buy America” and other U.S. Procurement Mandates, available at: <https://www.cato.org/blog/cato-trade-teams-2022-policy-wish-list>.

<sup>223</sup> Ibid.

<sup>224</sup> Government Procurement Performance requirements for non-services, including LCR (TRIMs), available at: [https://trade.ec.europa.eu/access-to-markets/pt/barriers/details?barrier\\_id=11190&sps=false](https://trade.ec.europa.eu/access-to-markets/pt/barriers/details?barrier_id=11190&sps=false).

procurement requirements. *The FY2024 National Defense Authorization Act* requires that, beginning from October 2027, the U.S. Department of Defense shall not use appropriated funds to procure batteries produced, processed and assembled by certain Chinese enterprises.

2.10.8 In 2025, the U.S. government expanded the “Buy American” slogan into the America First Trade Policy. The U.S. government has claimed that its America First Trade Policy would drive the re-shoring of manufacturing, increase labor wages, and ensure that goods in the U.S. market are made in America.<sup>225</sup>

2.10.9 As a member of the WTO, the U.S. is obliged to ensure that its various America First Trade Policies comply with the obligations it has undertaken under the WTO agreements. The discriminatory practices related to the “Buy American” policy are inconsistent with the GPA’s basic principle of non-discriminatory treatment.

## **2.11 Discriminatory Arrangements in International Economic and Trade Cooperation**

In recent years, the U.S. has introduced a series of discriminatory arrangements in international economic and trade cooperation. On the one hand, the U.S. prevented other trading partners from deepening their trade and economic cooperation by incorporating the “poison pill clauses” and other rules in regional agreements, which impedes the development of economic and trade rules towards trade and investment liberalization and facilitation. On the other hand, the U.S. uses so-called “values” as a link to provoke “near-shoring/friend-shoring”, pressures its allies to take unified actions, and disrupt the global industrial and supply chains through discriminatory and exclusive means.

### **2.11.1 “Poison Pill Clause”**

2.11.1.1 The U.S. has incorporated the so-called “market economy” issue in a form of “poison pill clause” in regional trade agreements despite that the so-called “market economy standard” have been widely opposed by WTO members at multilateral level. For instance, Article 32.10 of the USMCA provides that if a party intends to negotiate a free trade agreement with a “non-market economy”, it shall notify the other parties three months prior to the commencement of negotiations and shall provide the other parties with an opportunity to review the full text of the bilateral agreement, including

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<sup>225</sup> Tariffs Work - and President Trump’s First Term Proves It, available at: <https://www.whitehouse.gov/articles/2025/04/tariffs-work-and-president-trumps-first-term-proves-it/> ; Manufacturing is Roaring Back Under President Donald J. Trump, available at: <https://www.whitehouse.gov/articles/2025/03/manufacturing-is-roaring-back-under-president-donald-j-trump/>. Sunday Shows: President Trump’s America First Trade Policies in Action, available at <https://www.whitehouse.gov/articles/2025/04/sunday-shows-president-trumps-america-first-trade-policies-in-action/>.

any annex and side letter, no later than 30 days prior to the date of signing, so that the parties can review the text of the agreement and assess its potential impact on the USMCA. Any party entering into a free trade agreement with a “non-market economy” shall allow the other parties to terminate the USMCA and replace it with a (new) bilateral agreement within six months of notification. In addition, Annex 14-D of the USMCA (Mexico-U.S. Investment Disputes) clearly stated that a party to a qualifying investment dispute does not include an investor that is owned or controlled by a person of a non-Annex Party that, on the date of signature of this Agreement, the other Annex Party has determined to be a “non-market economy”. In short, the USMCA prohibits any party to negotiate and sign free trade agreements with a “non-market economy”; otherwise, it may be expelled from the agreement. Regarding the investment dispute resolution between Mexico and the U.S., companies invested by an “non-market economy” are not qualified as claimants.

2.11.1.2 Such practice of forcing the parties to make either or exclusive choices not only violates the sovereign autonomy of the parties to negotiate and conclude agreements with other parties but also departs from the original intention of establishing free trade areas among WTO member, which is, according to Article XXIV of the GATT, “the contracting parties recognize the desirability of increasing freedom of trade by the development, through voluntary agreements, of closer integration between the economies of the countries parties to such agreements”. The then U.S. Secretary of Commerce Wilbur Ross even openly referred to the newly added provision in the USMCA “a poison pill that could be replicated”.<sup>226</sup>

### **2.11.2 “Near-shoring/Friend-shoring” Policy**

2.11.2.1 Reducing the supply chain dependence on a single country, especially on “foreign adversaries” is the primary means adopted by the U.S. government to achieve supply chain resilience or diversification in its industrial strategies. Since 2020, while taking several measures to develop its domestic industries and enhance its industrial competitiveness, the U.S. also made efforts to form industrial alliances centered around itself. These alliances are constructed with the aim of developing supply chains that exclude non-allied WTO members such as China. Bonnie Glick, former Deputy Administrator of the U.S. Agency for International Development, publicly proposed the concept of “ally-shoring” in an interview with the media, stressing that the U.S. needed to consider “near-shoring” and “friend-shoring” of the supply chains to encourage enterprises to return to the U.S., or at least to conduct

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<sup>226</sup> Exclusive: U.S. Commerce’s Ross eyes anti-China ‘poison pill’ for new trade deals, available at: <https://www.reuters.com/article/us-usa-trade-ross-exclusive-idUSKCN1MF2HJ>.

business with its allies, in order to prevent the security of the supply chains of the U.S. from being threatened.<sup>227</sup> *The 100-Day Reviews under Executive Order 14017* issued by the U.S. government formally recognized the ally-shoring and friend-shoring approaches.<sup>228</sup> The then U.S. Treasury Secretary Janet Yellen, in a speech at the Atlantic Council, vigorously advocated that the U.S. should “favor the ‘friend-shoring’ of supply chains to a large number of trusted countries” to ensure supply chain security in the context of the COVID-19 pandemic and great power competition.<sup>229</sup> The U.S. government has been implementing the Security of Supply Arrangements (SOSAs). It signed SOSAs with partners such as Singapore and South Korea, which required priority delivery of critical components from a respective industrial base in the U.S. and other partner countries.<sup>230</sup>

2.11.2.2 The U.S. touts what it rhetorically calls “values-based trade”. It urges countries and regions that share “common values” to jointly formulate policies and support businesses in manufacturing within their borders, so as to prevent countries with different values from disrupting the economies of the U.S. or its allies. In Indo-Pacific region, the U.S. released *the U.S. Strategic Framework for the Indo-Pacific*,<sup>231</sup> which emphasized the promotion of U.S. values throughout the region to maintain influence and thereby to offset the influence of the so-called “Chinese system”. In May 2022, the U.S. launched the IPEF, in which economic resilience was included as one of its four pillars, and it claimed to “present Indo-Pacific countries an alternative to China’s approach”.<sup>232</sup> The U.S. held the Quadrilateral Security Dialogue on many occasions, emphasizing on supply chains cooperation and vigorously promoting the establishment of a Chip 4 Alliance.<sup>233</sup> In Atlantic region, the U.S. and the EU established the TTC, which put emphasis on deepening cooperation in strengthening supply chains security and export control.<sup>234</sup> In April 2024, the sixth ministerial meeting of the TTC announced that they were

<sup>227</sup> USAID’s Bonnie Glick: Trump’s Ultimatum to the WHO for COVID 19 Failures, available at: [https://www.youtube.com/watch?v=\\_7okwaCoCGM](https://www.youtube.com/watch?v=_7okwaCoCGM).

<sup>228</sup> 100-Day Reviews under Executive Order 14017, available at: <https://www.whitehouse.gov/wp-content/uploads/2021/06/100-day-supply-chain-review-report.pdf>.

<sup>229</sup> Remarks by Secretary of the Treasury Janet L. Yellen on Way Forward for the Global Economy, available at: <https://home.treasury.gov/news/press-releases/jy0714>.

<sup>230</sup> Available at: <http://asia.nikkei.com/Politics/Defense/U.S.-to-coordinate-defense-supply-chains-with-Indo-Pacific-partners>

<sup>231</sup> U.S. Strategic Framework for the Indo-Pacific, available at: <https://trumpwhitehouse.archives.gov/wp-content/uploads/2021/01/IPS-Final-Declass.pdf>.

<sup>232</sup> In Asia, President Biden and a Dozen Indo-Pacific Partners Launch the Indo-Pacific Economic Framework for Prosperity, available at: <https://www.whitehouse.gov/briefing-room/statements-releases/2022/05/23/fact-sheet-in-asia-president-biden-and-a-dozen-indo-pacific-partners-launch-the-indo-pacific-economic-framework-for-prosperity/>.

<sup>233</sup> US struggles to mobilise its East Asian ‘Chip 4’ alliance, available at: <https://www.ft.com/content/98f22615-ee7e-4431-ab98-fb6e3f9de032>.

<sup>234</sup> U.S.-EU Summit Statement, available at: <https://www.whitehouse.gov/briefing-room/statements-releases/2021/06/15/u-s-eu-summit-statement/>.

contributing to the creation of a stronger, more sustainable, and more resilient transatlantic marketplace so as to diversify strategic supply chains and reduce vulnerabilities. They have also deepened dialogue and cooperation on export controls and investment screening. Under relevant framework, the U.S. continues to pressure the EU and its member states to exclude Chinese companies from participating in 5G construction and to abandon low-cost and quickly deployable Chinese telecommunications and security products. The U.S. also pressured the EU to negotiate on the establishment of a “Green Steel and Aluminum Club” (officially known as a Global Arrangement on Sustainable Steel and Aluminum), using overcapacity and carbon intensity as excuses to forcibly divide the global economies into those inside and outside the club and impose different levels of tariffs accordingly. In June 2022, the U.S. announced the establishment of the “Minerals Security Partnership.”<sup>235</sup> In Latin America, the U.S. proposed to build the “Americas Partnership for Economic Prosperity”.<sup>236</sup>

2.11.2.3 The U.S. practices have forced many countries to take sides and may even split the world economy into different parallel systems decoupling from each other, thus posing more severe challenges to globalization. “Friend-shoring” and “near-shoring” may bring more problems rather than solving them.<sup>237</sup> The policy of “friend-shoring” in the U.S. has been wildly questioned by the international community. For instance, Helena Schweiger, an economist from the European Bank for Reconstruction and Development argued that “from an economic point of view, friend-shoring doesn’t make sense because it reduces the economic growth of everyone involved. Keeping world trade as open as possible is better than new restrictions.” Raghuram Rajan, a former governor of India’s central bank and an economist, warned that “friend-shoring” would mean transacting only with countries at the similar levels of development, but the benefits of a global supply chains stemmed precisely from the fact that it involved countries with very different income levels, allowing each to bring its comparative advantage to the production process. “I understand the national interest in certain critical raw materials and that you don’t want to be dependent on them”, said Johannes Fritz of the Swiss think tank Global Trade Alert. “General diversification is necessary. However the question is whether

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<sup>235</sup> Available at: [www.state.gov/minerals-security-partnership/](http://www.state.gov/minerals-security-partnership/).

<sup>236</sup> President Biden Announces the Americas Partnership for Economic Prosperity, available at: <https://www.whitehouse.gov/briefing-room/statements-releases/2022/06/08/fact-sheet-president-biden-announces-the-americas-partnership-for-economic-prosperity/>.

<sup>237</sup> WTO chief says pressure is on amid diverging views on key trade deals, available at: <https://www.thenationalnews.com/business/economy/2024/02/28/wto-chief-says-talks-are-pressure-cooker-amid-diverging-views-on-key-trade-deals/>.

you should fall into friend-foe thinking”.<sup>238</sup> WTO Director-General Okonjo-Iweala told Reuters during the World Economic Forum in Davos, “Who is a friend? You’re not too sure they’ll be a friend tomorrow, and we’ve seen examples of that”.<sup>239</sup> The EU’s exclusion of Chinese telecommunications products under U.S. pressure caused European operators to suffer significant economic losses from the relocation of a large number of base stations, with the relevant costs ultimately being passed on to consumers. It is estimated that Germany’s per capita loss due to the removal of Chinese company’s base stations is 29 euros.

2.11.2.4 The policy of “near-shoring” or “friend-shoring” is based on Cold War mentality and “value-based trade”. The aim is to draw in allies while excluding others from the trading system, which inevitably lead to politicization of supply chains. Like the “poison pill clause” created by the U.S., the implementation of “near-shoring” or “friend-shoring” has totally departed from the basic principles of openness and inclusiveness advocated by the WTO. It is contrary to the original intent of Article XXIV of the GATT to promote free trade among WTO members. “Near-shoring” and “friend-shoring” links the provision of significant industrial subsidies to not investing in specific countries or to production that must take place within the U.S. or in specific countries. Such practices have constituted discrimination against WTO members that have not been “chosen” by the U.S., violating the basic principles of the WTO. Those members “chosen” by the U.S. may also be forced to give up the benefits from free trade, causing their own economic losses.

### **2.11.3 Technical Control**

2.11.3.1 The U.S. government has not only introduced a large number of technical control measures but also coerced and induced its allies to join the technical control camp. On the one hand, the U.S. has strengthened export control cooperation with its allies or partners while coordinating the compilation of multi-party export control lists under the pretext of “national security”. On the other hand, it has lobbied its allies or partners to impose the same technology export control measures on “foreign adversaries”. It is seeking not only to curtail “foreign adversaries” from access to advanced technologies, but also to block the export of advanced production equipment. At present, the scope of U.S. technology restrictions has been expanded from the initial high-end technology to all technologies and products considered “related to national security”, shifting from a “small yard, high fence” strategy to a

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<sup>238</sup> Trade Only with “Friends”? German Media: “Friend-shoring” Is Not Only Meaningless But Also Dangerous, available at: <https://cacs.mofcom.gov.cn/cacscms/article/zjdy?articleId=174246&type=>.

<sup>239</sup> Davos 2023-Be careful on ‘friend-shoring’, WTO’s Ngozi warns, available at: <https://www.reuters.com/world/davos-2023-be-careful-friend-shoring-wtos-ngozi-warns-2023-01-19/>.

"large yard, low fence" strategy.<sup>240</sup>

2.11.3.2 Based on “shared democratic values”, the TTC has set up working groups in ten specific areas such as export control, aiming to deepen the cooperation between the U.S. and the EU in the areas such as export control, standards, intellectual property.<sup>241</sup> The U.S. together with its allies are seeking to influence the formulation of standards for emerging technologies and the normal export of emerging technologies, creating a ripple effect that would disrupt global high-tech industrial and supply chains.<sup>242</sup>

2.11.3.3 The U.S. continues to introduce and escalate export controls in areas such as semiconductors, advanced computing, supercomputers and AI. For instance, in June 2024, the U.S. Department of the Treasury issued the NPRM that further facilitated the restriction and monitoring of U.S. investments in China in such areas as semiconductor and microelectronics, quantum information technology and AI. These measures have affected not only U.S. companies and “the Americans”, but also the export control actions of the U.S. allies or partners. Under pressure from the U.S., the Dutch government rejected the application from its domestic semiconductor manufacturer to export its most advanced equipment to China due to the U.S.’s recklessly speculation on their “possible” use for military purposes.<sup>243</sup> In January 2025, the U.S. BIS issued an IFR, establishing a “white list” that significantly increased the compliance burden of due diligence for related enterprises, adopting discriminatory practices, restricting enterprises outside the “white list” from accessing foundry, packaging and testing services,<sup>244</sup> undermining the smooth operation of global industrial and supply chains and the rights of the all countries to develop artificial intelligence technology. In addition, several U.S. listed companies issued announcements stating that they had received notices from the U.S. Department of Commerce ordering them to halt exporting electronic design automation (EDA) software, related services, and ethane and other purely civilian products to China. U.S. Department of Commerce officials also claimed to suspend exports of aviation

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<sup>240</sup> Available at: <https://thediplomat.com/2024/04/the-broadening-strategy-of-u-s-technological-restrictions-on-china/>.

<sup>241</sup> U.S.-EU Joint Statement of the Trade and Technology Council, available at: <https://www.whitehouse.gov/briefing-room/statements-releases/2022/12/05/u-s-eu-joint-statement-of-the-trade-and-technology-council/>.

<sup>242</sup> U.S.-EU Summit Statement, available at: <https://www.whitehouse.gov/briefing-room/statements-releases/2021/06/15/u-s-eu-summit-statement/>.

<sup>243</sup> Netherlands plans new curbs on chip-making equipment sales to China -Bloomberg News, available at: <https://www.reuters.com/technology/netherlands-plans-curbs-china-chip-exports-deal-with-us-bloomberg-news-2022-12-08/>.

<sup>244</sup> Implementation of Additional Due Diligence Measures for Advanced Computing Integrated Circuits; Amendments and Clarifications; and Extension of Comment Period; Correction, <https://www.federalregister.gov/documents/2025/02/14/2025-02655/implementation-of-additional-due-diligence-measures-for-advanced-computing-integrated-circuits>.

engines to China. These measures have violated international law and the fundamental norms of international relations, seriously infringed upon the legitimate rights and interests of Chinese enterprises, severely threatened the safety and stability of the global industrial and supply chains, and exerted serve impact on global technological innovation.

2.11.3.4 To sum up, the U.S. continues to tighten technology exports to China and while collaborating with its allies on export control cooperation, arbitrarily expanding the scope of export control, with the intention of restricting its “competitors” from obtaining advanced technology and manufacturing equipment globally and imposing comprehensive technological blockade. The above-mentioned U.S. export restrictions has not only contravened the original purposes of the export control regimes, and seriously disrupted the global industrial landscape shaped by the laws of the market, but also departed from the fundamental principles of the WTO.

#### **2.11.4 Discriminatory Arrangements Under the Threat of “Reciprocal Tariffs”**

2.11.4.1 In May 2025, under the pressure of the “reciprocal tariffs” of the U.S., the UK and the U.S. reached the General Terms of the UK-US Economic Prosperity Deal (hereinafter referred to as “General Terms”). The General Terms violates WTO rules. For instance, under U.S. pressure, the UK will remove the 20% in-quota tariff rate for U.S. beef and set a 13,000-ton preferential duty-free quota; the U.S. will allocate 13,000 tons from the “other countries” quota under its existing beef tariff-rate quota to the UK; the UK will also provide a 1.4 billion-liter preferential tariff-free quota for U.S. ethanol; the UK and the U.S. will mutually establish tariff quotas applicable only to each other, remove the quota rates solely for the other party, or allocate the “other countries” quota to each other. The above arrangement may cause discrimination and impact on other members' exports to the UK and the U.S., violating WTO rules on most-favored-nation treatment and non-discriminatory management of quantitative restrictions.

2.11.4.2 At the same time, many provisions of the General Terms are discriminatory against other countries and form the new “poison pill clause” of 2025. These include coordinated handling of third-country “non-market policies”, strengthening investment security measures, strengthening export controls and security measures on information technology product suppliers security measures, removing the rights of non-parties of *the Government Procurement Agreement* to enjoy non-discriminatory treatment in U.S.-UK government procurement, combating “illegal transshipment”,

and resolving “forced labor” issues in the supply chain, etc.<sup>245</sup> This approach shows the essence of the U.S. government on combining “reciprocal tariffs” and “poison pill clauses” to implement trade extortion. If implemented, it may cause adverse effects on other WTO members.

2.11.4.3 In July 2025, under the pressure from the so-called big stick of “reciprocal tariffs” of the U.S., Vietnam and the U.S. reached a trade agreement. According to U.S. announcement, Vietnam’s exports to the U.S. will be subject to a 20% tariff, and any transshipped goods will be subject to a 40% tariff; Vietnam will implement zero tariffs on imports from the U.S. The relevant content of the above trade agreement between the U.S. and Vietnam is suspected of violating WTO rules. For instance, Vietnam’s unilateral grant of zero tariffs to U.S. goods and the U.S. separate imposition of a 20% tariff on Vietnam both cause discrimination against other WTO members, and are suspected of violating the most-favored-nation treatment principle; the U.S. imposition of a 20% import tariff on most of Vietnamese goods will exceed the bound tariff rates committed by the U.S. in the WTO on the vast majority of goods, violating the tariff binding obligation; the U.S. imposition of a 40% tariff on transshipped goods in Vietnam may violate the WTO rules and commitments on tariff binding. In addition, the U.S. imposition of a 20% import tariff on Vietnam goods fails to comply with the WTO requirements that free trade agreements should eliminate duties and other restrictive regulations of commerce on substantially all trade and cannot constitute a waiver to WTO’s most-favored-nation treatment.

2.11.4.4 At present, the U.S. is still leveraging “reciprocal tariffs” to coerce more trading partners to sign discriminatory economic and trade arrangements with it, and these arrangements may also violate WTO rules.

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<sup>245</sup> US-UK trade deal squeezes China supply chains, available at: <https://www.ftchinese.com/interactive/205246/en>.

## **CHAPTER III**

### **EFFORTS TO ADDRESS THE U.S. BREACHES OF THE WTO RULES AND ITS DESTRUCTIVE BEHAVIOR TOWARDS MULTILATERALISM**

Since 2017, the U.S. government has intensified its pursuit of “America First” policy, placed its own interests above those of other countries, coerced its major trading partners, and implemented a series of unilateralist and protectionist measures, seriously disrupting the global economic and trade cooperation. The U.S. has also targeted its discriminatory policies at the major countries of Global South, such as China, ignoring disparities in development stages and economic systems among many countries, as well as the critical role of North-South economic ties in global prosperity and stability, and repeatedly provoking trade frictions. The restrictive trade measures of the U.S. not only harm the Global South, but also harm the U.S. itself and the world at large. By misusing and overgeneralizing security factors, the U.S. assesses security issues solely from the narrow perspective of the trade deficits in goods, thereby pursuing a fundamentally wrong approach.

The international community has consistently reaffirmed support for a rules-based multilateral trading system with the WTO at its core and the need to improve global economic governance. The G20 Leaders’ Declaration at the 2024 Rio de Janeiro Summit reaffirmed the need to build a multilateral trading system centered on the WTO, based on rules, non-discriminatory, fair, open, inclusive, equal, sustainable, and transparent, to ensure fair competition in accordance with WTO rules, and to create a favorable trade and investment environment for all. The BRICS Leaders’ Declaration in July 2025 once again reaffirmed support for an open, transparent, fair, inclusive, equal, non-discriminatory, and consensus-based multilateral trading system centered on rules and the WTO.

In response to the international trade frictions and conflicts provoked by the U.S., China steadfastly upholds true multilateralism, defends the multilateral trading system, and resolutely opposes U.S. tariff coercion and trade bullying. China’s stance is clear: “If there is a fight, we will see it through to the end; if there is a dialogue, our door is always open”. China urges the U.S. to move in the same direction, fully correct its misguided unilateralist and protectionist practices, and collaborate with all parties to advance global economic cooperation, including that between China and the U.S., and jointly build an open world economy.

### 3.1 Upholding True Multilateralism

3.1.1 China remains committed to adhering to the right course of economic globalization, championing true multilateralism and helping multilateral trading system with the WTO at its core to better play its role. Particularly, amid the recent rise of unilateralism and protectionism that has severely impacted the multilateral trading system, China has proactively undertaken concrete measures to firmly uphold the authority and efficacy of the multilateral trading system.

3.1.2 First, China has actively participated in the WTO reform and put forward Chinese proposals. In June 2018, the Chinese government issued a white paper titled *China and the World Trade Organization*<sup>246</sup>, emphasizing China's firm support for the WTO to play a greater role in global governance. In November 2018, China released *China's Position Paper on WTO Reform*<sup>247</sup>, which set out China's basic principles and specific propositions on WTO reform. In May 2019, China submitted *China's Proposal on WTO Reform*<sup>248</sup> to the WTO, outlining 12 proposals in four priority areas of action. In November 2019, China hosted an informal WTO Ministerial Meeting in Shanghai, where WTO members exchanged views on WTO reform and other issues. Since 2022, China has submitted to the WTO about 50 proposals, either individually or jointly, covering a wide range of areas including e-commerce, investment facilitation, agriculture, fisheries subsidies, development, industrial and supply chains, and the trade policy review mechanism. In May 2025, China submitted to the WTO *the Statement on Supporting the Multilateral Trading System under the Current Situation*, which put forward the working approach of "stability as the cornerstone, development as the priority, and reform as the pathway" for the WTO in the context of intensified trade turbulence. The positions and propositions put forward by China have contributed significantly to the building of consensus among all members and the reform process of the WTO.

3.1.3 Second, China has actively promoted pragmatic outcomes of ministerial conferences. At the 12th WTO Ministerial Conference (hereinafter referred to as "MC12") held in June 2022, China actively participated in the negotiations on various issues, and made significant contributions to the conclusion of *the Agreement on Fisheries Subsidies* and *the Ministerial Declaration on the WTO Response to the COVID-19 Pandemic and Preparedness for Future Pandemics*, strongly bolstering

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<sup>246</sup> China and the World Trade Organization (White Paper - June 2018), available at: <http://www.scio.gov.cn/zfbps/32832/Document/1632334/1632334.htm>.

<sup>247</sup> China's Position Paper on WTO Reform, available at: <http://sms.mofcom.gov.cn/article/cbw/201812/20181202817611.shtml>.

<sup>248</sup> China's Proposal on WTO Reform, available at: <http://images.mofcom.gov.cn/sms/201905/20190514094326062.pdf>.

members' confidence in the multilateral trading system. China also played an active and constructive role at the 13th WTO Ministerial Conference (hereinafter referred to as "MC13") held in February 2024, helping the conference to reach concrete outcomes such as *the Abu Dhabi Ministerial Declaration*, *the Work Programme on Electronic Commerce*, and *the Smooth Transition Support Measures in Favour of Countries Graduated from the LDC Category*. China's contribution to the success of MC13 were highly commended by other WTO members. At present, China is actively participating and advancing negotiations across all issues, including WTO reform, to ensure concrete deliverables at the 14th Ministerial Conference scheduled for March 2026 in Cameroon.

3.1.4 Third, amid escalating trade turbulence, China has put forward constructive proposals calling on all members to stabilize the foundation of multilateral trading system. On February 18, 2025, at the first General Council meeting of the WTO for the year, China proactively set the agenda to express serious concern over the U.S. unilateral imposition of tariffs and its adverse impacts. Over 30 WTO members, including the European Union, Canada, Brazil, and Russia, voiced their dissatisfaction with the U.S. unilateralist actions. After the U.S. announced the implementation of the so-called "reciprocal tariffs", on April 9, 2025, China set the agenda to strongly oppose the unilateral measures at the WTO CTG meeting. Forty-six members, including the European Union, Canada, and Brazil, spoke out calling on the U.S. to earnestly abide by WTO rules. On April 10, 2025, at the 30th-anniversary commemorative event of the WTO, China spoke out for justice against unilateralism and protectionism, which echoed the "Friends of the Multilateral Trading System" initiative jointly released by 41 small and medium-sized economies, including Switzerland and Singapore. Together, they called for strengthened unity and cooperation, bold collective action, and the deepening of WTO reform to effectively address the current global trade tensions. On May 20 and 21, 2025, China set an agenda at the WTO General Council meeting, echoing two other agendas set by members including the European Union, Switzerland, and Singapore, to jointly criticize the so-called "reciprocal tariffs" measures of the U.S. Over 100 members spoke in support. On June 13, 2025, China pointed out that the so-called "reciprocal tariffs" of the U.S. selectively focus on trade in goods, and the misleading narrative ignores the fact and logic that the U.S. itself benefits significantly from trade in services. This is a double standard that allows only the U.S. to benefit from economic globalization while denying other members, especially developing members, the same benefits.

## 3.2 Promoting the Restoration of the Appellate Body

3.2.1 China has actively promoted WTO reform, advocating that the reform should prioritize key issues that threaten the existence of the WTO, especially the impasse of the appointment of Appellate Body members. At the same time, China has also conducted dialogues and cooperation on WTO reform with the EU and other WTO members. In 2018, China, together with 11 other members including the EU and Canada, submitted *the Joint Proposal to the WTO to Promote the Selection of Members of the Appellate Body*.<sup>249,250</sup> In an effort to resolve the impasse of Appellate Body member appointment, the Special Facilitator designated by the WTO General Council consecutively submitted four reports<sup>251</sup> in response to the systemic concerns raised by the U.S. on the Appellate Body. The Walker Text circulated by the Special Facilitator in December 2019 was widely supported by members except the U.S. However, the U.S. disregarded the widespread appeal of other members and objected to the consensus.<sup>252</sup> At the MC12, members committed to conduct discussions with the view to having a fully and well-functioning dispute settlement system accessible to all Members by 2024.<sup>253</sup> The MC13 reaffirmed this goal. After more than two years of negotiations, WTO members reached several consensuses on improving the effectiveness of dispute settlement mechanism, but on the core issue of restoring the two-tier system, consensus was not reached due to the opposition of the U.S. As a result, the Dispute Settlement Mechanism failed to fully resume operations by the end of 2024 as mandated. Meanwhile, the U.S. continued to refuse to initiate the selection process for Appellate Body members.<sup>254</sup>

3.2.2 Despite the impasse of the Appellate Body, China and other members have remained committed to upholding the multilateral trading system and actively promoting the effective operation of the dispute settlement mechanism. In April 2020, 19 WTO members, including China and the EU, proposed to the WTO to establish the Multi-Party Interim Appeal Arbitration Arrangement (MPIA),<sup>255</sup> based on the arbitration provisions of Article 25 of the DSU. This arrangement would serve as a temporary alternative of the Appellate Body, which has been paralyzed by the U.S. As of June 2025, the number of MPIA participants reached 56. Participants have actively

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<sup>249</sup> WT/GC/W/752.

<sup>250</sup> WT/GC/W/753/Rev.1.

<sup>251</sup> JOB/GC/215; JOB/GC/217; JOB/GC/220; JOB/GC/222.

<sup>252</sup> WT/GC/W/791.

<sup>253</sup> MC12 Outcome Document, available at: [https://www.wto.org/english/thewto\\_e/minist\\_e/mc12\\_e/documents\\_e.htm](https://www.wto.org/english/thewto_e/minist_e/mc12_e/documents_e.htm).

<sup>254</sup> WT/DSB/W/609/REV.21.

<sup>255</sup> JOB/DSB/1/Add.12

turn to MPIA to resolve appellate disputes and achieved positive results.<sup>256</sup>

### **3.3 Safeguarding the Legitimate Rights and Interests of Developing Members**

3.3.1 First, China has put forward proposals to advance the development agenda of the WTO. China has submitted proposals on WTO reform in both 2019 and 2025, offering new ideas for the development agenda of the WTO. In May 2024, China submitted a development proposal to the WTO General Council, calling on members to reflect on and improve the working methods of the WTO's development issues, to give new meaning and impetus to long-standing pending issues, and to provide pragmatic and feasible solutions to current challenges such as climate change, food security, and the digital divide. This represents a concrete practice of China in terms of implementing the Global Development Initiative within the WTO.

3.3.2 Second, China has actively contributed public goods and provided Aid for Trade under the framework of South-South cooperation. In 2011, China and the WTO Secretariat established the "China Program" to help developing members, especially the LDCs, accede to the WTO and better benefit from international trade. Since its establishment, the "China Program" has held 13 Roundtables on Accessions, successfully assisting eight LDCs in joining the WTO. It has also organized seven South-South dialogues and several follow-up seminars on Trade Policy Reviews, sponsored over 50 interns, and helped acceding parties and developing members better integrate into the multilateral trading system. At a time when Aid for Trade funding is facing shortages, China has provided support to the best of its ability. In April 2025, China donated USD 500,000 to the Global Trust Fund. In June, it signed a new Memorandum of Understanding on the "China Program" with the Secretariat, increasing the donation amount to USD 600,000. China has also hosted multiple trainings on WTO-related issues such as WTO reform, investment facilitation for development, and e-commerce in China. In addition to these efforts, under the framework of South-South cooperation, China has carried out Aid for Trade projects related to food security, climate change response, industrialization, infrastructure, and trade facilitation, etc.

3.3.3 Third, China has proactively assumed the responsibilities of a major member and has independently and pragmatically chosen not to seek Special and Differential Treatment (SDT) in multiple negotiations. In an attempt to restrict the legitimate rights and interests of developing members, the U.S. has called for clarification on

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<sup>256</sup> Data source: the statistics of the MPIA website, available at [https://wtoplurilaterals.info/plural\\_initiative/the-mpia/](https://wtoplurilaterals.info/plural_initiative/the-mpia/).

development issues,<sup>257</sup> proposing to eliminate the right of self-designation by developing members and to re-classify developing members based on certain criteria.<sup>258</sup> As a developing member and a natural part of the “Global South”, China has always stood in solidarity with other developing members, sharing weal and woe, and has firmly safeguarded the common interests of developing members. China has actively promoted the increase of developing members’ representation and voice in global affairs and has resolutely opposed the unreasonable propositions of the U.S. Contrary to U.S. allegations, China has never claimed flexibility equivalent to less-developed members. Historical records confirm that China enjoyed less Special and Differential Treatment than most developing economies during its accession, and has never used special and differential treatment as an “excuse” to refuse to open its market. Instead, China has actively contributed to global trade liberalization and facilitation. For instance, as the only major developing member that participated in the negotiations on *the expansion of Information Technology Agreement*, China has made important contributions to the conclusion of the Agreement. China requested no technical assistance for implementing the *Trade Facilitation Agreement*, and implemented this agreement well ahead of its transition period which was shorter than that of other developing members. Moreover, China didn’t seek SDT in negotiations on services domestic regulation. During the negotiations on TRIPS waiver on COVID-19 vaccines, China voluntarily relinquished the flexibilities of developing members. In the negotiations on the G90 proposal on SDT, China declared that it would not seek the SDT requested in the proposal. China has also proactively expanded unilateral market opening to the LDCs, and starting from December 1, 2024, it has granted zero-tariff treatment to all products from all LDCs that have diplomatic relations with China. In conclusion, China has been actively undertaking international obligations commensurate with its level of development and economic capability, and has made important contributions to safeguarding the multilateral trading system and the legitimate rights and interests of developing members.

### **3.4 Making Full Use of the Trade Policy Review and Monitoring Function of the WTO**

3.4.1 China and other WTO members have been trying to monitor U.S. compliance with the WTO rules and its commitments through the trade policy review mechanism. During the 15th Trade Policy Review of the U.S. in December 2022, China listed a range of unilateralist and protectionist practices of the U.S., including but not limited to the introduction of a wide range of discriminatory subsidies, imposition of high

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<sup>257</sup> WT/MIN17/ST128.

<sup>258</sup> WT/GC/W/757/Rev.1.

tariffs on large-scale products under Section 301, and abuse of export control measures. China pointed out that the U.S. had failed to play its due role as a leader of the multilateral trading system, but on the contrary turned to be a destroyer of the multilateral trading system, a practitioner of unilateralism and bullying behaviors, a manipulator of double standards on industrial policies, and a disrupter of global industrial and supply chains. With the rhetoric of advancing “meaningful reform” while pursuing “America First” in reality, the U.S. measures run counter to the fundamental principles of the multilateral trading system. A total of 65 members took the floor during this review process. In addition to China, members such as the EU, the Republic of Korea, Japan, Canada, New Zealand, Brazil, South Africa, and Türkiye also expressed concerns over the systemic impact of relevant trade policy and measures of the U.S. on the multilateral trading system. At the same time, 32 members put forward more than 2,000 written questions to the U.S., concerning many aspects such as the consistency of the IRA, the CSA and their related measures with the WTO rules, as well as its government procurement policies and the abuse of national security. The WTO members share many common concerns about the economic and trade policies of the U.S.

### **3.5 Upholding Authority of the WTO Dispute Settlement Mechanism**

3.5.1 For over two decades since its accession to the WTO, China has been actively resorting to the WTO dispute settlement mechanism to settle trade disputes with other WTO members. To address the violations of the U.S., China has initiated many cases under the WTO dispute settlement mechanism. As of June 2025, China has filed a total of 30 cases as a complainant, among which 20 cases, or two-thirds, were filed against the U.S. Among the cases initiated by China against the U.S., 11 cases were related to the abuse of trade remedy measures by the U.S., including anti-dumping, countervailing, safeguard and special safeguard measures. One case was related to sanitary and phytosanitary measures on Chinese poultry products, one case was related to renewable energy subsidies imposed by the U.S., three cases were related to Section 301 tariff measures, one case was related to the export control measures on Chinese semiconductor product, and one case was related to the IRA regarding measures such as subsidies for new energy vehicles. Two cases were related to the tariff measures initiated by the U.S. government in 2025. Since February 2025, in response to the U.S. imposition of additional tariffs on Chinese products under the pretext of the so-called “fentanyl issue” and “reciprocal tariffs”, the Chinese government has requested consultations with the U.S. (DS633, DS638). In the process of filing cases against the U.S. non-compliance practices, many of China’s

propositions on legal interpretation have been supported by WTO panels and the Appellate Body, which has also clarified multilateral trade rules to a certain extent.

3.5.2 By resorting to the dispute settlement mechanism in accordance with the WTO rules to address the U.S. non-compliance measures, China has not only protected the trade interests of Chinese enterprises, but also effectively curbed unilateralism, protectionism and economic bullying practices by the U.S. Moreover, it upholds international fairness and justice, and contributes to building a fairer and more equitable global governance system.

## CONCLUSIONS

In recent years, economic globalization has encountered headwinds, unilateralism and protectionism are on the rise, and the multilateral trading system with the WTO at its core has faced serious challenges. As an important member of the WTO, the U.S. should take the lead in abiding by WTO rules, safeguarding the fundamental principles and core values of the WTO, and endeavoring to make the WTO play a more positive role in ensuring a free and open international trade order, promoting the global economic recovery, and maintaining world peace, development, and stability. Regrettably, what the U.S. has done is exactly the opposite. Unilateralism, protectionism, and economic bullying are the salient features of the “America First” trade policy.

The purpose of this report is to urge the U.S. to fulfill its commitments, abide by the rules, truly return to the rules-based, open, transparent, inclusive and non-discriminatory multilateralism. The U.S. should also promptly abandon the non-compliance measures such as the so-called “reciprocal tariffs” and play its due part in safeguarding the authority, integrity and efficacy of the multilateral trading system. China opposes all forms of unilateralism, protectionism, and bullying practices. It will continue to closely monitor the U.S. compliance with WTO-related obligations. Meanwhile, China will, as always, work closely with other WTO members, to firmly uphold the multilateral trading system, fully and deeply participate in the WTO reform, actively advance the multilateral trading system to play a greater role in global economic governance, and collectively devote to an equal and orderly multi-polar world and a universally beneficial and inclusive economic globalization.