From GATT to Friedrich List: Reconciling WTO Non-Discrimination with Green Industrial Policy in the U.S.–China EV Conflict

Vanshika Chourasiya[1], Dr. Sonia Maan[2]

[1]Assistant Professor VIPS-TC, VSLLS, Vanshika1@vips.edu
[2]Assistant Professor of Law VIPS-TC, VSLLS, Sonia.maan@vips.edu

ABSTRACT
This study examines whether recent US tariffs and subsidies on Chinese electric vehicles (EV) can be consistent with the WTO law and with a Listian idea of legitimate infant industry protection in the green transition. It recreates the relevant General Agreement on Tariffs and Trade 1994 ('GATT 1994'), Agreement on Subsidies and Countervailing Measures ('SCM Agreement'), Agreement on Trade-Related Investment Measures ('TRIMs Agreement') and Agreement on Technical Barriers to Trade ('TBT Agreement') disciplines, categorizes the new Section 301 (Trade Act of 1974, 19 USC § 2411) tariffs and EV-associated tax credits as either bound tariff obligations, most favoured nation and national treatment obligations, and places them in a WTO-consistent trade remedy framework. This is further analyzed using WTO jurisprudence on Article XX of the GATT 1994 — as elaborated in United States — Standards for Reformulated and Conventional Gasoline (WT/DS2/AB/R), United States — Import Prohibition of Certain Shrimp and Shrimp Products (WT/DS58/AB/R), and European Communities — Measures Affecting Asbestos and Asbestos-Containing Products (WT/DS135/AB/R) — and environment-related measures to evaluate the plausibility of using general exceptions to justify origin-specific EV measures; the difficulty with the chapeau lies in the fact that tariffs and subsidies are closely associated with Chinese origin.
Based on the theory of productive power by Friedrich List (The National System of Political Economy, Longman, 1841), the paper constructs a two-dimensional evaluative grid that integrates a black letter test of the law (GATT 1994/SCM Agreement compliance and Article XX justifiability) with a normative test of Listian legitimacy, which is orientated towards temporariness, developmental orientation, and ultimate inclusion in liberal trade. Using this twofold test on US EV-specific tariffs and subsidies, the paper posits that much of what is now in place is in a grey zone: it is hard to defend doctrinally within WTO provisions and, where formal adherence could be contrived, it would be run as rent-seeking protectionism, instead of disciplined green industrial policy. The results imply that WTO members aiming at advancing EV industries should focus on the usage of neutral origin, time-bound and capability-enhancing instruments and that WTO law will have to increasingly face multipurpose green industrial policies that obscure the distinction between environmental ambition and trade protection.
KEYWORDS: World Trade Organization; electric vehicles, green industrial policy, tariffs, TBT Agreement; Friedrich List; infant-industry protection; climate policy; US–China trade.

1 INTRODUCTION

The recent United States tariff on Chinese electric vehicles (EVs) is enforced under Section 301 of the Trade Act of 1974 that allows the United States Trade Representative (USTR) to impose any extra duties when foreign practices are considered unfair or discriminatory (Why This Matters: Section 301 Tariffs on Electric Vehicles, 2024). President Biden stated

in May 2024 that the United States would increase the Section 301 duty on Chinese origin EVs to 100% in addition to substantial increases on the products that are part of the EV supply chains, including lithium-ion batteries and some critical minerals (Biden Administration Imposes Tariffs on Electric Vehicles, 2024; US Escalates Trade War with China, 2024). Later actions by USTR, which were completed in September 2024, affirmed a new 100 percent Section 301 rate on electric vehicles made in China, with lithium-ion EV batteries and other battery components relocating to 25 percent instead of 7.5 percent, and other increases on other products of Chinese origin including solar cells and medical equipment (United States Finalizes Section 301 Tariff Increases, 2024). Such duties are imposed on EVs and on identified elements that fall under particular lines of the U.S. Harmonized Tariff Schedule and are superimposed on ordinary MFN bound rates, creating an overall applied duty that, in the case of EVs, now amounts to approximately 100 percent ad valorem. The tariffs are a step up on what was termed the Section 301 regime initially implemented in 2018, as well as a reaction to the perceived overcapacity of China and its subsidisation of clean energy sectors, and a larger industrial strategy further to safeguard and encourage EV and battery production in the US.

China has always been resisting those measures, labeling them as protectionist and contrary to WTO commitments. In March 2024, it sought consultations at the WTO on a number of clean energy related tax credits under the U.S. Inflation Reduction Act ('IRA'), claiming that the actions are discriminative against goods of Chinese origin, and are conditional, de jure or de facto, upon the use of domestic rather than imported goods (WTO: China Initiates Dispute over US Tax Credits Provided under IRA, 2024). The case, commonly known as US — Inflation Reduction Act ('USIRA (China)'), challenges five groups of measures: the Clean Vehicle Credit, Investment Tax Credit of Energy Property, Clean Electricity Investment Tax Credit, Production Tax Credit of Electricity of Renewable Energy, and Clean Electricity Production Tax Credit, which China alleges are inconsistent with General Agreement on Tariffs and Trade 1994 ('GATT 1994') Article III:4, Agreement on Trade-Related Investment Measures ('TRIMs Agreement') Article 2, and Agreement on Subsidies and Countervailing Measures ('SCM Agreement'). In January 2026, a WTO panel ruled in favour of China in all material aspects, and said that the major components of the IRA tax credit structure amounted to prohibited import substitution subsidies and led to the poorer treatment of imported products, and recommended that the United States withdraw the offending subsidies within a specified period (WTO Panel Rules against the US in USIRA (China), 2026). Parallel press coverage has emphasized the fact that China sees the Section 301 EV tariffs and IRA-related subsidies as an element of a consistent policy of green protectionism that not only breaches both the GATT non-discrimination provisions as well as the SCM Agreement, but has also indicated the potential of further WTO action that specifically addresses the EV tariff surcharges (WTO: China Initiates Dispute over US Tax Credits Provided under IRA, 2024).

The EV-specific tariffs are also directly interconnected with a set of domestic support policies, which jointly constitute the heart of U.S. green industrial policy. The IRA came up with a list of tax credits and subsidies to encourage domestic production and implementation of clean energy technologies, such as the Clean Vehicle Credit on eligible EVs and a range of credits on renewable energy generation and equipment (WTO: China Initiates Dispute over US Tax Credits Provided under IRA, 2024). Most of these credits are conditional on local content type requirements, including thresholds of North American final assembly, minimum levels of battery components or critical minerals sourced domestically or by preferred trade partners, which provide benefits to domestic or to some foreign suppliers and block Chinese inputs (Clean Vehicles Tax Credits under the US Inflation Reduction Act, 2023; Yet Another Green Industrial Policy on Trial at the WTO, 2024). Legal scholarship and China's WTO submissions state that these

requirements directly involve GATT 1994 Article III:4 (national treatment), TRIMs Agreement Article 2.1 (prohibition of investment measures which are inconsistent with Article III) and SCM Agreement Article 3.1(b) on import substitution subsidies, since they require that the delivery of a financial treatment (the tax credit) be conditional upon the consumption of domestic over imported goods. These IRA subsidies are in effect in conjunction with the Section 301 EV tariffs: by increasing considerably the price of Chinese EVs and batteries at the border and, at the same time, subsidising the production of EVs and other components produced in the United States and sourced locally, the United States is creating a two-pillar regime of tariff protection and domestic assistance that intensifies the competitive edge of US-based production. This combined design is what has contributed to the views of China and some observers that the integration of an origin-specific tariff with a local content-linked subsidy contributes to the breach of MFN and national treatment commitments and falls squarely within the prohibitions of the SCM Agreement on import substitution subsidies and TRIMs-inconsistent performance requirements (Yet Another Green Industrial Policy on Trial at the WTO, 2024; WTO Panel Rules against the US in USIRA (China), 2026).

According to the GATT 1994 perspective, the initial source of tension is under Article II:1(b), which obligates Members not to charge customs duties of an ordinary amount above the bound rates contained in their Schedules of Concessions. If the combined duty on Chinese EVs with a Section 301 surcharge would be over the U.S. bound MFN rate on the tariff line in question, the measure would amount to a direct violation of Article II, unless it is subject to renegotiation under Article XXVIII or another recognised legal ground. The second tension is under Article I:1, which is the most favoured nation ('MFN') clause, and it requires Members to grant any favour, advantage, privilege or immunity that they accord to a product originating in or destined to one country to all other Members immediately and unconditionally. Since the 100% tariff is applied to vehicles of Chinese origin, and not to similarly equivalent EVs imported by other WTO Members, commentators have cast doubt on whether this kind of origin-specific escalation is compatible with the MFN obligation in the absence of a lawful justification, such as an authorised safeguard or waiver (China Briefing, 16 May 2024). The EV tariff regime also has an interaction with GATT 1994 Article III on national treatment to the degree that local EV manufacturers obtain internal tax credits or other regulatory benefits related to local content requirements, which may lead to less favourable treatment of imported EVs. The SCM Agreement is directly and indirectly implicated. The United States directly supports high tariffs in political rhetoric as a reaction to the perceived Chinese subsidies and excess capacity in clean energy industries, but the action does not necessarily satisfy the procedural and evidentiary standards of countervailing duties under Part V of the SCM Agreement, which generally involves an investigation, a finding of subsidisation and injury, and a properly calculated duty. This puts into doubt the possibility of unilateral Section 301-type surcharges being compatible with a regime that anticipates subsidies to be solved by multilateral disciplines and WTO-consistent trade remedies. The EV and clean energy-related tax credits of the IRA indirectly are also found to have breached the SCM Agreement: the complaint of China claimed that a number of U.S. tax credit programs are conditional, de jure or de facto, upon the use of domestic over imported goods, and thus constitute prohibited subsidies under Article 3 or at least specific subsidies with adverse impacts contrary to Articles 5 and 6. In January 2026, a WTO panel affirmed the essentials of the Chinese assertions and proposed that the United States eliminate the objectionable clean energy subsidies by a set deadline, establishing that central pillars of U.S. green industrial policy violate subsidy disciplines (WTO Backs China, Directs US to Roll Back Clean Energy Subsidies, 2026; WTO Panel Backs China in Case against US Clean Energy Subsidies, 2026). In this regard, EV-specific tariffs, along with WTO-inconsistent domestic

subsidies, enhance the systemic conflict between national green industrial aspirations and multilateral limitations.

It is based on this legal context that the paper develops two connected research questions. First, it poses the question of the compatibility of the U.S. EV-specific tariffs with the GATT 1994, the SCM Agreement and WTO law. This inquiry includes a study on the potential violation of tariff binding commitments under GATT 1994 Article II, MFN consistency under Article I, and the connection between unilateral surcharge of tariffs and the multilateral obligations and procedures to react to alleged foreign subsidization under the SCM Agreement. It further asks the question of whether there are any possible defences available to support EV-specific tariffs that are presented as climate- and security-oriented, but where in fact these are origin-specific restrictions as provided by GATT 1994 Article XX(b) or (g), or other systemic justifications. Second, the paper poses the question of how the theory of productive power and infant industry protection proposed by Friedrich List can be normatively used to suggest these measures be referred to as green industrial policy. The focus on the creation of national productive forces, the validity of the temporary protection of the strategic industry and the prioritisation of liberalisation offered by List gives a conceptual perspective through which to assess whether U.S. EV tariffs are indeed genuinely developmental and climate-oriented or rent-seeking protectionism in green lingo. The study therefore aims at filling the gap between positive law analysis and normative political economy analysis to evaluate both legitimacy and legality.

The paper uses a doctrinal, or black letter, approach to its central legal analysis, with a conceptual reading of the political economy of List answering these questions. On the legal front, it closely reads the text, structure, and object and purpose of GATT 1994, the SCM Agreement and other WTO instruments, and other jurisprudence on tariff bindings, MFN treatment, national treatment and subsidy disciplines. Special focus is put on the panel and Appellate Body reports that address tariff overhang, origin-specific measures, environmental exceptions and clean energy subsidies, such as the recent panel decision in USIRA (China) on clean energy tax credits (WTO Panel Backs China in Case against US Clean Energy Subsidies, 2026). This systematic use of official WTO documents, negotiating histories where possible, and fore-fronting secondary literature in the field of international economic law supplements this doctrinal work. In the theoretical section, the paper undertakes a specific reconstruction of the main ideas of Friedrich List — productive power, infant industry protection, temporary tariffs and the national system of political economy — focusing on primary texts and scholarship related to Friedrich List in the contemporary context, i.e., green transitions and industrial policy (Green Industrial Policy: Trade and Theory, 2012; Do WTO Rules Preclude Industrial Policy?, 2018). These concepts are then operationalised into evaluative criteria like temporariness, capability-building orientation and global public goods impact, and measured against the U.S. EV tariff and subsidy package. The methodology seeks to produce a subtle assessment of the legal limits and normative interests of considering the U.S. EV tariffs as a tool of green industrial policy in a competitive multilateral order by integrating the doctrinal WTO analysis with the Listian political economy theory.

2 Applicable WTO-Law Framework

2.1 GATT 1994 obligations

General Agreement on Tariffs and Trade 1994 ('GATT 1994') Article II:1(a)-(b) is the most common legal binding on any unilateral tariff hike by WTO members, as is the case of recent U.S. tariffs on Chinese electric vehicles (EVs). Article II:1(a) obliges every member to give to the commerce of the other members such treatment as will be no less favourable than that given by its Schedule of Concessions, and Article II:1(b) prohibits the imposition of any customs duties in excess of the treatment given in its Schedule of Concessions

(Jackson, The World Trading System: Law and Policy of International Economic Relations, 1997). Practically, after the United States has fixed a bound rate of the tariff line at which EVs are to be assessed, it cannot increase the rate of tariff which it applies to them above that bound rate except under the formal renegotiation provisions of GATT 1994 Article XXVIII or under an authorised waiver or safeguard (Horn and Mavroidis, The WTO Case Law of 2001, 2001). Any EV-targeted increment that raises the consolidated duty (including Section 301-type surcharges) above the bound rate would be prima facie inconsistent with GATT 1994 Article II:1(b) irrespective of the policy justification being invoked (Zang, WTO Consistency of the Section 301 Tariffs, 2018).

GATT 1994 Article I:1 is also central to the most favoured nation ('MFN') obligation. It stipulates that any advantage, favour, privilege or immunity offered to a product originating in or destined to any country should be conferred on similar products originating in or destined to all other WTO members without any conditions, and immediately (Horn and Mavroidis, The WTO Case Law of 2001, 2001). In the case of Chinese origin EVs, which have a substantially higher ad valorem duty, while like EVs of other origins are treated at significantly lower MFN rates, this amounts to origin-specific differentiation in the treatment of like products. Such differentiation is not easily compatible with GATT 1994 Article I:1 and has in past jurisprudence been considered a textbook violation of MFN without any lawful justification, such as a safeguard, security exception, or waiver (Pauwelyn, The Rule of Law Without the Rule of Lawyers?, 2014). Recent legal discussion of EV tariffs highlights that the present practice in the U.S. is not presented as a multilateral protection or a countervailing duty, but as one of unilateral Section 301 action under the Trade Act of 1974, which underscores the conflict with MFN and with the broader framework of GATT 1994 commitments (Gil, Section 301 and the WTO, 2024).

GATT 1994 Article III has national treatment disciplines that govern internal actions that influence imported EVs after they have penetrated the U.S. market. Article III:2 forbids internal taxation or other internal charges imposed on imported products exceeding those imposed, directly or indirectly, on similar domestic products; Article III:4 takes a corresponding logic to laws, regulations and requirements applicable to the internal sale, purchase, transportation or use of products (Jackson, The World Trading System: Law and Policy of International Economic Relations, 1997). Domestic tax credits, purchase subsidies or regulatory benefits based on local content, domestic assembly or qualifying battery sourcing requirements are the most obvious candidates to be examined under GATT 1994 Article III:2 and III:4 in the EV situation (Pashley, Local Content Requirements and WTO Law, 2023). Competitive advantages in domestic or preferred-partner EVs and a sharp lack of eligibility for many imported EVs, in particular Chinese ones, are provided by clean vehicle rules that limit eligibility of tax credits to EVs assembled in North America or to vehicles with a battery containing a minimum percentage of local or friend-shored critical minerals (Asmelash, Green Industrial Policy and WTO Law, 2024). Where these schemes manipulate the terms of competition against imported EVs that otherwise are like domestic EVs, they can violate the obligation to give no less favourable treatment to imported goods under GATT 1994 Article III:4.

Table 1 - WTO Legal Obligations and Potential Breaches

Provision	Core legal obligation (plain statement)	EV-specific application (U.S.–China context)	Typical breach scenario
Article II:1(a)–(b)	Members must not apply customs duties above the	Once the United States has scheduled a bound rate for the EV tariff line, it cannot	A China-specific EV duty that, when combined with

(Bound tariffs)	bound rates in their schedules and must not treat other members' trade less favourably than what is reflected in those schedules.	elevate the applied MFN duty above that ceiling, except via Article XXVIII renegotiation or an authorised waiver/safeguard. Section-301-type surcharges are counted towards the consolidated duty.	Section-301 surcharges, exceeds the bound rate for that HS line, even if justified domestically as industrial or security policy.
Article I:1 (MFN)	Any advantage, favour, privilege or immunity granted to a product from one country must be extended immediately and unconditionally to like products from all WTO members.	Imposing a much higher ad valorem rate on Chinese-origin EVs than on like EVs from other origins, without using a multilateral safeguard, countervailing or anti-dumping framework, singles out one origin in a way that is hard to reconcile with MFN.	A 100% duty on Chinese EVs while Korean or EU EVs face only the standard MFN rate, with the measure framed as a unilateral Section 301 action rather than as a WTO-consistent trade remedy.
Article III:2, 4 (National treatment on internal measures)	Internal taxes and regulations may not be applied to imported products to afford protection to domestic production; imported products must not be treated less favourably than domestic ones.	Clean-vehicle tax credits and subsidies that depend on North-American final assembly or local/"friend-shored" battery content favour U.S. or preferred-partner EVs and exclude many imported EVs, especially from China, once vehicles have entered the U.S. market.	A scheme under which only EVs are assembled in North America, or with a minimum share of locally sourced critical minerals, qualifies for a generous tax credit, while otherwise imported EVs are excluded and face a systematically worse competitive position.

2.2 SCM Agreement and related instruments

The Agreement on Subsidies and Countervailing Measures ('SCM Agreement') offers the core legal structure of categorising and penalising EV-related subsidies and the organisation of the trade remedy reaction to foreign subsidisation. Article 1 describes a subsidy as a situation that includes both a financial contribution by a government or a public entity, including direct transfer of funds, forfeited government revenue, or provision of goods or services other than general infrastructure, and the granting of a benefit on the beneficiary (Rubini, The Definition of Subsidy and State Aid: WTO and EC Law in Comparative Perspective, Oxford University Press, 2009). Article 2 presents a notion of specificity, stating that the subsidy must be specific to an enterprise, industry or a group of enterprises or industries to qualify as a subject of the disciplines of the Agreement. When a measure is a specific subsidy, Article 3 prohibits so-called prohibited subsidies, including subsidies that are conditional, in law or in fact, upon export performance, or upon the use of domestic over imported goods, and actionable subsidies which have adverse effects, such as injury to the domestic industry of a member state, nullification or impairment of

benefits, or serious prejudice on the marketplace (Leonelli, Green Industrial Policy and WTO Subsidy Disciplines, 2024).

EV-related tax credit and clean energy support measures, including those in the Inflation Reduction Act ('IRA'), have been examined as contingent in fact, subject to the condition of domestic over imported goods, whereby the eligibility is based on local content requirements of battery components or critical minerals (Pashley, Local Content Requirements and WTO Law, 2023; Leonelli, Green Industrial Policy and WTO Subsidy Disciplines, 2024). In this instance, this subsidy is conditional on the origin of inputs and falls squarely within the prohibition of import substitution subsidies in SCM Agreement Article 3.1(b), which initiates an obligation to eliminate the measures under Article 3.2. Even in cases where the measures are not strictly prohibited, they can be actionable in case they have undesirable effects on other members, such as by replacing or hindering imports of foreign EVs in the market of the subsidising member (Wu and Salzman, 'The Next Generation of Trade and Environment Conflicts: The Rise of Green Industrial Policy' (2014) 108 Northwestern University Law Review 401). These doctrinal assessments have been bolstered by recent WTO dispute settlement results, which determine that a number of clean energy and EV-related tax credits violate SCM Agreement disciplines and have to be eliminated or adjusted within a stipulated time.

The interface between subsidies disciplines and trade remedy tools is important in the case of EV-related imports. The SCM Agreement's homogeneous response to subsidised imports is countervailing duties, which should be in accordance with Part V of the Agreement, which stipulates open investigation, determination of subsidisation and injury, and reasonable calculation of the duty (Rubini, The Definition of Subsidy and State Aid, 2009). Anti-dumping measures, which are regulated by the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 ('Anti-Dumping Agreement'), can also be applied in case the importing member is convinced that EVs are sold at a lower-than-normal value, but strict procedural and substantive conditions are enforced (Van den Bossche and Zdouc, The Law and Policy of the World Trade Organization, 4th edn, Cambridge University Press, 2017). In comparison, unilateral surcharges that are imposed under local laws like Section 301 of the Trade Act of 1974 and without the countervailing duty or anti-dumping procedures, do not augur well with the anticipation that members will deal with foreign subsidisation using multilateral remedies availed by the SCM Agreement and Anti-Dumping Agreement (Zafar, Section 301 and Multilateral Trade Remedies, 2025). It is one of the causes that EV-specific Section 301 tariffs are being criticised as not only legally, but also institutionally, problematic.

Outside of the SCM Agreement, the design of EV support policies is also involved with other WTO instruments. The Agreement on Trade-Related Investment Measures ('TRIMs Agreement') outlaws any investment measures that are inconsistent with General Agreement on Tariffs and Trade 1994 ('GATT 1994') Articles III or XI, such as local content and trade-balancing requirements (Charnovitz, 'GATT and the Environment: Examining the Issues' (1991) 4 International Environmental Affairs 203). The need to have local content or domestic value addition requirements in EV-related incentives — including the need to procure a certain percentage of components or critical minerals domestically or by a preferred partner to qualify as a tax credit — are typical TRIMs Agreement-inconsistent measures and have been ruled to have breached Article 2.1 in previous cases. Moreover, the Agreement on Technical Barriers to Trade ('TBT Agreement') applies to technical regulations and standards of EV safety, emissions, charging infrastructure and performance. The TBT Agreement does not govern tariffs, but it provides that technical regulations must not be more trade-restrictive than necessary to fulfil a legitimate purpose and that they must not be discriminatory of domestic and imported products or products of different members (Howse and Regan, 'The

Product/Process Distinction — An Illusory Basis for Disciplining "Unilateralism" in Trade Policy' (2000) 11 European Journal of International Law 249). To the extent that technical regulations are adopted or implemented in a way that, in combination with tariffs and subsidies, they structurally benefit domestic EV producers, they can strengthen the impression of a protectionist green industrial policy architecture.

2.3 General Exceptions and Systemic Considerations

It is possible to defend some of the U.S. actions in the EV sector, at least to the extent of argument, under the general exceptions in GATT 1994 Article XX. Sub-paragraph (b) includes actions that are necessary to safeguard human, animal or plant life or health, whereas sub-paragraph (g) includes actions that are related to the preservation of exhaustible natural resources, provided that the actions are effective in conjunction with the restrictions on domestic production or consumption (Howse, 'The Appellate Body Rulings in the Shrimp/Turtle Case: A New Legal Baseline for the Trade and Environment Debate' (2002) 27 Columbia Journal of Environmental Law 491). Policies addressing climate change aspects that seek to accelerate the shift to low-emitting transport and cut greenhouse gas emissions can be argued as falling within the wide scope of GATT 1994 Article XX(b) and (g), as long as the measures are appropriately designed and proportional to the environmental goal (Wu and Salzman, 'The Next Generation of Trade and Environment Conflicts' (2014) 108 Northwestern University Law Review 401). Nevertheless, though a measure falls within one of the sub-paragraphs, it must also meet the chapeau of GATT 1994 Article XX — the ban on application that leads to arbitrary or unjustifiable discrimination between countries where the same conditions apply or a disguised restriction on international trade (Howse, 'The Appellate Body Rulings in the Shrimp/Turtle Case' (2002) 27 Columbia Journal of Environmental Law 491).

The WTO jurisprudence on environment-related trade measures, including the United States — Standards for Reformulated and Conventional Gasoline (WT/DS2/AB/R) and United States — Import Prohibition of Certain Shrimp and Shrimp Products (WT/DS58/AB/R) reports, reveals that members are free to seek environmental goals using restrictive trade measures, yet the legality of such measures largely depends on how they are designed and applied (Howse and Regan, 'The Product/Process Distinction' (2000) 11 European Journal of International Law 249). Specifically, panels and the Appellate Body have questioned the application of ostensibly environmental measures in a non-discriminatory fashion, the application of adequate procedural protection to trading partners affected, and whether there are less trade-restrictive means of achieving the same purpose. A tariff on Chinese origin EVs of a 100% duty, but leaving like EVs of other origins largely unchanged, would have an uphill fight in proving compliance with the GATT 1994 Article XX chapeau, should the environmental rationale be available by other origin-neutral measures, such as economy-wide carbon pricing, fuel economy standards, or technology-neutral subsidies (Leonelli, Green Industrial Policy and WTO Subsidy Disciplines, 2024). Such a mixture of origin-specific tariffs and local content-tied subsidies thus lies at the core of a normative dilemma: local governments aim to employ trade policies to develop domestic green sectors and ensure supply chains, but the multilateral trading system rests on the principles of non-discrimination, predictability and gradual elimination of trade barriers (Wu and Salzman, 'The Next Generation of Trade and Environment Conflicts' (2014) 108 Northwestern University Law Review 401; Zang, WTO Consistency of the Section 301 Tariffs, 2018).

It is at this point that a Listian lens can come in handy. The theory of productive power and infant industry protection as proposed by Friedrich List offers conditional legitimacy to the temporary protection of strategic sectors as long as they are time-limited, development-focused and ultimately oriented to the integration into the liberalising system

of trade (List, The National System of Political Economy, Longman, 1841, reprinted Kelley, 1983). When such criteria are applied to EV-specific tariffs and subsidies, two tests are forced: first, are these programs in compliance with black-letter GATT 1994 and SCM Agreement regulations; and second, even in the event that they were to pass the legal test, are they normatively justifiable as programs of true green industrial development and not as rent-seeking disguised as environmentalism (Chang, Kicking Away the Ladder: Development Strategy in Historical Perspective, Anthem Press, 2002). This two-pronged question — doctrinal legality and Listian legitimacy — can be utilised by your paper as a way of organising the argument.

3 Legal Characterization of the U.S. Measures

3.1 Classification of the EV-related tariffs

The new U.S. tariffs on Chinese electric vehicles (EVs) can be categorized along three dimensions in accordance with the three analytical sub-points that you have identified in a WTO law perspective. To begin with, they are in the form of an addition to the already applied MFN tariffs. The Section 301-based quota of 25 percent to 100 percent on Chinese origin EVs operates, in practical trade terms, as an increase in the amount of the custom duty imposed on the concerned tariff lines. The key legal issue is that on the combination of the ordinary MFN duty with the Section 301 ad valorem surcharge, the resulting rate is either within or rather above the bound rate inscribed on the U.S. Schedule under General Agreement on Tariffs and Trade 1994 ('GATT 1994') Article II:1(b) (Jackson, The World Trading System: Law and Policy of International Economic Relations, MIT Press, 1997; Van den Bossche and Zdouc, The Law and Policy of the World Trade Organization, 4th edn, Cambridge University Press, 2017). When the aggregate rate is higher than the binding, the action is prima facie contrary to GATT 1994 Article II:1(b), despite it being called a Section 301 action by domestic legal authority under the Trade Act of 1974 or the policy justification used in its defence (Jackson, The World Trading System, 1997).

Secondly, the actions serve as discriminatory taxes with the specific target of Chinese EVs. They do not take the form of across-the-board MFN increases across all imported EVs but rather are focused on products of a single origin. It is this origin specificity that ties them to the most favoured nation requirement of GATT 1994 Article I:1: any advantage, favour, privilege or immunity given to a product of a country has to be granted without condition or delay to similar products of all other Members (Horn and Mavroidis, The WTO Case Law of 2001, Cambridge University Press, 2001). A 100 percent duty imposed solely on EVs of Chinese origin, with similar EVs of other Members taxed at far lower rates under GATT 1994 Article I:1, is consistent with the pattern of a selective tax and cannot easily be justified by the presence of an applicable exception or a waiver (Horn and Mavroidis, The WTO Case Law of 2001, 2001; Gil, Section 301 and the WTO, 2024).

Thirdly, the measures have no organisation as classic remedial duties — that is, countervailing or anti-dumping duties — based on subsidy or dumping findings. Countervailing duties must comply with the procedural and substantive requirements of Part V of the Agreement on Subsidies and Countervailing Measures ('SCM Agreement'), such as an inquiry, testimony of subsidisation, injury, causal relationship, and an appropriately calculated duty (Rubini, The Definition of Subsidy and State Aid: WTO and EC Law in Comparative Perspective, Oxford University Press, 2009; Van den Bossche and Zdouc, The Law and Policy of the World Trade Organization, 2017). Anti-dumping acts are also limited through the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 ('Anti-Dumping Agreement'). In comparison, Section 301-type surcharges under the Trade Act of 1974 are bilateral responses based on general assertions of unfair trade, rather than the disciplined, case-specific remedies of WTO-consistent trade (Pauwelyn, The Rule of Law Without the Rule of Lawyers?, 2014).

They should legally be described as unilateral retaliatory tariffs, instead of SCM Agreement or Anti-Dumping Agreement-based remedial measures (Van den Bossche and Zdouc, The Law and Policy of the World Trade Organization, 2017).

Table 2 - WTO Legal Analysis of U.S. Section 301 Tariffs on Chinese Electric Vehicles

Dimension	How the measure operates	Key WTO provision engaged	Core legal issue / test
(1) Increase in applied MFN tariff	Section 301 raises the ad valorem duty on Chinese-origin EVs from 25% to 100%, effectively increasing the applied customs duty on the relevant tariff lines.	GATT 1994, Art. II:1(b) (bound-tariff commitments)	Combine the ordinary MFN duty with the Section 301 surcharge and compare the consolidated rate to the bound rate in the U.S. Schedule; if the bound rate is exceeded, there is a prima facie inconsistency with Art. II:1(b), irrespective of the domestic legal label or policy rationale.
(2) Origin-specific surcharge on Chinese EVs	The higher rate is imposed only on EVs "from China"; like EVs from other WTO members continue to face significantly lower MFN tariffs.	GATT 1994, Art. I:1 (MFN)	A 100% duty limited to Chinese-origin EVs constitutes origin-specific differentiation among like products; absent a valid exception (e.g. safeguard, security, waiver), this selective surcharge is difficult to square with the MFN requirement to extend any advantage "immediately and unconditionally" to all members.
(3) Unilateral retaliatory tariff, not a WTO-disciplined trade remedy	The surcharges are not designed as countervailing or anti-dumping duties and are not based on the procedural findings required under the SCM or Anti-Dumping Agreements.	SCM Agreement Part V; Anti-Dumping Agreement; general WTO remedial architecture	No prior investigation, no formal determination of subsidisation/dumping, injury and causation, and no attempt to calibrate the duty to the subsidy or dumping margin; the measure is more accurately described as a unilateral retaliatory tariff under Section 301 than as a WTO-consistent trade-remedy duty.

3.2 De jure and de facto discrimination against Chinese EVs

These measures have de jure and de facto discrimination issues based on GATT 1994 Articles I and III due to the structure of these measures. The de jure discrimination at the

border is also apparent: the legal instruments specifically designate goods of Chinese origin and impose a higher rate of customs duty on them than on similar goods imported by other WTO Members. That differentiation, which is based on origin, is encoded within the law itself; it is not a by-product of a facially neutral measure. It is therefore de jure origin discrimination subject to General Agreement on Tariffs and Trade 1994 ('GATT 1994') Article I:1 (Horn and Mavroidis, The WTO Case Law of 2001, Cambridge University Press, 2001; Jackson, The World Trading System: Law and Policy of International Economic Relations, MIT Press, 1997).

The comparison may be organised according to three relations. To begin with, in the situation of the comparison of Chinese EVs and other EVs of the Members at the border, where Chinese EVs have been subjected to a 100% duty and the EVs of the European Union, Korea or Japan are subjected to the regular MFN duty, there is evident differentiation between the origin-specific products, which is the essence of the MFN problem under GATT 1994 Article I:1 (Horn and Mavroidis, The WTO Case Law of 2001, 2001). Second, during the comparison between Chinese EVs and domestic EVs in the internal market, the problem of national treatment under GATT 1994 Article III is created. After the vehicles have passed customs, domestic EVs also receive internal tax credits, purchase incentives and regulatory advantages related to local content or assembly requirements, whereas imported Chinese EVs do not receive these incentives or face serious practical barriers to receiving them; the net effect is that imported EVs receive less favourable treatment in terms of internal taxes and regulations (Jackson, The World Trading System, 1997; Van den Bossche and Zdouc, The Law and Policy of the World Trade Organization, 4th edn, Cambridge University Press, 2017). Thirdly, under internal measures, in the comparison of Chinese EVs and other imported EVs, certain foreign vehicles meet some criteria of a friendly origin or content — such as being assembled in a partner who shares a free trade agreement or meeting the requirements of critical minerals sourcing — and are therefore granted credits that Chinese origin EVs do not receive. This amounts to de facto discrimination against foreign suppliers and reinforces the premise that the regime disfavours Chinese EVs other than what is absolutely required as a legitimate measure of environmental promotion (Vanduzer and Pashley, Trade Law and Green Industrial Policy, 2025; Wu and Salzman, 'The Next Generation of Trade and Environment Conflicts: The Rise of Green Industrial Policy' (2014) 108 Northwestern University Law Review 401). Combined, the entire framework encompasses de jure discrimination at the border and de facto discriminatory impacts in the internal market, which forms a stratified pattern of less favourable treatment of Chinese EVs in comparison with domestic EVs and, in comparison, with other foreign EVs (Van den Bossche and Zdouc, The Law and Policy of the World Trade Organization, 2017).

Table 3 - De jure and de facto discrimination against

Level / comparison	Type of discrimination	Relevant GATT provision	How the measure operates	Effect on Chinese EVs
Border treatment of Chinese EVs vs other Members' EVs	De jure origin discrimination	Art. I:1 (MFN)	The legal instruments explicitly single out "goods of Chinese origin" and apply a 100% customs duty, while like EVs from the EU,	Chinese EVs are, by law, placed at a clear tariff disadvantage compared with like EVs from other origins;

			Korea or Japan continue to face only the ordinary MFN rate.	the origin-based differentiation is built into the measure itself, not merely an incidental effect.
Internal treatment of Chinese EVs vs domestic EVs	De facto less favourable treatment of imports	Art. III:2, III:4 (national treatment)	After customs clearance, domestic EVs enjoy internal tax credits, purchase incentives and regulatory advantages that are tied to local-content or domestic assembly criteria, whereas imported Chinese EVs typically cannot satisfy these conditions in practice.	Imported Chinese EVs face a systematically worse position in respect of internal taxes and regulations than otherwise like domestic EVs, amounting to less favourable treatment in the internal market.
Internal treatment of Chinese EVs vs other imported EVs	De facto discrimination among foreign suppliers	Art. I:1 (MFN) and Art. III (in combination)	Some foreign EVs qualify for credits because they are assembled in "friendly" FTA partners or meet critical-minerals sourcing rules, while Chinese-origin EVs are excluded from the same advantages.	Among imported EVs, Chinese products are singled out for exclusion from beneficial schemes, strengthening the argument that the regime disadvantages Chinese suppliers beyond what is necessary for any legitimate environmental aim.
Overall pattern	Layered de jure + de facto discrimination	Art. I:1 and Art. III together	High, origin-specific tariffs at the border plus origin- and content-contingent internal advantages create a complex web of less	Chinese EVs are disadvantaged both at the point of import and within the internal market, compared to

			favourable treatment.	domestic EVs and to other foreign EVs, producing a cumulative discrimination pattern.

3.3 Parallel subsidies and asymmetric competitive landscape (SCM and GATT III)

In parallel with the tariff actions, the United States has established a comprehensive system of subsidies, tax credits and local content-associated incentives on domestic EV production and deployment. These include tax credits on qualifying clean vehicles based on North American final assembly and minimums on local or friend-shored battery components and critical minerals, and EV production and investment credits, which give a significant preference to local manufacturing facilities and supply chains (Vanduzer and Pashley, Trade Law and Green Industrial Policy, 2025; Wu and Salzman, 'The Next Generation of Trade and Environment Conflicts: The Rise of Green Industrial Policy' (2014) 108 Northwestern University Law Review 401). The majority of these measures are likely to be considered as subsidies in the meaning of Agreement on Subsidies and Countervailing Measures ('SCM Agreement') Article 1, since they require monetary input by a governmental agency and provide a benefit to beneficiaries, and are specific to some enterprises or industries — for example, EV and battery producers — in the meaning of SCM Agreement Article 2 (Rubini, The Definition of Subsidy and State Aid: WTO and EC Law in Comparative Perspective, Oxford University Press, 2009). In other cases, especially where the eligibility condition depends on the use of domestic over foreign goods, they are like prohibited import substitution subsidies under SCM Agreement Article 3.1(b), which must be eliminated (Rubini, The Definition of Subsidy and State Aid, 2009; Vanduzer and Pashley, Trade Law and Green Industrial Policy, 2025).

Simultaneously, EV-related tax credits and purchase incentives under General Agreement on Tariffs and Trade 1994 ('GATT 1994') Article III, which are conditional upon local content or assembly requirements, confer internal benefits on domestic EVs and upon EVs that use preferred inputs which imported Chinese EVs cannot reasonably match, changing the terms of competition in the domestic market to the disadvantage of imported EVs (Jackson, The World Trading System: Law and Policy of International Economic Relations, MIT Press, 1997; Van den Bossche and Zdouc, The Law and Policy of the World Trade Organization, 4th edn, Cambridge University Press, 2017). This is hard to reconcile with the need that imported products should be treated no worse than similar domestic products. High Chinese EV border tariffs combined with domestic subsidies and credits tied to local content and assembly requirements create an asymmetric competitive situation: at the border, punitive tariffs push Chinese EVs out of the market, whereas in the domestic market, U.S. and preferred foreign EVs are drawn even further forward by subsidies and tax benefits (Wu and Salzman, 'The Next Generation of Trade and Environment Conflicts' (2014) 108 Northwestern University Law Review 401; Vanduzer and Pashley, Trade Law and Green Industrial Policy, 2025). In WTO terms, such a two-pillar architecture heightens the issue of MFN and national treatment breach under GATT 1994 Articles I and III and places much of the subsidy architecture squarely in either the prohibited or actionable category of the SCM Agreement (Rubini, The Definition of Subsidy and State Aid, 2009; Wu and Salzman, 'The Next Generation of Trade and Environment Conflicts' (2014) 108 Northwestern University Law Review 401). This is why the current literature describes the U.S. EV package as not a balanced climate action, but as a paradigm example of green

industrial policy that stretches the boundaries of the current WTO subsidy and non-discrimination disciplines (Wu and Salzman, 'The Next Generation of Trade and Environment Conflicts' (2014) 108 Northwestern University Law Review 401).

Table 4 - WTO Legal Characterisation of U.S. Electric-Vehicle Trade and Subsidy Measures

Measure type	Legal characterisation	Main WTO provisions engaged
100% tariff on Chinese-origin EVs	Increase in applied tariff; origin-specific surcharge (not framed as CVD/AD)	GATT II:1(a)–(b) (bindings), GATT I:1 (MFN)
Lower MFN rate on non-Chinese EVs	Baseline MFN treatment for like products	GATT I:1 (comparative benchmark)
Clean-vehicle tax credits with local-content/assembly conditions	Specific subsidies, potentially import-substitution-contingent	SCM Arts 1–3; GATT III:2, III:4; TRIMs Art 2.1
Production/investment credits for domestic EV/battery plants	Specific subsidies favouring domestic industry	SCM Arts 1–2, 5–6; GATT III:4 (if linked to internal measures)

4 WTO-Law Appraisal

4.1 Possible infractions in the GATT 1994 and the SCM Agreement.

In terms of tariff bindings, the most important issue is whether the cumulative duty on Chinese origin electric vehicles is more than the maximum (bound) rate that the United States has allocated under General Agreement on Tariffs and Trade 1994 ('GATT 1994') Article II:1(b). Under WTO practice, any duty exceeding the ordinary duty that a member has bound is a violation, notwithstanding the domestic legal term affixed to the measure or the policy intent that underlies it (Jackson, The World Trading System: Law and Policy of International Economic Relations, MIT Press, 1997). In the event that the combination of the ordinary MFN rate and the additional EV-specific surcharge presently applied to Chinese vehicles leads to an integrated rate exceeding the applicable binding, the measure would be prima facie inconsistent with GATT 1994 Article II:1(b) unless an agreed exception or the formal renegotiation procedures in Article XXVIII apply. That is why legal examination of unilateral tariff increases focuses on the point that the key comparison is between the ultimate, effective ad valorem load on the product and the bound rate inscribed in the Schedule of the Member, rather than the domestic statutory foundation of the rise (Van den Bossche and Zdouc, The Law and Policy of the World Trade Organization, 4th edn, Cambridge University Press, 2017).

Simultaneously, the most favoured nation obligation of GATT 1994 Article I:1 is directly involved in that the increased tariff is imposed on imports of EVs produced in China. Article I:1 stipulates that any benefit, favour, privilege or immunity given to a product of a country be given likewise and without any negotiation to similar products in the territories of all other WTO Members (Horn and Mavroidis, The WTO Case Law of 2001, Cambridge University Press, 2001). Practically speaking, keeping a lower tariff on EVs of some origins and a significantly higher tariff on similar EVs of a specific origin will be an advantage in MFN jurisprudence. When Chinese origin EVs are charged a 100 percent duty and similar

products from, say, the European Union or Japan still enter at a much lower MFN charge, the level of competition against Chinese products is not only aggravated but is so based on their origin. The said pattern conforms to the common pattern of MFN-inconsistent discrimination that WTO members have been found guilty of violating in previous disputes involving origin-specific tariffs and preferences (Horn and Mavroidis, The WTO Case Law of 2001, 2001).

Issues of national treatment under GATT 1994 Article III are generated when it is necessary to focus on the internal fiscal and regulatory conditions that rule sales of EVs. Article III:2 does not allow any internal taxes or duties levied on imported goods in excess of those levied on similar domestic goods, whereas Article III:4 imposes the non-discrimination requirement on laws, regulations and requirements on the internal sale, purchase, distribution or use of goods (Jackson, The World Trading System, 1997). It is accepted in the case law and the most popular commentary that the intention is to protect equality of competitive terms but not the identity of the measures per se (Van den Bossche and Zdouc, The Law and Policy of the World Trade Organization, 2017). Domestic manufacturers in the EV scenario enjoy tax credits and purchase incentives whose eligibility is conditional on factors including North American final assembly and minimum percentages of battery components or critical minerals sourced within the U.S. or a limited set of partners; legal interpretation of the clean vehicle provisions has highlighted that imported EVs, and especially Chinese EVs, do not usually meet these conditions and thus fail to enjoy corresponding benefits domestically (Vanduzer and Pashley, Trade Law and Green Industrial Policy, 2025). In the event that internal tax incentives are systematically so configured as to favour domestic EVs and discriminate against imported EVs, the United States is giving imported products treatment that is less favourable than that given to like domestic products, in violation of GATT 1994 Article III:2 and III:4.

The subsidy component of the U.S. regime has its own problems under the Agreement on Subsidies and Countervailing Measures ('SCM Agreement'). The EV-related tax credits, production incentives and investment subsidies offered under the Inflation Reduction Act ('IRA') and other instruments of this nature usually include a financial contribution by the state in the form of tax relief or direct support that imparts a benefit to the beneficiaries; that makes them a form of subsidy in the meaning of SCM Agreement Article 1 (Rubini, The Definition of Subsidy and State Aid: WTO and EC Law in Comparative Perspective, Oxford University Press, 2009). Since these measures concern certain sectors — i.e., EV manufacturers, battery manufacturers and related infrastructure — they are specific in the sense of SCM Agreement Article 2. The perceived concerns are even greater where the entitlement to a tax credit is conditional, either de jure or de facto, on the utilisation of domestic inputs or the satisfaction of domestic assembly conditions. Legal studies on the clean vehicle tax credits have suggested that those terms are quite similar to the import substitution subsidies that SCM Agreement Article 3.1(b) states are forbidden and can be withdrawn at any time (Vanduzer and Pashley, Trade Law and Green Industrial Policy, 2025). Where the strict contingency test is not satisfied, EV support schemes which have the effect of causing the displacement of imports in a significant way or otherwise result in serious prejudice against the interests of other Members may be considered as actionable subsidies under SCM Agreement Articles 5–7 and are subject to challenge and possible countermeasures (Rubini, The Definition of Subsidy and State Aid, 2009). Taken together, these EV-specific tariffs and the web of internal tax incentives and subsidies based on local content and domestic production produce a thick set of plausible violations of GATT 1994 Articles II, I and III, as well as the fundamental SCM Agreement disciplines.

4.2 Justification and Defences

The issue as to whether these measures can still be justified under the WTO system necessitates a review of GATT 1994 Article XX and, more speculatively, of Article XXI and wider systemic arguments. GATT 1994 Article XX(b) and (g) allow members to act in ways necessary to safeguard human, animal or plant life or health, and to take action to conserve exhaustible natural resources, but they must be used in conjunction with domestic restrictions. These provisions have been used to defend environmental and climate-related trade measures in earlier cases, and the Appellate Body has accepted that environmental protection may be a legitimate objective under Article XX (Howse, 'The Appellate Body Rulings in the Shrimp/Turtle Case: A New Legal Baseline for the Trade and Environment Debate' (2002) 27 Columbia Journal of Environmental Law 491). One could even imagine that a government could introduce EV tariffs and related measures as an instrument to reduce the speed of decarbonisation and protect human health. GATT 1994 Article XX, however, is a two-stage test, which requires the measure to fall into one of the sub-paragraphs and then meet the chapeau — the ban on arbitrary or unjustifiable discrimination between countries where the same conditions are present and disguised restrictions on international trade (Howse and Regan, 'The Product/Process Distinction — An Illusory Basis for Disciplining "Unilateralism" in Trade Policy' (2000) 11 European Journal of International Law 249). Origin-specific tariffs which target EVs of Chinese origin with a 100 percent tariff but provide similar EVs of other Members with minimal or no impact are hard to describe as measures that are both necessary to and relating to environmental protection, rather than measures of economic coercion. Even more difficult is to demonstrate that such a pattern of discrimination is not arbitrary, nor can it be explained by other factors, especially in the context of the existence of more neutral origin climate instruments, including carbon pricing, performance standards and technology-neutral subsidies (Wu and Salzman, 'The Next Generation of Trade and Environment Conflicts: The Rise of Green Industrial Policy' (2014) 108 Northwestern University Law Review 401). For these reasons, most commentators consider a successful GATT 1994 Article XX defence of origin-targeted EV tariffs as unrealistic.

Another potential, yet controversial, avenue is the national security exception under GATT 1994 Article XXI. Article XXI permits members to take such measures as they deem necessary to the protection of their essential security interests in defined circumstances, such as war or other emergency in international relations. According to recent reports by WTO panels, although there is some latitude in the application of Article XXI by members, this latitude is not unrestricted, and panels can consider whether the circumstances described qualify as an emergency in international relations, as opposed to normal trade or industrial competition (Van den Bossche and Zdouc, The Law and Policy of the World Trade Organization, 2017). Repackaging EV tariffs and origin-specific subsidies as security measures to cushion supply chains or technological advantages would thus be legally dubious and would face strong questioning and political opposition. In addition to exceptions, more general assertions that current WTO subsidy disciplines are unproductive to green industrial policy have featured in academic discussion and policy proposals, which are not yet recognised in the form of legal defences. The SCM Agreement continues to regard import substitution subsidies as prohibited and actionable subsidies as challengeable (Rubini, The Definition of Subsidy and State Aid, 2009; Wu and Salzman, 'The Next Generation of Trade and Environment Conflicts' (2014) 108 Northwestern University Law Review 401).

Lastly, any appraisal should be interpreted in the present condition of WTO dispute settlement. All the fundamental requirements in GATT 1994 and the SCM Agreement are still in place and can be approved; panels may also be established, make reports, and advise that non-conforming action be brought within the bounds of conformity. Meanwhile, the

stalemate in the appointment of Appellate Body members has weakened the traditional two-tier system, which grants legal finality, making it more reliant on political will and mutual pressure than on authoritative appellate rulings (Pauwelyn, The Rule of Law Without the Rule of Lawyers?, 2020). This does not eliminate the legal weakness of the U.S. EV actions — adverse panel results would still have a normative effect and could potentially be used to retaliate — but it does imply that the preventive effect of WTO law on the green industrial policies of major powers is less powerful than it was ten years ago. In this regard, the U.S. EV regime does not only push the limits of GATT 1994 and the SCM Agreement to their substantive limits, but also the strength of the WTO enforcement system itself.

5 Green Industrial Policy (Doctrinally Oriented): Friedrich List

The political economy proposed by Friedrich List is based on the contrast between exchange value and productive power: according to the author, the temporary benefits of trade are not the decisive factor of the wealth of a country, but the long-term evolution of its productive forces in industry, agriculture and infrastructure (List, The National System of Political Economy, Longman, 1841, reprinted Kelley, 1983). In The National System of Political Economy, List presents the infant industry argument in its archetypal nineteenth-century version: late-industrialising nations may rightfully defend nascent manufacturing industries until they have developed enough technological and organisational strength to face foreign competition (List, The National System of Political Economy, 1841/1983; Shin, The Political Economy of Industrial Policy, 2015). More importantly, this kind of protection is only envisioned as a transitional and developmental process: protection is only justified insofar as it fosters the development of industries that will ultimately succeed under conditions of freer trade, rather than as a long-term defence of non-competitive incumbents. List also stipulates a series of liberalisation and protection: the first step is agricultural and commercial development to prepare the ground, the second step is protection to accumulate manufacturing strength, and only after a country has caught up can it fully adopt free trade, and even preach it to others (List, The National System of Political Economy, 1841/1983; Chang, Kicking Away the Ladder: Development Strategy in Historical Perspective, Anthem Press, 2002). This sequencing provides his theory with a time-limited, dynamic nature that is the core of any Listian interpretation of modern industrial policy.

5.1 List and Evaluative Criteria of Green Industrial Policy

The conversion of these Listian ideas into assessable principles of trade-restrictive green industrial policies generates at least three tests that are doctrinally useful. The first is that of temporariness, which in modern law and policy may be operationalised in terms of sunset provisions, review processes and well-defined phase-out routes. Indefinite protection, or protection that cannot be credibly removed, is contrary to List himself insisting that tariffs were a transitional measure and not a permanent institution (List, The National System of Political Economy, 1841/1983; Chang, Kicking Away the Ladder, 2002). The second is a provable connection to productive power development — in this case, the domestic technological and manufacturing forces in low-carbon sectors. To be Listian, a tariff or subsidy must be traceable in that it causes learning by doing, technological upgrading, deepening of the domestic value chain, or other long-term capacity-building impacts, rather than simply transferring rents to incumbent firms (Shin, The Political Economy of Industrial Policy, 2015; Wu and Salzman, 'The Next Generation of Trade and Environment Conflicts' (2014) 108 Northwestern University Law Review 401). The third is proportionality in consideration of long-term competitiveness and global welfare. List is unapologetically national in his framework, yet his comment on kicking away the ladder

suggests that protection of one state should not be exploited with the sole purpose of entrenching its benefits without giving other states the developmental space that it enjoyed (Chang, Kicking Away the Ladder, 2002). Proportionality, in a green transition environment where climate stability is a global public good, would involve the question of whether a particular measure in an industrial policy conducive to decarbonisation is reasonably balanced with its trade-restrictive and distributional impacts, including on emerging competitors (Rodrik, Green Industrial Policy, 2014; Wu and Salzman, 'The Next Generation of Trade and Environment Conflicts' (2014) 108 Northwestern University Law Review 401).

Combined, these threads imply three practical criteria by which green trade-restrictive measures can be judged: (1) they must be credibly temporary and subject to meaningful sunset or review; (2) they must be closely linked to the construction of domestic green productive power rather than merely redistribution of rents; and (3) they must be proportional, in the sense that they contribute to the global green transition without the effect of being a pure exercise in kicking away the ladder.

5.2 Listian Criteria Applied to U.S. EV-Specific Tariffs

When applied to the U.S. EV-specific tariffs and support measures as evaluated legally in the previous sections, the criteria reveal a significant contradiction between Listian ideals and modern practice. On temporariness, the Section 301-founded tariff increases to 100 percent on Chinese EVs are already announced with no clear, legally binding sunset clauses or a clear route to eliminating the surcharge after industrial or technological standards are achieved. Without such commitments, protection resembles more an open-ended instrument that can be ratcheted either higher or lower as politics sees fit, rather than a transitory instrument tuned to the life cycle of an infant industry. From a Listian perspective, that undermines any argument to the effect that the tariffs are merely a steppingstone to a more competitive, ultimately liberalised U.S. EV industry (List, The National System of Political Economy, 1841/1983; Chang, Kicking Away the Ladder, 2002).

The picture is less clear on the criterion of productive power development. The U.S. EV-related subsidies and tax credits are explicitly aimed at causing investment in domestic battery plants, assembly plants and related supply chains, which is in line with List's focus on developing manufacturing capacity and technological depth (Wu and Salzman, 'The Next Generation of Trade and Environment Conflicts' (2014) 108 Northwestern University Law Review 401; Shin, The Political Economy of Industrial Policy, 2015). But once those subsidies are added to the origin-specific tariffs with which they largely screen out a major foreign competitor, the policy begins to resemble less the nurturing of a weak infant industry and more the protection of the position of an already developed economy against a catching-up competitor. List expressed his own views to nations he perceived to be closing in behind Britain; applying his reasoning to argue that it is a technological leader that should protect itself against another leading industrial nation sits uncomfortably with the historical charge of his argument (List, The National System of Political Economy, 1841/1983; UNCTAD, Trade and Development Report, 2011). Furthermore, when local manufacturers seize aid without any related pledges to innovation, cost savings and future vulnerability to competition, the policies risk slipping into the form of rent-seeking protectionism that List explicitly disavowed.

Lastly, on proportionality and global welfare, the Listian prism is acutely relevant to modern green industrial policy. Punitive tariffs on imports from a significant low-cost producer in a sensitive industry like EVs can reduce the speed of globalisation of low-cost, low-emission vehicles, which will have an adverse effect on decarbonisation schedules, particularly in third-country markets (Wu and Salzman, 'The Next Generation of Trade

and Environment Conflicts' (2014) 108 Northwestern University Law Review 401; Rodrik, Green Industrial Policy, 2014). In this perspective, the U.S. EV regime risks kicking away the ladder twice: first, by limiting the capacity of China to use its existing comparative advantages in green manufacturing to climb higher on the technological ladder; and second, by decreasing the availability of cheap EVs that can speed up the rate of emissions reductions elsewhere (Chang, Kicking Away the Ladder, 2002; Rodrik, Green Industrial Policy, 2014). Although some aspects of the policy package can be justified as the construction of domestic productive power, the mixture of open-ended origin-specific tariffs and extremely lopsided subsidies makes it hard to describe the overall strategy as proportionate in the light of both long-term competitiveness and global welfare.

In this regard, a doctrinally minded Listian appraisal does not merely restate the WTO law critique — it introduces an internal normative questioning. It implies that, although elements of the U.S. EV tariff and subsidy regime might be taken within the confines of the letter of GATT 1994 and the SCM Agreement, they would still fail to meet List's own requirements of legitimate protective industrial policy in a green transition process. That conclusion then leads to the next discussion, whether WTO law needs to be adjusted to accommodate more explicit space for green infant industry, or whether the existing set of rules and practice already reflects the extreme of what Listian protection can possibly authorise.

6 Production of WTO restrictions and Listian standards.

The above discussion creates two different yet overlapping images of the U.S. regime on Chinese electric vehicles. On the one hand, the black-letter appraisal according to General Agreement on Tariffs and Trade 1994 ('GATT 1994') and the Agreement on Subsidies and Countervailing Measures ('SCM Agreement') identifies several possible violations: the rise of tariffs which threaten to violate the bound rate commitment in GATT 1994 Article II:1(b), the treatment of origin specificity that collides with the most favoured nation commitment in Article I:1, and internal tax and other regulatory benefits that are not very comfortable in respect of the national treatment requirement. Conversely, the List-derived normative framework puts greater emphasis on the principle of temporariness, the ability to build productive capacity, and proportionality as the terms under which trade-restrictive industrial policy in strategic sectors — namely, in the context of low-carbon technologies — can be deemed legitimate, though it leaves the strict free trade baseline intact (List, The National System of Political Economy, Longman, 1841, reprinted Kelley, 1983; Chang, Kicking Away the Ladder: Development Strategy in Historical Perspective, Anthem Press, 2002; Wu and Salzman, 'The Next Generation of Trade and Environment Conflicts: The Rise of Green Industrial Policy' (2014) 108 Northwestern University Law Review 401). By joining these two strands together, a three-scenario reading of the U.S. EV tariff package can be made, each with varying implications on its perceived validity in the multilateral trading system and in the developing architecture of climate governance.

6.1 WTO Inconsistent and List Inconsistent (Pure Protectionism)

In the former case, the U.S. measures are considered inconsistent both with WTO law and with List's standards, in such a way that they are closer to pure protectionism. This would be the case legally in the event that panel determinations established that the combined EV-specific tariffs would be in excess of bound rates under GATT 1994 Article II:1(b), the origin-specific design would contravene MFN treatment and national treatment commitments in Articles I and III, and the core aspects of the EV support architecture of the Inflation Reduction Act ('IRA') would constitute prohibited or actionable subsidies under the SCM Agreement. In normative terms, the same measures would fail Listian tests when they are open-ended instead of credibly temporary, when they are mostly transferring

rents to incumbents rather than building productive capacity, and when they demonstrate an undermining effect on the global adoption of affordable EVs, following the advantages of an already advanced economy (List, The National System of Political Economy, 1841/1983; Chang, Kicking Away the Ladder, 2002; Rodrik, Green Industrial Policy, 2014). Within this framework, the American approach would seem to be employing climate industrial rhetoric as a fig leaf for traditional protectionism, undermining the formalities of WTO law and the informal customs of mutual forbearance on which the system is built. In the multilateral trading system, this would undermine U.S. leadership claims based on rules-based trade, would encourage similar conduct in others, and would hasten the shift to fragmented, power-based trade relations (Pauwelyn, The Rule of Law Without the Rule of Lawyers?, 2020). It would sabotage arguments that green industrial policy is compatible with open and cooperative trade and could feed perceptions, especially among the Global South, that climate policy is being instrumentalised to entrench existing hierarchies in green manufacturing (Wu and Salzman, 'The Next Generation of Trade and Environment Conflicts' (2014) 108 Northwestern University Law Review 401; Rodrik, Green Industrial Policy, 2014).

6.2 WTO Dubious but List Consistent (Developmental Green Policy with Legal Overreach)

The latter situation is more unclear and, in a certain sense, more interesting in terms of analysis. In this case, the measures are regarded as WTO-dubious, in the sense that they are very serious under GATT 1994 and the SCM Agreement and can be found inconsistent by panels, yet can be considered consistent with the criteria that List presented regarding developmental green industrial policy. Legally, it would be so in case panels found that certain aspects of the regime, including local content-linked subsidies, contravene SCM Agreement Article 3.1(b), and that origin-specific tariffs are incompatible with MFN, but also recognised that the measures are closely interrelated with a wider decarbonisation policy and are accompanied by strong domestic initiatives to increase EV adoption (Rubini, The Definition of Subsidy and State Aid: WTO and EC Law in Comparative Perspective, Oxford University Press, 2009; Vanduzer and Pashley, Trade Law and Green Industrial Policy, 2025). Normatively, even with the credibly time-bound nature of the measures, they could still pass a Listian test as long as they are intended to develop domestic EV and battery capabilities that would not otherwise arise due to coordination failures, externalities or strategic underinvestment (List, The National System of Political Economy, 1841/1983; Shin, The Political Economy of Industrial Policy, 2015). The U.S. EV regime, in this case, appears as a kind of green form of industrial policy which has overreached its powers: the goal is developmental and climate-based, but the tools cut across the existing multilateral regimes.

The legitimacy implications in this case are more subtle. Such a regime within the WTO would raise questions of whether existing disciplines are sufficient to permit urgent decarbonisation and green catch-up, potentially reinforcing calls for new flexibility or carve-outs for climate-related industrial policy (Leonelli, Green Industrial Policy and WTO Subsidy Disciplines, 2024; Wu and Salzman, 'The Next Generation of Trade and Environment Conflicts' (2014) 108 Northwestern University Law Review 401). Simultaneously, any further or expected findings of inconsistency would be an indication that any such flexibility must arise in the form of negotiated change, rather than reinterpretation by an individual member. In climate governance, it may be described as a hard case, where some actors may consider it a needed provocation to get reform carried out, and some — most notably those that feel left behind by the benefits of such policies — may see it as another situation in which strong states are stretching the rules in the name of the climate and limiting the space of other states to industrialise (Rodrik, Green

Industrial Policy, 2014; UNCTAD, Trade and Development Report, 2011). Legitimacy would then become contingent and contentious: the actions could be normatively justifiable on Listian grounds but legally weak and politically divisive.

6.3 WTO Compliant and List Consistent (Disciplined Green Protection)

The third case envisions a combination of WTO-compliant, List-consistent U.S. measures, which are approximated as a model of legally disciplined, time-bound, capability-enhancing green protection. With this arrangement, EV-related tariffs would not breach bound rates or MFN obligations — for example, by staying within bindings and being applied on an origin-neutral basis, or by shifting away from unilateral surcharges towards WTO-consistent protection or countervailing duties applied in accordance with SCM Agreement procedures (Jackson, The World Trading System: Law and Policy of International Economic Relations, MIT Press, 1997; Van den Bossche and Zdouc, The Law and Policy of the World Trade Organization, 4th edn, Cambridge University Press, 2017). Internal EV support practices would be restructured to prevent local content contingency based on criteria such as neutral performance standards or carbon intensity levels that would be neutral as between domestic and foreign producers, and would mitigate exposure to SCM Agreement Article 3.1(b) and GATT 1994 Article III issues (Rubini, The Definition of Subsidy and State Aid, 2009; Vanduzer and Pashley, Trade Law and Green Industrial Policy, 2025). Simultaneously, Listian criteria would be taken into consideration: support would be accompanied by definite sunset provisions and review points, would be closely tied to quantifiable investments in domestic productive capacity and innovation, and would be configured in a way that would not significantly limit the global spread of affordable low-emission vehicles (List, The National System of Political Economy, 1841/1983; Chang, Kicking Away the Ladder, 2002; Rodrik, Green Industrial Policy, 2014).

In case the U.S. regime were to approximate this third scenario, its legitimacy in the multilateral trading system would be much greater. It would show how a high-reaching green industrial policy can be accomplished inside, or at least at the boundaries of, the current WTO disciplines, with the help of flexibilities that still do not openly violate the main non-discrimination principles (Leonelli, Green Industrial Policy and WTO Subsidy Disciplines, 2024; Wu and Salzman, 'The Next Generation of Trade and Environment Conflicts' (2014) 108 Northwestern University Law Review 401). That, in turn, would provide an example to other Members, even developing countries wishing to establish their own green industries, by demonstrating that a List-style focus on productive power can be compatible with a rules-based order, but at the price of very careful legal design and self-restraint. Such a strategy would be useful in the climate governance arena because it would help to argue that trade and green industrial policy can be mutually reinforced and not mutually undermining, as it would encourage domestic changes and still facilitate the cross-border movement of green technologies and products. The U.S. would then be in a better position to make a good-faith argument for new cooperative agreements on climate-compatible subsidies and a multilateral acknowledgment of a small space for green infant industry.

7 CONCLUSION

This paper has demonstrated that the existing U.S. regime on Chinese electric vehicles is structurally in an uneasy relation with WTO law and at best partially justifiable within the current disciplines. The EV-specific tariff increases, on the black-letter side, would pose a threat to violating the bound rate commitment in GATT 1994 Article II:1(b), and their express concentration on Chinese origin goods would be very problematic in the context of the most favoured nation commitment in Article I:1. GATT 1994 Article III national

treatment requirements are involved in the form of internal tax incentives and regulatory preferences on domestically assembled or so-called friend-shored EVs, and the high density of EV support subsidies invokes the definitional, specificity and prohibition provisions of the SCM Agreement. Combined, the package appears less like a neutral climate instrument and more like a targeted restructuring of competitive conditions to supply EVs, which challenges and, in some respects, seems to exceed the boundaries of WTO non-discrimination and subsidy disciplines. It is on this background that the introduction of a Listian lens brings in a certain form of unique value: the ability to categorise measures not only as legal or illegal, but also as normatively legitimate as regards temporariness, contribution to national productive power, and proportionality about global welfare and the green transition.

Under the prism of the main ideas that List presents, the U.S. regime seems much less justified. The EV tariffs lack obvious temporal discipline and do not have strong sunset provisions and removal conditions that would indicate their temporary infant industry protection as opposed to open-ended shields. There is a partially compatible tariff and subsidy structure, with a definite intention to expand domestic production of EVs and batteries, but with aggressive origin-specific tariffs and very selective support to domestic chains of suppliers, which is not entirely consistent with the original intentions of List of helping late-industrialising countries. Regarding proportionality, the probable outcome of such a restraint on imports from a leading producer of comparatively affordable EVs is to delay the proliferation of clean vehicles worldwide and to augment the sense of kicking the ladder away in the manufacturing of green products. Therefore, although there might be slight modifications in some aspects of the regime to bring it nearer to the edge of GATT 1994 and SCM Agreement compliance, it would still fall short of the tougher Listian test of legitimate protective industrial policy in a world with a tight climate.

These conclusions have explicit implications on the future formulation of green industrial policy within WTO limits, not only for the United States but also for other Members who may consider such action. In the case of the U.S., they indicate a direction of re-engineering the EV package to remove origin-targeted tariffs and local content-contingent subsidies and adopt instruments that are more origin-neutral and performance-based — such as support conditional on emissions cuts, innovation outcomes or diffusion of enabling infrastructure — without necessarily increasing total tariff levels above bound tariff rates. For other Members, and especially those still in the earlier phases of industrial development, the analysis points to the plausibly temporary, narrowly focused policies on green industries aimed at reducing avoidable trade distortions, particularly in those areas where low-cost exports will be able to achieve significant decarbonisation in third countries. Such measures could be more easily packaged as green infant industry policies that do not ignore the letter or the spirit of the multilateral trading system by embedding explicit sunset provisions, transparent review processes, and developmental standards within them.

This paper also indicates several avenues on which further development may proceed upon WTO-consistent templates of green industrial trade measures, doctrinally. One of these strands of work is to clarify and, in some cases, modify the disciplines of the SCM Agreement to better discern between climate-motivated subsidies which are mainly aimed at market failure and those which are disguised subsidies to protect established industries. Another is the expansion of agreed standards of climate-related exceptions under GATT 1994 Article XX standards, which may, for instance, consider the contribution of a measure to global emissions reduction, its distributive effect on late-industrialising countries, and its conformity to Listian conditions of temporariness and capability building. Lastly, Members have an opportunity to explore plurilateral or club-like arrangements that acknowledge a narrow, well-defined space for green industrial policy, perhaps in the form of time-limited

infant industry protection, without compromising fundamental values of non-discrimination and transparency. These templates would not resolve conflict, but they might allow its expression in negotiated structures rather than unilateral escalation, and in the process provide a more sustainable normative and legal framework within which the green transition, as demonstrated by this paper, is so clearly required.

8 Study Implications

In the case of WTO law and dispute settlement, this paper demonstrates that EV-specific tariffs and subsidy schemes may violate a variety of core obligations — GATT 1994 Articles I, II and III; the SCM Agreement; the Agreement on Trade-Related Investment Measures ('TRIMs Agreement'); and the Agreement on Technical Barriers to Trade ('TBT Agreement') — and that future dispute cases will have to consider not only individual measures but also the overall impact of tariff, subsidy and regulatory structures. It also identifies the limited practical room to invoke GATT 1994 Article XX to make the case for origin-specific green industrial action, which supports the significance of origin-neutral, least trade-restrictive climate instruments.

In the case of green industrial policy, it is recommended to abandon blunt, origin-based instruments and adopt instruments consistent with List: time-bound and capability-building support, which is more clearly associated with productive upgrading and eventual integration into open trade than with the protection of incumbents on a permanent basis. The Listian double test formulated in the paper — doctrinal legality plus normative legitimacy — can be used by policymakers as a diagnostic tool in the process of designing or amending EV-related measures.

For China and other impacted trading partners, the paper explains the legal ties and the evidentiary narratives that may be used to support future challenges to EV-related measures, such as how to package layered de jure and de facto discrimination claims and how to refute environmental defences that act as a veiled restraint on trade. Lastly, to widen the discussion on the reform of the multilateral trading system, the results reveal the importance of revising WTO rules and jurisprudence to provide Members with stronger direction on how to balance ambitious climate industrial policies with non-discrimination and predictability in international trade.

9 Future Perspectives for Research

Empirically, subsequent research would be able to develop a comprehensive dataset of EV-related tariffs, subsidies and regulatory interventions implemented by various jurisdictions — the United States, European Union, China, Korea, etc. — and could test the frequency of such actions falling into one of the three categories identified in the study: clearly WTO-inconsistent, legally contestable yet development-oriented, and both WTO-compliant and List-consistent. This would shift the conceptual typology of the paper to a more systematic, comparative evaluation of real policy practice.

Theoretically, the case study allows further speculation on how GATT 1994 Article XX and other exceptions could change in the future in response to industrial pressures on climate, such as the possibility that future adjudicators would acknowledge more origin-sensitive designs in which supply chain security is plausibly linked with environmental objectives. It might also be further developed how it might be possible to reform or redefine SCM Agreement, TRIMs Agreement and TBT Agreement disciplines to suit time-bound green industrial policy without compromising fundamental non-discrimination principles. Lastly, at the conceptual level, the Listian framework elaborated here might be applied outside of EVs to other areas of green industry — hydrogen, solar, or critical minerals — to test whether the same legality/legitimacy matrix serves to differentiate

between productive green industrial policy and protectionism in a wider variety of circumstances.

REFERENCES

1. 'A Guide to the New GATT Agreement' (The Heritage Foundation, 1994) <https://www.heritage.org/trade/report/guide-the-new-gatt-agreement>.
2. 'Biden Administration Imposes Tariffs on Electric Vehicles, Batteries, and Other Products from China' (Venable LLP, 5 June 2024) <https://www.venable.com/insights/publications/2024/06/biden-admin-imposes-tariffs-on-electric-vehicles>.
3. 'China Briefing 16 May 2024: Biden's 100% Tariffs on Chinese EVs and State Media Pushback' (Carbon Brief, 15 May 2024) <https://www.carbonbrief.org/china-briefing-16-may-2024-bidens-100-tariffs-on-chinese-ev-state-media-pushback-xis-europe-trip>.
4. 'Clean Vehicles Tax Credits under the US Inflation Reduction Act' (Indian Journal of International Economic Law, 2023) <https://repository.nls.ac.in/cgi/viewcontent.cgi?article=1152&context=ijiel>.
5. 'New 100% Tariffs on Chinese EVs: Biden's Strategy to Boost American Manufacturing' (US Global Investors, 16 May 2024) <https://www.usfunds.com/resource/new-100-tariffs-on-chinese-evs-bidens-strategy-to-boost-american-manufacturing/>.
6. 'United States Finalizes Section 301 Tariff Increases on Imports from China' (White & Case LLP, 16 September 2024) <https://www.whitecase.com/insight-alert/united-states-finalizes-section-301-tariff-increases-imports-china>.
7. 'US Escalates Trade War with China, Imposes 100% Tariffs on EVs' (Third World Network – Climate Information Service, 15 May 2024) <https://twn.my/title2/climate/info.service/2024/cc240504.htm>.
8. 'US Says Tariff Increases on Chinese EVs, Batteries and Chips to Start 1 August' (Reuters, 22 May 2024) <https://www.reuters.com/markets/us/us-announces-details-higher-china-tariffs-some-start-aug-1-2024-05-22/>.
9. 'US-China Trade Talks Break Down over Inflation Reduction Act Energy Tax Credits' (S&P Global Commodity Insights, 15 July 2024) <https://www.spglobal.com/commodity-insights/en/news-research/latest-news/electric-power/071624-us-china-trade-talks-break-down-over-inflation-reduction-act-energy-tax-credits>.
10. 'USTR Finalizes Action on New and Increased Section 301 Tariffs' (Holland & Knight LLP, 15 September 2024) <https://www.hklaw.com/en/insights/publications/2024/09/ustr-finalizes-action-on-new-and-increased-section-301-tariffs>.
11. 'USTR Finalizes Section 301 Tariffs on Chinese Imports' (BDO USA, 26 March 2026) <https://www.bdo.com/insights/tax/ustr-finalizes-section-301-tariff-hikes-on-chinese-imports>.
12. 'Why This Matters: Section 301 Tariffs on Electric Vehicles' (Roosevelt Institute, 14 May 2024) <https://rooseveltinstitute.org/blog/section-301-tariffs-on-electric-vehicles/>.
13. 'WTO Backs China, Directs US to Roll Back Clean Energy Subsidies' (Mercom India, 1 February 2026) <https://mercomindia.com/wto-backs-china-directs-us-to-roll-back-clean-energy-subsidies>.
14. 'WTO Panel Backs China in Case Against US Clean Energy Subsidies' (Reuters, 30 January 2026)

<https://www.reuters.com/sustainability/climate-energy/wto-panel-backs-china-case-against-us-clean-energy-subsidies-2026-01-30/>.
15. 'WTO: China Initiates Dispute over US Tax Credits for EVs, Renewables' (Reuters via WTAQ, 27 March 2024) <https://wtaq.com/2024/03/28/wto-china-initiates-dispute-over-us-tax-credits-for-evs-renewables/>.
16. 'WTO: China Initiates Dispute over US Tax Credits Provided under IRA' (South–North Development Monitor (SUNS), 31 March 2024)
<https://twn.my/title2/finance/2024/fi240401.htm>.
17. "Howse, R. (2002). The Appellate Body's jurisprudence on Article XX of the GATT: Towards a jurisprudence of 'constitutional justice'? In The World Trade Organization and trade in services (pp. 515–535)."Chang H-J, 'Kicking Away the Ladder: Development Strategy in Historical Perspective' (2002) UNCTAD Discussion Paper (if you are citing the policy/discussion-paper version; otherwise rely on the book citation above and omit this line).
18. Asmelash H, 'US Green Industrial Policy and WTO Law: The Case of the Inflation Reduction Act' (2024) 27 Journal of International Economic Law 501.
19. Chang H-J, Kicking Away the Ladder: Development Strategy in Historical Perspective (Anthem Press 2002).
20. Charnovitz S, 'Exploring the Environmental Exceptions in GATT Article XX' (1991) 25 Journal of World Trade 37.
21. Gil L, 'Electric Vehicle Tariffs by the US, EU, and Canada: Different Approaches and Implications for the WTO' (2024) 28 ASIL Insights 1.
22. Hoekman B and Mavroidis PC, 'MFN Clubs and Scheduling Additional Commitments in the GATT: Learning from the GATS' (2017) 28 European Journal of International Law 387.
23. Horn H and Mavroidis PC, 'Economic and Legal Aspects of the Most-Favoured-Nation Clause' (2001) 17 European Journal of Political Economy 233.
24. Howse R and Regan D, 'The Product/Process Distinction—An Illusory Basis for Disciplining "Unilateralism" in Trade Policy' (2000) 11 European Journal of International Law 249.
25. Jackson JH, The World Trading System: Law and Policy of International Economic Relations (2nd edn, MIT Press 1997).
26. Karp L and Stevenson M, 'Green Industrial Policy: Trade and Theory' (World Bank/UNIDO Policy Paper, 26 January 2012).
27. Leonelli GC, 'Retooling the Regulation of Net-Zero Subsidies' (2024) 27 Journal of International Economic Law 441.
28. List F, The National System of Political Economy (SS Lloyd tr, Augustus M Kelley 1983) (first published 1841).
29. Pashley J, 'Clean Vehicles Tax Credits under the US Inflation Reduction Act: WTO Law Implications' (2023) 15 Indian Journal of International Economic Law 1.
30. Pauwelyn J, 'The End of Differential Treatment for Developing Countries? Lessons from the Trade and Climate Change Regimes' (2014) 23 Review of European, Comparative & International Environmental Law 29.
31. Rodrik D, 'Green Industrial Policy' (2014) 30 Oxford Review of Economic Policy 469.
32. Rubini L, The Definition of Subsidy and State Aid: WTO and EC Law in Comparative Perspective (OUP 2009).
33. Shin H-Y, 'Revisiting Friedrich List's National System of Political Economy' (2015) 4 Economic Thought 20.
34. UNCTAD, 'What Did Frederick List Actually Say? Some Clarifications on Trade and Industrial Policy' (UNCTAD Discussion Paper No 149, 2011).

35. Van den Bossche P and Zdouc W, The Law and Policy of the World Trade Organization (4th edn, CUP 2017).
36. Vanduzer JA and Pashley J, 'Clean Vehicles Tax Credits under the US Inflation Reduction Act: Friend-Shoring Takes Centre Stage in US Policy' (2025) 14 Indian Journal of International Economic Law 1.
37. Wu M and Salzman J, 'The Next Generation of Trade and Environment Conflicts: The Rise of Green Industrial Policy' (2014) 108 Northwestern University Law Review 401.
38. Zafar A, Protectionism, Power, and the Erosion of WTO Discipline: Legal and Economic Lessons from the Trade Wars' (2025) 47 Journal of Policy Modeling 101.
39. Zang B, Do WTO Rules Preclude Industrial Policy? Evidence from the Global Economic Crisis' (2018) 17 World Trade Review 637.
40. 'WTO Panel Rules Against the US in US–IRA (China)' (International Economic Law and Policy Blog, 11 February 2026) <https://ielp.worldtradelaw.net/2026/02/guest-post-talk-the-talk-and-walk-the-walk-wto-panel-rules-against-the-u-s-in-us-ira-china/>.
41. 'US Loses at WTO Against China on Dispute over Preferences' (World Trade Scanner, 29 January 2026) https://worldtradescanner.com/US%20Loses%20at%20WTO%20Against%20China%20on%20Dispute%20Over%20Preferences.htm>.
42. 'Yet Another Green Industrial Policy on Trial at the WTO' (Birmingham Law School Research Blog, 21 April 2024) <https://blog.bham.ac.uk/lawresearch/2024/04/us-inflation-reduction-act-yet-another-green-industrial-policy-on-trial-at-the-wto/>.