U.S. Trade Policy Under President Trump

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Topics

• Defensive Agenda:
  • National Security Investigations (steel, aluminum, autos, & more)
  • Safeguard Actions (solar & residential washing machines)
  • China: Section 301 – IP Theft and Forced Technology Transfers

• Offensive Agenda
  • USMCA/NAFTA 2.0
  • New FTAs with Japan/UK/EU/Kenya
  • India Agreement
Section 232–Steel, Aluminum, Autos & More

• Section 232 gives the executive branch authority to conduct investigations to “determine the effects on the national security of imports”

• Steel and Aluminum
  – DOC submitted its findings and recommendations to the White House on January 11, 2018 (steel) and January 19, 2018 (aluminum)
  – President announced 25 percent tariffs on steel and 10 percent tariffs on aluminum on March 8, 2018
  – Retaliation in Canada, China, and EU
  – WTO disputes: China, the EU, Turkey, Russia, and India.
  – Domestic litigation: Federal Circuit ruled steel tariffs are constitutional
Section 232—Steel, Aluminum, Autos/Parts & More

• Autos & Auto Parts
  – DOC initiated investigation of autos and auto parts May 23, 2018
  – DOC report presented to the President Feb 17, 2019
  – Rumored that report recommends additional tariffs of up to 25% on autos and auto parts
  – President sought negotiations instead of tariffs
  – Mexico, and Canada excluded based on USMCA; Japan and Korea likely excluded
  – EU and China at greatest risk

• Other Products
  – DOC initiated investigation of uranium July 17, 2018 (declined to impose remedy)
  – DOC initiated new investigation on titanium sponge March 4

• Legislation to curb President’s authority
USTR opened an investigation of China under Section 301 and USTR initiated the investigation on August 18, 2017.

Investigation focused on (1) forced technology transfer, (2) mandatory provisions in licensing and other technology contracts, (3) China’s expansion in high-tech sectors, and (4) theft of intellectual property (“IP”) and trade secrets.

Are Chinese practices and policies “unreasonable or discriminatory” and do they “burden or restrict U.S. commerce”? 
Section 301—China IP Theft & Forced Tech Transfer

• USTR made affirmative finding on March 21, 2018 that:
  – China uses joint venture requirements, foreign investment restrictions, and administrative review and licensing processes to require or pressure technology transfer from U.S. companies
  – China deprives U.S. companies of the ability to set market-based terms in licensing and other technology-related negotiations
  – China directs and unfairly facilitates the systematic investment in, and acquisition of, U.S. companies and assets to generate large-scale technology transfer
  – China conducts and supports cyber intrusions into U.S. commercial computer networks to gain unauthorized access to commercially-valuable business information
In response to 301 findings:

- U.S. imposed tariffs on $250 billion Chinese imports in 4 stages.
- China matched each round of U.S. tariffs with tariffs of their own. In total China has announced tariffs on $185 billion in U.S. imports, with the last batch taking effect on September 1 and December 15 to match the U.S.

Why a trade war and why now?

Congress has been uncharacteristically supportive
Section 301—China IP Theft & Forced Tech Transfer

• Comprehensive deal was on the table in May, but Chinese backed off

• U.S. and China signed Phase One deal in December 2019:
  – Reflects de-escalation of trade war
  – Address some structural issues identified in the 301 report
  – Created enforcement mechanism that allows U.S. to retaliate if issues are not resolved
  – Includes a $200 billion commitment for purchases
  – Prohibits China from competitively devaluing its currency

• U.S. deferred indefinitely tariffs on a set of goods that were supposed to take effect December 15 and cut the rate on a $120 billion set from 15% to 7.5%. Left rest of tariffs in place.

• China will halve some tariffs and granted exclusions for certain goods (including hardwoods)
Section 301—China IP Theft & Forced Tech Transfer

• Phase Two Agreement:
  – Cybertheft
  – Subsidies to SOEs
  – Tariffs

• Factors to Watch:
  – Enforcement of Phase One
  – Economy in US/China
  – Corona Virus
  – Election
Renegotiation Of NAFTA/USMCA

• US, Mexico, and Canada signed agreement updating NAFTA Nov. 30, 2018
• Biggest issues
  – Rules of origin for vehicles
  – Investor State Dispute Settlement (ISDS)
  – “Sunset”
• After agreement was signed, Democrats took over House and demanded changes
• Congress approved a revised version of USMCA in December and the President signed January 20, 2020
• Entry Into Force TBD
  – Mexico has ratified changes. Now addressing implementation issues.
  – Canadian Parliament is working on ratification.
Other Trade Agreements

• Japan: Bilateral FTA mini-deal signed a “mini-deal” September 25, 2019

• UK: will move now that Brexit is complete

• EU: indefinitely delayed over disagreements regarding scope (industrial goods only vs agriculture)

• Kenya: USTR expected to send notice of intent to negotiate a deal with Kenya soon

• India: President rejected a mini-deal to address issues that would allow U.S. to restore India’s participation in GSP (duty-free import program for developing countries). Will pursue bigger deal instead.
Questions?

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