# Trade battle lines drawn

## Trump administration plans for tariffs and other measures will impact U.S.-China trade for years to come.

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By Brian Bradley |Wednesday, June 13, 2018

As the Trump administration continues to draft tariffs against what it deems to be unfair trade from China, American shippers and importers are entering a new landscape that will govern the flow of international commerce for years to come.

The last two weeks of May, in particular, brought a furious volley of trade shots fired between the United States and China, both in the form of immediate and broader measures that could impact goods flowing across the Pacific Ocean, including automobiles and auto parts.

The Trump administration on May 29 announced plans to impose 25 percent tariffs on about $50 billion worth of goods in yearly import value from China, just over one week after putting that tariff proposal on hold.

The tariffs are aimed at "industrially significant technology" imports from China, including those related to the "Made in China 2025" program, and are set to be announced by Friday, with tariffs taking effect "shortly thereafter," according to a White House statement.

This comes after a Chinese government delegation visit to Washington on May 17-18 that ended with the United States temporarily dropping its tariff threat in place since March, as stated by Treasury Secretary Steven Mnuchin on cable news.

The Trump administration first proposed the tariffs following an investigation of China's business practices under Section 301 of the 1974 Trade Act completed by the executive branch in March. That statute provides for trade remedies to be imposed in response to unfair business practices maintained by another nation.

After the U.S. renewed its call for Section 301 China tariffs, the China Ministry of Commerce (MOFCOM) expressed disappointment in the Trump administration's position.

"We are both surprised and unsurprised at the statement, which is obviously contrary to the consensus reached between China and the U.S. in Washington not long ago," a MOFCOM spokesperson said in a statement. "The Chinese side has confidence, capability and experience to defend the interests of our country and her people. We urge the U.S. to act in the spirits of the joint statement," issued after the Chinese delegation visited Washington.

Responding to the Trump administration's original March tariff threat, the Chinese government proposed 25 percent retaliatory tariffs against an equivalent amount of U.S. goods, to cover more than 100 items, including soybeans, cigarettes, beef, passenger vehicles and chemical products.

**Supply Chain Panic.** The turbulent environment is causing U.S.-based importers that source from China to consider potential alternative options, according to Lori Fox, vice president of customs brokerage services for American Global Logistics.

Importers "literally panic" during the rollout of huge tariff changes, especially since there was little time to react to the May 29 White House announcement as many containerized goods were slated to arrive in U.S. ports after the June 15 implementation date, Fox said in an interview.

"To adjust their supply chain that quickly takes some doing," she said.

National Foreign Trade Council (NFTC) member companies generally believe the Trump administration acted too quickly to impose tariffs pursuant to its Section 301 investigation and would have preferred a negotiated settlement between China and the U.S. over the uneasiness of the bilateral trade landscape now in place, NFTC President Rufus Yerxa said in an interview.

"Two things they hate: One is the uncertainty of the 'on again, off again, on again, off again' [tariff threats], and then secondly, the potential impact of these tariffs on the supply chain," Yerxa said. "These are companies that have problems with some of the things China is doing, and some of it quite serious in the tech transfer and IP [intellectual property] area."

The reauthorization of the Generalized System of Preferences (GSP) helps to provide alternate sourcing options for many importers willing to do business with vendors in less-developed countries, Fox said.

"Obviously, other countries are not being taxed as China [could be], so it's very likely that importers will look to other vendors in other countries to try to avoid long-term tariff increases," Fox said.

Foreign-trade zones potentially could offer an additional layer of flexibility for goods imported from China, as several companies use the zones to limit their exposure to antidumping and countervailing duties, especially in cases where potential rate changes are expected, Fox said.

Several attendees at a U.S. International Trade Commission hearing on the proposed tariffs in May cited China's strong transportation and port infrastructure as one factor that could serve to prevent companies from diverting their sourcing to another country.

Even considering the soundness of China's infrastructure, Fox said some of her clients that import wooden bedroom furniture have found it more beneficial to import from Thailand or Vietnam.

Wooden bedroom furniture imported from China is subject to AD and CV duties, which can present several complicating factors once goods are formally entered into U.S. commerce, such as retroactive changes to tariff rates and slow liquidation, Fox said, pointing out that the duty savings and fewer complications associated with sourcing elsewhere have helped those importers to remain competitive.

**Tariff Volley.** A White House statement following the Chinese delegation visit to Washington in May indicated that those talks ended with "consensus" on effective measures to reduce the U.S. goods trade deficit with China, including "meaningful increases" in U.S. agriculture and energy exports to that nation.

That was following the Office of the U.S. Trade Representative's (USTR) April 3 released list of proposed tariffs to cover about 1,300 tariff lines of Chinese products.

China, one day later, announced its intent to retaliate with 25 percent tariffs on 106 U.S. exports worth about $50 billion in 2017.

In addition to the imposition of tariffs planned after the U.S. Section 301 investigation into China's business practices in March, the United States seeks to implement "enhanced export controls" and "specific investment restrictions" related to China's acquisition of "industrially significant technology," the White House's May 29 statement said.

The "enhanced export controls" referenced in the White House's statement could at least partly be associated with a stated U.S. government deal with China to put Chinese telecommunications company ZTE back in business.

Those export control measures will be announced by June 30 and implemented "shortly thereafter," the White House said.

**"No Strategic Vision."** Amid the administration's sporadic trade actions, many NFTC companies perceive "there's no strategic vision here on the part of the administration, and even worse than that, conflicting signals," Yerxa said.

The day after China on May 22 announced plans to cut automotive tariffs from 25 percent to 15 percent, effective July 1, the U.S. Commerce Department started an investigation into the national security impacts of global automobile imports, which could lead to more tariffs.

Similar to the U.S. review of steel and aluminum imports completed earlier this year, the auto investigation is being conducted under Section 232 of the 1962 Trade Expansion Act, as amended.

President Trump ordered generally global tariffs of 25 percent on steel and 10 percent on aluminum pursuant to other Section 232 investigations that concluded earlier this year.

The underlying statute authorizes the president to assess trade remedies, including tariffs and/or quotas, if imports investigated under the statute are found to harm national security.

U.S. Chamber of Commerce CEO Tom Donohue said in a statement that American automobile production has doubled over the last 10 years, as it exports more than any other U.S. industry, and employs 50 percent more Americans than it did in 2011. "These tariffs risk overturning all of this progress," he said.

China's auto tariff reduction was "clearly related" to recent trade talks with the U.S., as Beijing was showing an effort to take a serious approach to the Trump administration on its trade demands, especially because this administration has focused heavily on automotive trade, Center for Strategic and International Studies Scholl Chair in International Business Bill Reinsch said during an interview.

But the tariff reduction may benefit China's regional partners South Korea and Japan more than the United States, as most U.S.-owned automakers have manufacturing facilities in China, and the U.S. doesn't export many finished cars to the nation, Reinsch said.

China probably wouldn't have cut its auto tariffs if the bilateral talks didn't take place, and that would "simply be because they wouldn't have bothered giving away things for free," said Bruce Hirsh, principal at trade consultancy Tailwind Global Strategies.

There's a sense in the trade policy community that the U.S. is using its Section 232 national security auto investigation, in part, as justification to follow through on a predetermined Trump goal to reduce imports of auto parts from China to the North American region, said Eric Miller, president of the Rideau Potomac Strategy Group,

"By sticking your stick in the hornet's nest of 232 for autos, at the same time as you're about to [impose duties] for 232 for steel and aluminum [against Canada, Mexico and the EU], this is going to cause the Europeans and others in Asia to take a very hard line toward the U.S. on trade," Miller said.

**North Korea Card.** Hirsh raised the possibility that Trump is using the potential 301 tariffs in a "carrot-and-stick" approach to pressure China to intensify efforts to convince North Korean leader Kim Jong-Un to denuclearize his nation.

Trump has used the modification of the Korea-U.S. Free Trade Agreement (KORUS) in such a way.

The revamped KORUS has remained a "deal in principle" since talks effectively concluded in March, and Trump during an April speech noted that he would "probably hold that deal up for a while" because it is a "very strong card" in fostering alignment between the United States and South Korea in the context of engaging with North Korea on denuclearization.

"It's … an open question as to whether the decision to hold off on moving forward on Section 301 measures against China is because they're satisfied with the deal or if it's really more a function of the fact that the timing is poor with [North] Korea and with the midterm elections," Hirsh had said.

Miller said he believed the United States' suspended tariff threat was in large part designed to induce the Chinese to lean on North Korea to make a denuclearization deal, and that the volatility of the security dynamic between the three countries further obscures the U.S.-China trade relationship.

The U.S. had little incentive "to be nice to the Chinese" after the Singapore summit was temporarily called off on May 24, Miller said.

After Trump re-threatened the tariffs against China on May 29, he announced on June 1 that the meeting with Kim scheduled for June 12 in Singapore was back on, following Trump's May 24 cancellation of the planned summit.

Tuesday's meeting concluded with Kim and Trump signing a joint statement pledging to continue discussions aiming at denuclearizing the Korean peninsula in exchange for the U.S. ceasing military exercises in South Korea.

Read the summary