

BGOV OnPoint: Section 301 Tariffs on China

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About This Presentation

The U.S. announced plans on July 10 to impose a 10 percent tariff on \$200 billion worth of Chinese imports

- Comment period is required before they can take effect. Hearing scheduled for Aug. 20-23
- Tariffs are retaliation for Chinese practices related to technology transfer, intellectual property, and innovation that the Office of the U.S. Trade Representative found hurt American businesses
 - Concern about these practices is longstanding, bipartisan, and shared by other countries

Would be in addition to a 25 percent tariff already in effect for \$34 billion and planned for \$16 billion more

The U.S. has threatened tariffs on an additional \$200 billion in Chinese goods

- Would total \$450 billion

China responded to the first round of tariffs with equal reciprocal tariffs

- It said it will continue to reciprocate, although it will have to use non-tariff measures to respond to the latest round because it imports less than \$200 billion in U.S. goods annually

This presentation reviews:

- Rounds of tariffs scheduled or in effect
- U.S. concerns with Chinese intellectual property and foreign technology policies
- Section 301 authority used to impose tariffs
- Reaction from Congress, and the split over Chinese company ZTE Corp.

Three Rounds of Tariffs, Possible Fourth Ahead

Escalating tariffs from U.S. contingent on retaliation from China. President Donald Trump has called for a 10 percent tariff on a further \$200 billion in imports if Chinese retaliation continues

U.S. companies can request an exclusion for specific item

Separately, the U.S. imposed tariffs on about \$2.8 billion worth of steel and aluminum from China under Section 232 authority (for national security), and China retaliated equally

- The U.S. also imposed tariffs on solar panels and washing machines, which affect China

Date products announced	Value of imports subject to tariff	Tariff	Number of products	Effective date
April 3/June 15	\$34 billion	25%	818	July 6
June 15	\$16 billion	25%	284	After July 31
July 10	\$200 billion	10%	6,031	After Aug. 30

Notes: USTR issued list of \$50 billion worth of imports subject to tariff on April 3 and finalized a list of \$34 billion on June 15, with an additional \$16 billion subject to a public comment period. China steel and aluminum data adjusted for inflation by Bloomberg Government. Effective dates for second and third round of tariffs won't be set until after the close of the comment period

Sources: USTR [news release](#); China [WTO notification](#); ["Trump Pulls His Punches in First Foray Into Long-Pledged Tariffs,"](#) Bloomberg News

Tariffs Respond to Unfair IP, Tech Practices

Tariffs imposed following Section 301 investigation by U.S. trade representative

Most concerns relate to China's "Made in China 2025" program, which aims to rapidly develop self-sufficient advanced manufacturing industries

- Includes aerospace, new energy vehicles, robotics, advanced machinery and equipment
- Has explicit goals, e.g., 80 percent of domestic new energy car sales being Chinese-made by 2020
- Relies on acquisition of advanced technologies developed elsewhere, according to USTR
- Separate plan to achieve dominance in artificial intelligence by 2030

USTR investigation found that China:

- Uses foreign investment restrictions to spur technology transfer (by requiring countries to partner with Chinese firms; requiring technology transfer in exchange for licensing and regulatory approval)
- Interferes in negotiation of technology licensing and bars U.S. firms from obtaining fair terms
- Coordinates Chinese companies' acquisition of foreign firms with technology and IP it wants
- Leads or supports cyber espionage to obtain IP, trade secrets, other business information

A 2017 study by the nonprofit National Bureau of Asian Research found Chinese IP theft costs the U.S. economy between \$225 billion and \$600 billion per year

Notes: IP – intellectual property; USTR – U.S. trade representative

Sources: [Bloomberg QuickTake](#); [Section 301 investigation](#), USTR; National Bureau of Asian Research [study](#)

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Tariffs Imposed Under Section 301 Authority

Section 301 of the Trade Act of 1974 ([Public Law 93-618](#)) gives executive branch broad authority

- USTR can launch investigations on its own or in response to a petition
- USTR can take action if it determines a country is violating a trade agreement, or has policies that violate international law or are discriminatory and burden or restrict U.S. commerce
 - Offending practices can include insufficient IP protection, discriminatory market access, low labor standards
- Action is supposed to be proportionate to the burden the foreign country's unfair practices impose on U.S. companies

Actions under Section 301 can include:

- Withdrawing the country's benefits under trade agreements or preferential duty programs
- Imposing tariffs, quotas, or fees
- Requiring the country to enter into a binding agreement to change its practices
- Other actions within the president's power

U.S. also filed a complaint against Chinese IP practices at the WTO

- First step is consultations
- China says Section 301 tariffs aren't consistent with WTO rules and filed its own consultation request

Section 301 authority is separate from Section 232 national security authority used for tariffs on steel, aluminum, and potentially cars

Notes: IP – intellectual property; USTR – U.S. Trade Representative; WTO – World Trade Organization

Sources: WTO dispute notice from [China](#) and [the U.S.](#); ["China's WTO Envoy to Assail U.S. Tariffs, Appellate Actions,"](#) Bloomberg Law

China's Retaliatory Tariffs Include Agriculture

China said it will respond proportionately, beginning with 25 percent tariff on about 545 products worth about \$34 billion, including:

- Cars
- Soybeans, corn, wheat, rice, sorghum
- Tobacco, cigars
- Beef, pork, poultry, fish, shellfish, dairy products, nuts, vegetables

Additional tariffs on \$16 billion worth of U.S. imports will begin later on:

- Coal, coke (fuel)
- Crude oil, diesel and kerosene gas
- Medical equipment

USDA data shows China already cut back on imports of some agricultural products

Beyond tariffs, China can create challenges for U.S. companies

- U.S. businesses had \$627 billion in assets and \$482 billion in sales there in 2015
- China is reportedly planning to create delays for customs inspections, licensing, as well as merger and acquisition approvals of involving U.S. companies

Note: USDA – U.S. Department of Agriculture

Sources: [“China to Impose Additional Tariffs on U.S. Cars, Agri Products,”](#) Bloomberg News; [“Trade War's Battle Lines Drawn as U.S., China Set Tariff Lists,”](#) Bloomberg News; [“U.S. Agriculture Impacted by Chinese Import Tariffs, USDA Says,”](#) Bloomberg News; [“Xi Can Make Life Difficult for U.S. Companies After Trump Threat,”](#) Bloomberg News; [“China Retaliation Said to Include Delaying Merger Approvals: WSJ,”](#)

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Tariffs Imposed After Negotiation Breakdown

Talks between the countries broke down and there are no plans to resume them

- China said the two sides had previously reached a consensus
 - Reportedly offered to buy more agriculture and energy products, including coal from West Virginia
- U.S. said China rejected significant changes to its Made in China 2025 advanced industry development program

U.S.'s demands

- Reduce trade deficit
- Eliminate: subsidies for high-tech industries, technology transfer policies, cybertheft
- Allow U.S. to restrict Chinese investment in sensitive technology sectors
- Give U.S. investors open market access
- Reduce tariff and non-tariff barriers
- Improve market access for service suppliers and agricultural products
- Withdraw WTO complaints

China's demands

- Lift ban on exports of integrated circuits to China
- Permit government procurement of Chinese technology products and services
- Give Chinese companies equal treatment in national security review
- Adjust export ban on ZTE Corp.
- Modify calculation used in dumping investigations
- Open e-payment market to Chinese companies
- Approve China International Capital Corp.'s license application

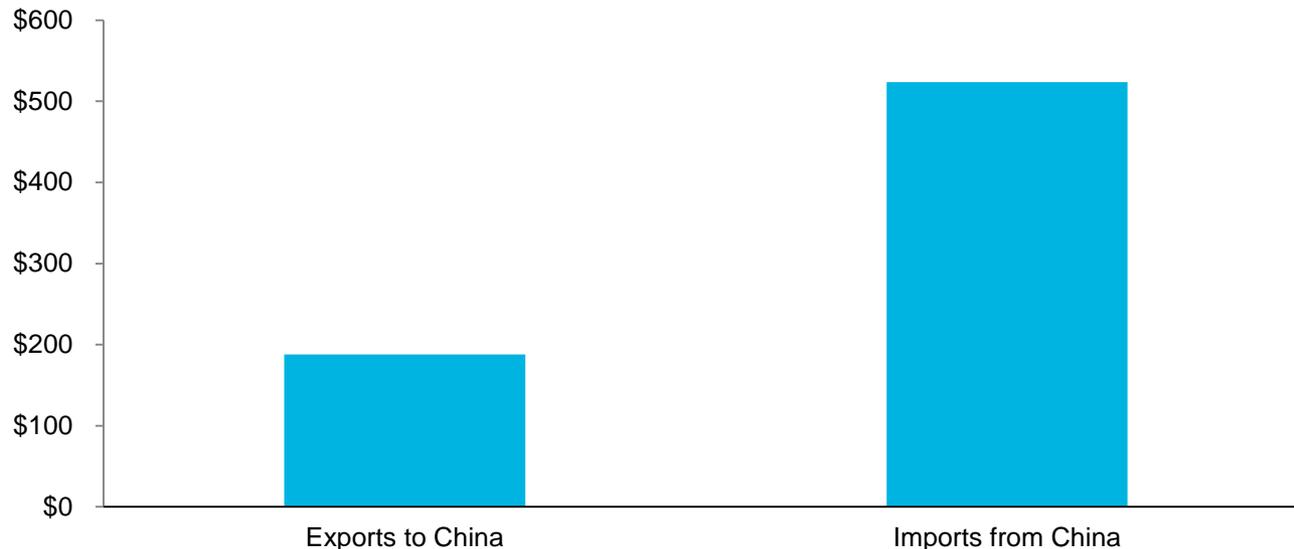
Sources: [“U.S.-China Trade Talks Said to Stall as Tariff Dispute Escalates,”](#) Bloomberg News; [“China is Said to Mull More U.S. Coal Imports to Cut Deficit,”](#) Bloomberg News; [“Here’s What the U.S., China Demanded of Each Other on Trade,”](#) Bloomberg News

Tariffs Could Soon Cover All U.S.-China Trade

- The U.S. trade deficit with China in 2017 was \$375.9 billion for goods, or \$335.7 billion when services are included
- China is largest source of imports to U.S., third-largest destination of exports from U.S.
- China doesn't import enough from U.S. to match tariffs on \$250 billion or more

U.S.-China Trade in Goods and Services in 2017

Dollars in billions



Congress Wonders About Strategy



“Although I have supported the administration’s targeted efforts to combat China’s technology transfer regime, tonight’s announcement appears reckless and is not a targeted approach.”

—*Senate Finance Committee Chairman Orrin Hatch (R-Utah) on July 10*



“Despite the serious economic consequences of ever-increasing tariffs, today there are no serious trade discussions occurring between the U.S. and China, no plans for trade negotiations anytime soon, and seemingly little action toward a solution.”

—*House Ways and Means Committee Chairman Kevin Brady (R-Texas) on July 10*



“In the absence of an explanation of the Administration’s vision or any congressional hearings, the conclusion we are coming to is that the Administration has no strategy and that congressional Republicans are just fine with that.”

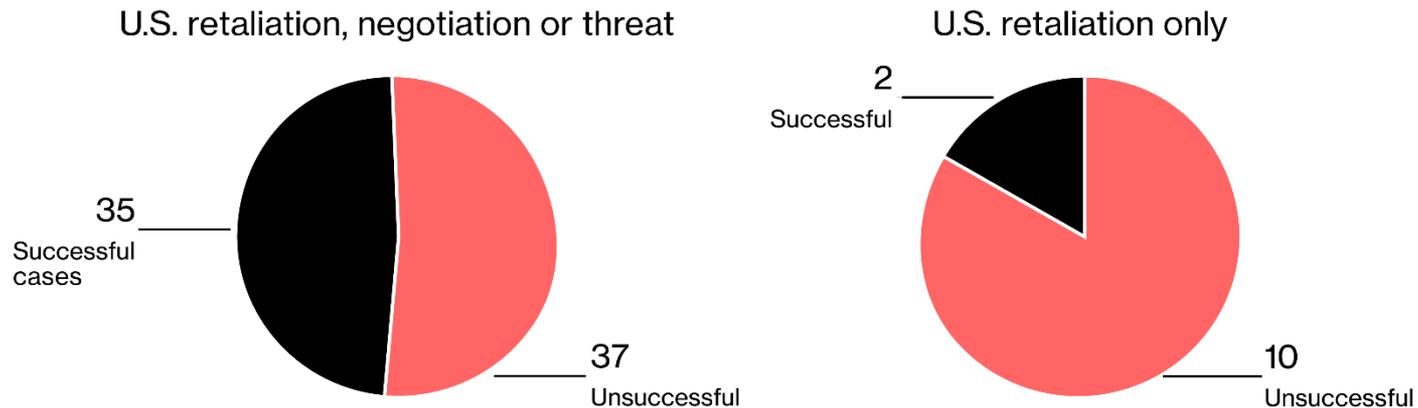
—*House Ways and Means Committee ranking member Richard Neal (D-Mass.) on July 6*

Section 301 Actions Have Mixed Record

- Section 301 authority used often by Ronald Reagan administration and infrequently after WTO was established in 1994
- Prospect of trade war spurred concession from partners in almost half of cases from 1975 to 1994, but retaliation alone led to improvements in only two cases
- Study defined success broadly to include at least partial achievement of U.S. goals (such as improved market access, reduced export subsidies, more IP protections)

Spotty Record

The U.S. rarely achieved its objectives when it used the section 301 trade tool



Notes: Data drawn from 72 probes that permitted analysis from 1975 to 1994. Success is defined as achieving at least some U.S. negotiating goals on trade. IP – intellectual property; WTO – World Trade Organization

Source: Scott Lincicome [analysis](#) of research by Thomas Bayard and Kimberly Ann Elliott, via [Bloomberg](#)

Administration and Congress Split on ZTE Corp.

Chinese telecom manufacturer ZTE Corp. is accused of doing business in Iran and North Korea with U.S.-made parts, in violation of sanctions

- Also accused of obstructing justice and misleading the U.S. government
- In April, Commerce Department blocked ZTE from buying technology from U.S. suppliers for seven years

Trump administration lifted sanctions in June in sign of potential compromise with China. Required ZTE to:

- Pay \$1 billion penalty (plus \$400 million in escrow)
- Accept on-site U.S. compliance officers
- Change management

Bipartisan concern in Congress remains about ZTE

- Deal doesn't address IP theft, national security threats
- Senate-passed fiscal 2019 national defense authorization (H.R. 5515) and House Commerce-Justice-Science spending measure (H.R. 5952) would reimpose restrictions on ZTE
- Four Senate fiscal 2019 spending measures would restrict use of federal funds to acquire ZTE equipment



Donald J. Trump

@realDonaldTrump

ZTE, the large Chinese phone company, buys a big percentage of individual parts from U.S. companies. This is also reflective of the larger trade deal we are negotiating with China and my personal relationship with President Xi.

4:06 PM - 14 May 2018



Marco Rubio

@marcorubio

[#ZTE](#) issue should have nothing to do with broader trade talks. What is the point of cancelling Iran deal if we aren't going to sanction those like ZTE who help Iran avoid sanctions? Plus ZTE helps [#China](#) spy on America & steal our intellectual property.

Note: IP – intellectual property

Sources: Commerce Department [denial order](#) and [settlement announcement](#); “[Congress Trying to Protect the Federal Government From ZTE](#),” Bloomberg Government; BGOV bill pages for [H.R. 5515](#), [H.R. 5952](#), [S. 3023](#), [S. 3071](#), [S. 3072](#), and [S. 3073](#)

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