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INSIGHT

Tit-for-Tat Tariff Measures and U.S. Trade Policy

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U.S. trade policy under President Trump has involved greater use of trade laws to address imports that threaten to impair U.S. national security (Section 232), and trade practices that may violate trade agreements or are "unjustifiable" or "unreasonable" (Section 301). Congress has held several hearings on controversial presidential actions under these laws, raising questions about their economic and broader policy implications.

As a result of Section 232 investigations launched by the Administration, the United States has unilaterally applied new tariffs on steel (25%), aluminum (10%), and potentially auto imports from the EU, Canada, Mexico, China, and other countries. Some countries were exempted, generally based on quota agreements to limit the amount of steel and/or aluminum exports to the United States. The last time a president had taken restrictive trade action under this law was based on a 1983 petition submitted by the U.S. machine tool industry.

Since 1994, after the Uruguay Round established major new trade rules and the World Trade Organization (WTO), the United States used Section 301 primarily to pursue WTO dispute settlement to enforce its trade rights. In contrast, President Trump has unilaterally applied increased tariffs on billions of dollars of Chinese imports based on a Section 301 investigation examining China's trade practices on intellectual property rights (IPR) and forced technology transfer, practices of long-standing U.S. concern. The United States Trade Representative (USTR) is also pursuing separate WTO dispute settlement against China on IPR licensing.

Several U.S. trading partners have countered U.S. tariffs by retaliating with similar tariffs on targeted U.S. products, ranging from steel, vehicles, lobsters, and soybeans, covering billions in U.S. exports. This has raised the specter of tit-for-tat tariff escalation that experts argue could lead to rising prices for consumers

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and firms engaged in trade, lost market shares, greater economic uncertainty, and rising political tension with U.S. trading partners. Several WTO members also have initiated WTO dispute settlement processes to determine whether U.S. actions under Sections 232 and 301 violate WTO rules and agreements. Their retaliatory tariffs on U.S. exports, however, may raise similar questions about WTO commitments.

While the U.S. economy is growing and these tariffs currently affect a relatively small scope of the economy, the trading system has not seen unilateral tit-for-tat tariff measures or threats of this magnitude in decades. This is in large part due to the post-WW II global economic order that established open and rules-based international trade, founded on core principles of nondiscrimination and transparency. In particular, the General Agreement on Tariffs and Trade (GATT)—first established in 1947 and the WTO predecessor—supported trade expansion, economic growth and stability, and peaceful dispute resolution through trade liberalization and rules-setting. As part of this post-WWII economic order, past Administrations actively pursued bilateral, regional, and multilateral trade negotiations to lower trade barriers and strengthen the international trading system in order to advance trade based on transparent rule of law and "fairness."

WTO members have failed to agree to comprehensive tariff reductions across all sectors since the conclusion of the Uruguay Round, due to a lack of consensus and stalemate in the Doha Round, launched in 2001. These developments arguably diminish the WTO's relevance as a force for new trade liberalization and have encouraged numerous bilateral and regional preferential trade agreements. They also have enabled fast-emerging major developing economies with which the United States does not have free trade agreements (FTA) to retain relatively higher levels of nontariff barriers and tariffs. At the same time, the global economy has experienced rapid change through technological advancement and lower trade barriers. While trade liberalization has helped to lift millions of people out of extreme poverty, it has raised new challenges for the trading system, including new trade and investment barriers to digital trade and in other areas. Other challenges include state-led or state-supported economic actors with a potentially trade-distorting role in global commerce due to government backing (i.e., subsidies), which may contribute to global industrial overcapacity, such as with China's steel sector.

The Trump Administration has questioned the overall benefits of the WTO, in significant contrast to past presidents who arguably treated the GATT/WTO as a core foundation of the international trading system and a source of U.S. economic growth and global leadership. The Administration has also proposed to modernize but also roll back certain provisions of the North American Free Trade Agreement (NAFTA) (and threatened to potentially withdraw) and has withdrawn from the proposed Trans-Pacific Partnership (TPP), a regional trade agreement that would have reduced trade and investment barriers to achieve greater market access for U.S. exporters and potentially provide overall net economic benefits. Past Administrations under both Democrats and Republicans arguably placed greater emphasis on trade negotiations as a policy tool to address U.S. trade concerns and achieve greater trade reciprocity.

Congress plays a major role in shaping U.S. trade policy, with constitutional underpinnings, and important policy issues are now front and center in the policymaking process. Key questions include

- Is the recent use of Sections 232 and 301 in line with congressional intent in crafting the delegated authorities to the President?
- Does the current use of Section 232 set a precedent for other countries to more easily use GATT Article XXI "essential security interests" exemption under the WTO to erect new trade barriers? Do these actions undermine the credibility and effectiveness of the trading system?
- If tariffs continue to escalate among trading partners, what are the costs and benefits of such an approach, and will these measures lead to negotiated, win-win outcomes, without adverse impacts economically and to the trading system?

- Is it in the U.S. national economic and broader strategic interest to support and lead a rules-based and open international economic order that continues to negotiate agreements to remove trade barriers, including tariffs? If not, who might fill the leadership vacuum? Is another “order” of equal potential value?
- Can common ground be found to reenergize the WTO as a force for trade liberalization, including more sector-specific liberalization agreements?
- Should the United States reexamine its withdrawal from the TPP as a way to reduce and eliminate trade barriers, including tariffs, among participating countries? Which other trade agreements should be pursued?
- How can the United States best address challenging issues in U.S.-China trade relations, especially regarding IPR and industrial policies, as well as steel and aluminum industrial overcapacity, where other countries have similar concerns? Should the United States work more cooperatively with like-minded countries as an alternative approach to unilateral tariffs?
- Does recent discord at the G-7 summit signify broader tension in key alliance relationships as a result of U.S. tariff measures?

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