Research

The Implications of Section 301 Tariffs to Combat Unfair Chinese Trade Practices

JACQUELINE VARAS | APRIL 5, 2018

Executive Summary

- The United States announced new tariffs on over 1,300 imports from China, valued at more than $46 billion, in response to a Section 301 investigation into unfair Chinese trade practices.
- By targeting the tariffs to specific products highly reliant on intellectual property (IP), the Trump Administration is attempting to provide protections for the most sensitive U.S. industries vulnerable to IP theft and forced technology transfer.
- These tariffs will reduce overall U.S.-China trade, increase costs for U.S. producers and consumers by up to $11.5 billion, or, most likely, result in a combination of both.

On the evening of April 4th, the Trump Administration released a list of Chinese imports that will be subject to a new 25 percent tariff. This action is the result of an investigation that the Trump Administration launched last August under Section 301 of the Trade Act of 1974, which concluded that unfair Chinese trade practices harm U.S. industry. If implemented today, these tariffs would affect $46 billion of U.S. imports from China.

Section 301 investigations determine whether a foreign nation is engaging in unfair trade practices that are unreasonable or discriminatory and if those practices burden or restrict U.S. commerce. The Trump Administration launched this particular investigation on the basis of IP theft and forced technology transfer, a practice that requires U.S. companies to share intellectual property with companies in China in order to gain market access and launch joint ventures. Section 301 investigations are comparatively rare; the vast majority of tariffs applied by the United States are a result of anti-dumping and countervailing (AD/CV) duty investigations initiated at the request of U.S. industry. Unlike most AD/CV duty investigations, the federal government self-initiated this Section 301 investigation at the request of President Trump.

The new Section 301 tariffs will apply to over 1,300 Chinese imports ranging from chemical compounds to metals and aircrafts. According to top White House trade advisor Peter Navarro, the tariffs are designed to help U.S. businesses recoup losses from Chinese IP theft.

To determine the impact of these tariffs, this analysis applies data from the U.S. International Trade Commission (USITC). USITC has data on the current import levels of almost 1,250 of these products, which totaled $46.2 billion in 2017. Assuming that current import levels remain constant, applying a 25 percent tariff to these products will result in roughly $11.5 billion in new tariffs that would be shouldered by U.S. producers and consumers that purchase Chinese imports. These results are shown in table 1, below.

Table 1: Impact and Breakdown of Commodities Affected by Section 301 Tariffs

Major Category	2017 Import Levels	Additional Cost with Tariffs	Percent of Total New Tariffs
Machinery and Mechanical Appliances; Electrical Equipment; Sound Recorders and Reproducers, Television Image and Sound Recorders and Reproducers	$34.2 B	$8.5 B	74.0%
Optical, Photographic, Cinematographic, Measuring, Checking, Precision, Medical or Surgical Instruments and Apparatus; Clocks and Watches; Musical Instruments	$6.4 B	$1.6 B	13.9%
Vehicles, Aircraft, Vessels and Associated Transport Equipment	$2.7 B	$684.3 M	5.9%
Base Metals and Articles of Base Metal	$1.67 B	$418.1 M	3.6%
Products of Chemical or Allied Industries	$713.3 M	$178.3 M	1.5%
Miscellaneous Manufactured Articles	$372.4 M	$93.1 M	0.8%
Plastics	$47.1 M	$11.8 M	0.1%
Arms and Ammunition	$28.1 M	$7.0 M	0.1%
Total	**$46.2 B**	**$11.5 B**	**100.0%**

Table 1 shows the major product categories of commodities impacted by the Section 301 tariffs, with product descriptions coming from the Harmonized Tariff Schedule (HTS). This table provides some insight into how the United States is trying to protect specific industries vulnerable to Chinese IP theft. For instance, the products listed include mechanical equipment such as aircraft engines and parts; advanced technology such as lasers, electromagnetics, and radar; and products including chemicals and plastics. These are all manufactured by U.S. industries that are highly reliant on IP protections for revenue and with above-average trademark intensity.

Of the U.S. tariffs on Chinese goods, 74 percent will apply to only one product group. This group mainly consists of machinery, which is used for everything from television cameras to electrical generators and nuclear reactors. This broad HTS category is broken down into two sub-groups below.

Table 2: Impact and Breakdown of the Largest Affected Commodity Group

Subgroups of Largest Affected Commodity Group	2017 Import Levels	Additional Costs with Tariffs	Percent of Total New Tariffs

Nuclear Reactors, Boilers, Machinery, and Mechanical Appliances	$20.0 B	$5.0 B	43.3%
Electrical Machinery and Equipment; Sound Recorders and Reproducers, and Television Image and Sound Recorders and Reproducers	$14.2 B	$3.5 B	30.7%
Total	**$34.2 B**	**$8.5 B**	**74.0%**

Table 2 confirms that the Section 301 tariffs are targeted to industries with sensitive U.S. technology. Approximately $5.0 billion of the $11.5 billion in new tariffs will be applied to nuclear reactors, boilers, and a broad range of machinery and mechanical appliances. An additional $3.5 billion in tariffs will hit electrical machinery and television equipment, more highly sensitive products. These tariffs will have two different effects, probably simultaneously: They will decrease U.S.-China trade, increase costs for American businesses and consumers, or both.

Intellectual property theft is a serious problem that the federal government must address. Tariffs of this kind, however, have damaging consequences; China has already retaliated, with plans to enact 25 percent tariffs on $50 billion of U.S. exports. A more suitable action would have been for the United States to join with other nations at the World Trade Organization in a lawsuit against China. This mechanism would be an appropriate avenue for the United States and other countries harmed by forced technology transfer to enforce the rules of global trade. It would also be less costly to American consumers and less likely to invite damaging retaliation.

The Section 301 tariffs were designed to shield innovative U.S. industries from import competition. It remains to be seen whether they will be successful in discouraging Chinese IP theft.