U.S. Announces Further Round of $200 Billion in Potential Tariffs on China, Intensifying the "Trade War"

It is essential for companies and their investors to examine the exposure of their enterprise value chains to the rising U.S.-China trade risks.

On July 10, 2018, the United States Trade Representative (USTR) announced that, pending a two-month review process, the U.S. was planning to impose new 10% tariffs on an additional $200 billion of Chinese imports. This follows the Trump administration's previous announcement of 25% tariffs on roughly $50 billion of Chinese goods, and means that approximately half of Chinese imports to the United States may soon be subject to higher duties. China (and other trading partners) is now retaliating against the tariffs the U.S. has already imposed, and the U.S.-China trade and investment relationship continues to grow more fraught. In this rapidly changing climate, it is essential for companies and their investors to examine the exposure of their enterprise value chains to the rising U.S.-China trade risks.

The View from Washington

The tariffs announcement closely follows several previous import duty-related salvos as tensions increase in the U.S.-China "trade war." On July 6, U.S. tariffs came into effect on $34 billion of Chinese goods, with a potential further $16 billion forthcoming. Also on July 6, China retaliated immediately with duties on the same value of U.S. goods, stating it was "*forced to strike back to defend the core interest of the nation.*"[1] In turn, U.S. Trade Representative Robert Lighthizer stated the July 10 announcement of additional U.S. tariffs was "*a result of China's retaliation and failure to change its practices*" and "*an appropriate response… to obtain the elimination of China's harmful industrial policies.*"[2] On July 11, the Chinese Commerce Ministry stated it would take "necessary countermeasures" to protect its interests against the "totally unacceptable" new duties.[3]

Summary of China-Related Tariffs Announcement

The scope of the July 10 tariffs is broad, reaching a wide variety of products of Chinese origin imported into the United States. The duty rate to be imposed following the hearings process is 10% across the board. Products affected include airplane and auto parts, electronics, fish, metal products, produce, refrigerators, textiles, water boilers, and x-ray machine components, among others.

This action is being undertaken under Section 301 of the *Trade Act of 1974*. A Section 301 investigation beginning in August 2017 concluded that China's trade policies supported the use of unfair means to obtain U.S. technology. Pursuant to those findings, the U.S. announced the first two rounds of 25% tariffs on approximately $50 billion in Chinese imports. The July 10 announcement of further tariffs is a counter to China's raising its own tariffs against the U.S.

USTR will hold a public hearing August 20 - 23. Pre-hearing submissions and requests to appear at the hearing are due July 27; written comments are due August 17. August 30 is the deadline for post-hearing comments, and the tariffs will not take effect before that date.[4]

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Survey of Other Trade Developments

The Trump administration's view is that the U.S.' heightened import duties themselves are a response to long-standing unfair practices by certain other countries. Nonetheless, in addition to China, other major trading partners have announced their own rounds of tariff measures in response to those imposed by the United States.

European Union (EU): The EU introduced tariffs on $3.3 billion of U.S. goods including bourbon, boats, motorcycles, and orange juice in response to the 25% tariffs on steel and aluminum products that the U.S. had announced in March. On May 23, the Commerce Department began an investigation under Section 232 of the Trade Expansion Act of 1962 to determine whether imports of automobiles and automotive parts threaten national security. The Trump administration has stated that tariffs of up to 20% could be imposed, which would have major negative effects on the European (particularly German) auto industry.[5] Accordingly, the EU has pledged to retaliate if additional tariffs are imposed, suggesting it could introduce higher duties on up to $300 billion of U.S. imports.

Canada: On July 1, Canada began imposing tariffs of 10 - 25% on $12.6 billion in U.S. goods in response to the Trump administration's tariffs on steel and aluminum, following trade-related tension between President Trump and Canadian Prime Minister Trudeau at the June 2018 G7 summit.[6]

Mexico: On July 6, Mexico's retaliatory tariffs came into effect on almost $3 billion in U.S. products including pork, steel, and cheese. The Mexican government announced these tariffs in June 2018 in response to the Trump administration's tariffs on steel and aluminum.[7] Additionally, as the U.S., Mexico, and Canada continue their renegotiations of the North American Free Trade Agreement (NAFTA), the July 1 election of economic nationalist Andrés Manuel López Obrador as president of Mexico may be a complicating factor.

Key Takeaways

- Buyers considering acquisitions of companies need to ensure that transactional due diligence includes an assessment of value chain economic impacts arising out of the new tariffs.

- With numerous tariff actions now running simultaneously, it is possible products such as steel and aluminum could be subject to more than one, multiplying the increased duties.

- Imposition of double-digit duties necessitates an examination of how company sourcing and processing models impact applicable country of origin, as that will determine the extent to which products may be subject to new tariffs.
- Countries, particularly China, may engage in asymmetric retaliation, such as by increasing scrutiny of foreign companies in their domestic market, causing regulatory headwinds for companies with operations in China.

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1 Sidney Leng, *China hits retaliation button, launching tariffs as trade war with U.S. starts*, Politico/South China Morning Post, 2018, https://www.politico.com/story/2018/07/06/china-retaliation-us-tariffs-672127 (last accessed July 11, 2018).

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3 *China criticizes new U.S. tariff threat as 'totally unacceptable,' says it will take 'necessary countermeasures,'* Washington Post, 2018, https://www.washingtonpost.com/business/china-criticizes-new-us-tariff-threat-as-totally-unacceptable-says-it-will-take-necessary-countermeasures/2018/07/11/a7719e84-84c3-11e8-9e06-4db52ac42e05_story.html?utm_term=.1f35378b26c6 (last accessed July 11, 2018).

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5 Chris Reiter, *Trump's Auto Tariffs Threat Targets Heart of German Economy,* Bloomberg, 2018, https://www.bloomberg.com/news/articles/2018-05-24/trump-s-auto-tariffs-threat-hits-heart-of-german-export-economy (last accessed July 11, 2018).

6 Countermeasures in Response to Unjustified Tariffs on Canadian Steel and Aluminum Products, Canada Department of Finance, 2018, https://www.fin.gc.ca/access/tt-it/cacsap-cmpcaa-1-eng.asp (last accessed July 11, 2018).

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