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CHINA BRIEFING

Trump's Potential Trade Actions Against China and Their Implications

In his 2018 State of the Union Address, United States President Donald Trump announced that "the era of economic surrender is totally over," and that "we expect trading relationships to be fair and very importantly, to be reciprocal." He also committed to "work to fix trade deals and negotiate new ones." Particularly, Trump pledged to "protect American workers and American intellectual property, through strong enforcement of our trade rules."

On the same day of the State of the Union Address, the White House Press Office released a fact sheet titled "President Donald J. Trump Is Promoting Free, Fair, and Reciprocal Trade," in which Trump committed to take tough enforcement action against "forced technology transfer, unfair licensing, and intellectual property policies and practices."

Later in his speech, President Trump also labeled China as a rival of the United States that challenges "our interests, our economy, and our values."

Moving forward, we expect that the White House and Congress will likely take several actions on top of the 301 investigation already launched against China.

1. **Tariff on Chinese tech imports.** Section 301 of the US Trade Act allowed the president to take action against unfair trade practices of foreign governments. In August 2017, the US began an investigation under section 301 to determine whether China was "harming American intellectual property rights, innovation, or technology development." **If the ongoing 301 investigation determines that China gained unfair advantages through forced technology transfer or other practices, the US government may impose punitive tariffs against all designated Chinese imports, especially against imports of integrated circuits.**

2. **Banning China M&A in the hi-tech sector.** In the past, Presidents Obama and Trump have both terminated Chinese M&A deals related to American entities, citing national security concerns. In December 2016, President Obama barred China's Fujian Grand Chip Investment Fund (FGC) from completing the acquisition of Aixtron, a German company with American assets. Earlier this year, the Committee on Foreign Investment in the United States (CFIUS), the multiagency panel that reviews foreign deals for potential threats to national security, rejected Alibaba affiliate Ant Financial's proposal to acquire US company MoneyGram. **The banning of China M&A in the hi-tech sector could become systematic if the 301 investigation concludes that China has gained unfair advantages and poses threats to US national security by acquiring strategically important industries in United States.**

3. **Restriction of China-imported consumer electronics.** Earlier this month, lawmakers in Congress urged AT&T, the United States' second largest wireless carrier, to cut its commercial ties with Huawei, one of China's biggest manufacturers of mobile phones and other consumer electronics. Congress is also

lobbying against China Mobile, China's state-owned wireless carrier, from entering the American market. **While Congress cannot make laws and regulations to systematically impose barriers against such commercial relationships between American companies and Chinese counterparts, American companies may lose government contracts or undergo stronger scrutiny from federal regulators if they refuse to terminate their relationships with Chinese counterparties.**

4. **CFIUS legislation and expansion.** Currently, there is a bipartisan bill introduced by Senators John Cornyn (R-TX), Dianne Feinstein (D-CA) and Chairman of the Senate Select Committee on Intelligence Richard Burr (R-NC), which aims to modernize and strengthen the process by which the CFIUS reviews acquisitions, mergers, and other foreign investments in the United States for national security risks. **Unlike the aforementioned three actions, this new legislation, named the Foreign Investment Risk Review Modernization Act (FIRRMA), will present a long-term, structured risk to US–China business relationships.**

In the near term, investors and multinational corporations should expect more scrutiny over US–China investments and mergers in sensitive sectors. These sectors include integrated circuits, artificial intelligence, 5G telecommunications networks, and others.

In the longer term, with the new CFIUS legislation, investors and MNCs should expect a more systematic approach from the White House and federal regulators on handling cross-border M&A between the United States and China.

China will likely impose retaliatory regulations if the United States decides to systematically ban Chinese companies and investment from entering American markets. While the exact form of the Chinese response is uncertain, it may include eliminating American hi-tech manufacturers from procurement lists, among other possible actions.

However, there is also a chance that China will seek to meet the United States halfway to solve some of the trade issues – for example, this week China appointed Wang Qishan, the former anti-corruption czar who brought down over 200 corrupt officials from 2012 to 2017, as a delegate to the National People's Congress, China's national legislature. This latest appointment paves the way for Wang to become vice president of China, in which capacity he may take up the job of handling the US–China relationship. During his tenure as vice premier, Wang was head of the Chinese delegation to the US–China Strategic and Economic Dialogue, the annual meeting between senior officials from China and the United States on economic and security issues.