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McLARTY UPDATE

Trump Announces China IP Investigation Results: *Penalties against China not immediate, forestalling retaliation*

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KEY POINTS:

- Announcing **USTR's findings in the investigation of Chinese intellectual property (IP) practices** under Section 301 of the Trade Act of 1974, **Trump today declared several penalties** to be levied against China in the name of "reciprocity," which "could be about **\$60 billion**" and would include **more stringent reviews of Chinese investments** in the United States.
- Despite **confusion over Trump's \$60 billion reference**, senior officials have indicated that **tariffs will be levied on \$50 billion worth of Chinese goods, touching some 1,300 tariff lines. Maximum tariffs levied would therefore be in the range of \$10-15 billion.** However, the **products to be targeted remain unknown**, and should be **released by USTR within 15 days**, after which a **public comment period** of 60 days will take place.
- **Retaliation will not come immediately**, as China should not retaliate until tariffs are applied. This, plus USTR **Lighthizer's assurances to Senate Finance** today that **not only Mexico and Canada, but also Europe, Australia, Argentina, Brazil, and South Korea will be granted exclusions from steel and aluminum tariffs** to be applied tomorrow under a national security provision of US trade law, **reduces the retaliation risk** to US commercial interests from China and these exempted countries.

SECTION 301 FINDINGS

The key components of the USTR's findings regarding Chinese treatment of intellectual property are the following:

- **Forced technology transfer**: Including **foreign ownership restrictions, licensing/approvals** linked to tech transfer, etc. Sectors highlighted include electric vehicles, aviation, and cloud computing.
- **Discriminatory licensing restrictions**: US technology must be licensed under “**non-market-based terms**,” favoring China.
- **State-coordinated and supported acquisition of advanced technologies**: “The Chinese government directs and unfairly supports the systematic acquisition of US companies...to generate large-scale technology transfer in industries deemed important by state industrial plans...”
- **Unauthorized intrusions into computer networks**: Through intrusions into US commercial computer networks, the **Chinese government has gained access to US IP** and confidential business information. Sectors highlighted include: solar panels, robotics, and information technology.

SECTION 301 PENALTIES

President Trump announced this afternoon results of the Section 301 investigation of Chinese intellectual property practices. The steps delineated in the White House fact sheet are the following:

- **Trump will propose for public comment adding 25% additional tariffs on certain products** supported by China’s industrial policy.
- The **target list will be provided within 15 days**. Senior officials have said there will be **60 days provided for commentary**, but the Presidential Memorandum does not dictate a time frame for public comment. **Officials have also indicated that tariffs will be levied on \$50 billion worth of Chinese goods, touching some 1,300 tariff lines.**
- Sectors subject to the proposed tariffs will include **aerospace, information communication technology, and machinery.**
- **USTR will confront China’s technology licensing practices through a World Trade Organization (WTO) dispute proceeding. USTR must report on progress within 60 days.**
- The Department of Treasury, in consultation with other agencies, will propose **restrictions on investment** by China in sensitive U.S. technology. **Treasury has been directed to act within 60 days.**

CHINESE REACTION

The Chinese have made it clear that they plan to retaliate against the United States in equal measure to counter any US action. After today’s announcement, Chinese Ambassador to the US Cui Tiankai expressed China’s aversion to a trade war, but said “If somebody tries to impose a trade war upon us, we will fight. We will do whatever we

can to defend the legitimate interests...[and] the open global trading system.” However, we do not anticipate that the Chinese will act until tariffs are actually applied.

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