

Trump and Trade Updates – August 2017

President Trump Signs Into Law H.R. 3364 Regarding Sanctions Against Iran, Russia and North Korea

8/2/17 – Today, President Trump signed into law the Countering America's Adversaries Through Sanctions Act, which strengthens and expands statutory sanctions on Iran, Russia and North Korea. In a [statement](#) released by the White House, the president said, "I favor tough measures to punish and deter bad behavior by the rogue regimes in Tehran and Pyongyang. I also support making clear that America will not tolerate interference in our democratic process, and that we will side with our allies and friends against Russian subversion and destabilization." The statement goes on to say that "the bill remains seriously flawed – particularly because it encroaches on the executive branch's authority to negotiate."

In a [separate statement](#) issued the same day, the president again asserted that the legislation "is significantly flawed," stating that "In its haste to pass this legislation, the Congress included a number of clearly unconstitutional provisions."

See our July 26th update for additional background information.

President Trump Directs USTR to Examine China's Intellectual Property & Forced Technology Transfer Policies

8/15/17 – Asserting in a [presidential memorandum](#) that "Violations of intellectual property rights and other unfair technology transfers potentially threaten United States firms by undermining their ability to compete fairly in the global market," President Trump has directed U.S. Trade Representative Robert Lighthizer to investigate any of China's laws, policies, practices or actions that may be unreasonable or discriminatory and may be harming American intellectual property rights.

In response, Lighthizer stated, "The United States has for many years been facing a very serious problem. China's industrial policies and other practices reportedly have forced the transfer of vital U.S. technology to Chinese companies. We will engage in a thorough investigation and, if needed, take action to preserve the future of U.S. industry. Thousands of jobs are at stake for our workers and for future generations. This will be one of USTR's highest priorities, and we will report back to the President as soon as possible."

This trade action is reported to be one of several trade actions that the Trump administration may take against China in the coming months to address alleged intellectual property violations and the theft of American trade secrets. China's actions in this area were highlighted most recently by USTR in its annual [Special 301 Report](#) to Congress released in April 2017. This report stated that the "USTR continues to place China on the Priority Watch List because longstanding and new IP concerns strongly merit attention. China is home to widespread infringing activity, including trade secret theft, rampant online piracy and counterfeiting, and high levels of physical pirated and counterfeit exports to markets around the globe."

In brief remarks on the topic, Trump indicated that once the investigation is complete, the USTR may use "all available options" to address and enforce any actions against any threat of further Chinese IP violations. For a more detailed analysis see our client alert, [Trump Administration Moves Against Chinese IP Violations](#).

NAFTA Renegotiation Begins!

8/16/17 – U.S. Trade Representative Robert Lighthizer, Canadian Foreign Affairs Minister Chrystia Freeland and Mexican Secretary of the Economy Ildefonso Guajardo Villarreal have started the first round

of NAFTA renegotiation in Washington, D.C. with opening statements and an ambitious agenda that is scheduled to take the negotiations through August 20.

In his [opening statement](#), Lighthizer indicated that all the parties acknowledge that the trade agreement needs to be updated and modernized to address economies that are different than when NAFTA was implemented in the 1990s. After addressing modernization, however, he stated, “the tough work begins.” While the agreement has benefited many Americans, Lighthizer added that “for countless Americans, the agreement has failed ... We cannot ignore the huge trade deficits, the lost manufacturing jobs, the businesses that have closed or moved because of incentives – intended or not – in the current agreement.” He also made clear that President Trump is “not interested in a mere tweaking of a few provisions and a couple of updated chapters. We feel that NAFTA has fundamentally failed many, many Americans and needs major improvement.”

USTR Initiates Section 301 Investigation into China’s Acts, Policies and Practices Related to Technology Transfer, Intellectual Property and Innovation

8/25/17 – Less than a week after President Trump issued a presidential memorandum directing the U.S. Trade Representative (USTR) to determine whether to investigate China regarding certain intellectual property and technology transfer issues, USTR Robert Lighthizer formally initiated a Section 301 investigation into the matter on August 18, 2017. In announcing the investigation, he stated that, “[a]fter consulting with stakeholders and other government agencies, I have determined that these critical issues merit a thorough investigation.” Details of the four areas of investigation and information regarding public comments were provided in a [Federal Register notice](#).

Specifically, the public is invited to submit written comments to USTR no later than September 28, 2017 on: (1) the acts, policies and practices of the Chinese government described in the Federal Register notice; (2) information on other acts, policies and practices of China relating to technology transfer, intellectual property and innovation as described in the president’s memorandum, which might be included in the investigation and/or addressed through other trade avenues; (3) the nature and level of burden or restriction on U.S. commerce caused by the applicable acts, policies and practices of the government of China and/or any economic assessment of that burden or restriction; and (4) whether actionable conduct exists under Section 301 of the Trade Act of 1974 and what action, if any, should be taken. A public hearing will be held on October 10, 2017; persons wishing to testify at the hearing must provide written notification of their desire to speak and provide a summary of their proposed testimony by September 28, 2017.

OFAC Sanctions Chinese and Russian Entities and Individuals Supporting North Korea

8/25/17 – The Department of the Treasury’s Office of Foreign Assets Control (OFAC) has designated 16 Chinese and Russian entities and individuals for activities related to the support of North Korea’s Kim Jong-un. These sanctions intentionally target third-country companies and individuals that (1) assist already-designated persons who support North Korea’s nuclear and ballistic missile programs, (2) deal in the North Korean energy trade, (3) facilitate its exportation of workers and (4) enable sanctioned North Korean entities to access the U.S. and international financial systems. These sanctions complement [United Nations Security Council Resolution 2371](#) enacted on August 5, 2017. Treasury Secretary Steven Mnuchin stated, “It is unacceptable for individuals and companies in China, Russia, and elsewhere to enable North Korea to generate income used to develop weapons of mass destruction and destabilize the region. We are taking actions consistent with UN sanctions to show that there are consequences for defying sanctions and providing support to North Korea, and to deter this activity in the future.” For details on the 16 entities and persons that have been placed on OFAC’s Specially Designated Nationals List, see [OFAC’s Federal Register notice](#).