

Cayman Financial Review

The coming trade war?

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April 19, 2018

Donald Trump was not the first U.S. presidential candidate to blame foreigners and their trade practices for America's real and imagined economic woes. That is a time-honored tradition of U.S. electoral politics. But Trump is the first president – at least since Congress began delegating parts of its trade policymaking authority to the executive branch a century ago – to actually believe that protectionism will make America great. That alone makes trade war likely. Add a heaping sense of nationalist grievance and trade war appears imminent.

Behind President Trump's faith in protectionism is a stubborn belief that trade is not a cooperative, mutually beneficial activity conducted between consenting parties, but a zero-sum game with distinct winners and losers. He perceives U.S. trade deficits as proof that we are losing at trade and we are losing because the foreigners cheat. That perspective departs significantly from the underlying premise of U.S. policy spanning 84 years and 13 presidencies – that trade is a win-win proposition.

After a year in office during which the president's trade policy actions were far less strident than the tone of his rhetoric, the second year began with the president announcing tariffs on solar panel components and tariff rate quotas on washing machines under Section 201 of the Trade Act of 1974 (the "Safeguards" law). Although the economic rationale for these safeguard restrictions is nonexistent and the costs of imposing them far greater than any benefits, the fact is that use of these kinds of "trade remedy" laws to address injurious import surges is permitted under World Trade Organization rules and is unlikely to be considered rogue or provocative enough to inspire unilateral retaliation by other governments against U.S. interests. WTO members have taken a combined 164 safeguard measures since the organization was established in 1995. The 165th is not going to trigger a trade war.

The same cannot be said with confidence regarding Trump's early March authorization of steel and aluminum tariffs under the guise of protecting national security. These measures are much more problematic because the flimsiness of the national security rationale is reinforced by the president's numerous on-the-record statements that the restrictions were needed to respond to unfair trade practices (for which there are other remedies) and not exceptional "security threats."

Moreover, the manner in which Trump is wielding the tariffs as bargaining chips exposes a certain frivolity to the national security claim. It appears that Trump was seeking the leverage that comes with having the authority to impose sweeping tariffs, and invoking Section 232 of the

Trade Expansion Act of 1962, was an easy way to get it. Because that statute gives the president broad discretion to define what constitutes a national security threat and even broader discretion to design a remedy to mitigate that threat, he has the latitude to modify the tariffs or exempt countries from its reach. Trump exempted Canada and Mexico on the condition that the renegotiation of the North American Free Trade Agreement proceeds to his liking. Meanwhile, Trump is dangling before the Europeans and others promises of exemptions in exchange for their purchasing more U.S. exports, selling fewer wares to Americans, or ramping up their NATO spending.

Although U.S. courts are deferential to the president on matters of national security and the WTO is reluctant to presume to know better than a member government what threatens its national security, there yet may be challenges in both venues because the circumstances surrounding these cases are unusual and the evidence supporting the security threat claim is so contestable. Still, these actions would take time and the outcomes would be uncertain, making retaliation more likely.

However, retaliation is not a course taken with great pleasure because smart governments understand that responding with import barriers imposes the greatest burdens on their own businesses and consumers. Even though the EU has published a retaliation list, which targets U.S. exports from states of important members of Congress, Europeans do not want to pay more for their Levi's, bourbon and cheese. Moreover, imposing direct retaliation instead of pursuing resolution through the WTO could put the retaliators in violation of the rules before the United States is ever held to account.

But if there is retaliation, expect it to take the form of invocation of some bogus national security rationale. That would at least provide a similar level of insulation from WTO rebuke that protects the U.S. steel and aluminum actions. The EU might go after companies like Google, Amazon, and the other big U.S. internet giants, which have been in Brussels' crosshairs for years. Restrictions on the kinds of information that can cross borders, server localization requirements, and other onerous rules to "protect national security," while burdening U.S. technology titans could be imposed.

Beijing already considers China's reliance on western technology a real national security threat. China already has a National Security Law and a Cybersecurity Law, which extend unspecified authorities to the Chinese government to inspect U.S. information and communications technology products, and to compel U.S. companies to "share" their technology. Those practices are among the subjects of the Trump administration's highly provocative Section 301 (of the Trade Act of 1974) investigation. If China was previously on the defensive about those allegations, any inclination toward changing those policies as a result of the U.S. investigation has probably shifted in favor of justifying those practices on account of the U.S. precedent to invoke national security to rationalize protectionism.

The outcome of the Section 301 case is of much greater significance than the steel and aluminum tariffs to the question of whether a trade war unfolds. The U.S. law gives the president the authority to impose trade restrictions in response to any unfair trade practices abroad. The

problem is that the United States essentially suspended its right to use the remedial portion of the law when it joined the WTO in 1995. As a WTO member, the United States, like every other member state, cannot be judge, jury and executioner. The United States can bring its evidence of Chinese violations to the WTO and ask for a ruling as to whether China is, in fact, in violation. If China is found to be in violation and it fails to bring its policies or practices into conformity with the WTO agreements it is violating, then the United States can pursue retaliation.

But Trump is reportedly unconcerned about this “problem” and is waiting to receive from his advisers a list of Chinese products that will be subject to retaliation. The value of those products is supposed to bear some relationship to the value of U.S. intellectual property allegedly stolen by Chinese entities, which is a number in the hundreds of billions of dollars.

Such a blatant violation of WTO rules perpetrated by the United States would signal the world that Trump is not interested in the rule of international trade law, but in asserting U.S. sovereignty at all costs. And the costs will be huge, as other governments follow suit and the once predictable global trading system descends into the unpredictable lawlessness of a trade war.

President Trump seems not only to be undeterred by growing concerns about a trade war, but even encouraged. On March 1, betraying his deep misunderstanding of trade accounting, Trump argued: “When a country is losing many billions of dollars on trade with virtually every country it does business with, trade wars are good, and easy to win.”

A Quinnipiac University poll of registered U.S. voters conducted later that week found that 67 percent of Republicans agreed with President Trump’s statement, while only 7 percent of Democrats did. The wide partisan chasm over the question only reinforces the president’s confidence that he’s doing the right thing. He believes he cannot lose politically from blowing things up.

The emerging talking points on Fox News and among other Trump supporters is that the United States has been in a trade war taking on heavy casualties for two decades. The difference now is that we are finally fighting back. And by virtue of the size of the U.S. market, Washington has leverage over the governments of other countries. Producers in countries with smaller markets that hope to achieve the economies of scale necessary to be competitive often require access to larger markets in order to work their way down the cost curve. That should come at a price.

Meanwhile, Washington has even greater leverage with the governments of countries running trade surpluses with the United States because, presumably, their exporters depend on the U.S. market more than U.S. exporters depend on theirs. Accordingly, threatening to block access to the U.S. market should produce favorable results, and U.S. producers and consumers who rely on those imports are merely collateral damage.

Animating this zero-sum fallacy is a sense of resentment that permeates the American nationalist narrative, which portrays the United States as a benevolent giant, having selflessly provided the resources, security and generosity of spirit to rebuild the free world after the war. Under the U.S. security umbrella, our allies took advantage of our kindness, short-changed the till, flaunted the

rules, became economic rivals, and adopted policies that advanced their own interests at the expense of America's industrial base.

This variant of American exceptionalism demands tribute in the form of unquestioning support for U.S. positions on matters of foreign and economic policy, excusing U.S. policy transgressions and acquiescing in other U.S. claims to entitlement or special consideration. That the United States is not treated exceptionally by the World Trade Organization's Dispute Settlement Body, which is to say with extra helpings of deference or even turning a blind eye, as recognition for America's selfless leadership in establishing the rules and institutions of the trading system helps explain Trump's reckless trade policy tack today.

While it may be true that the United States would be less weakened than other countries by a trade war (as the U.S. is much less dependent on trade than almost every other country, trade accounts for 27 percent of U.S. GDP, as compared to a world average of 53 percent), the damage to the U.S. economy would be considerable nonetheless. But the very notion of feeling confident to threaten a trade war because U.S. "casualties" would be lighter than say China's or Europe's is anathema to any proper understanding of how trade and the global economy really work. Trade is not a zero sum game, but a win-win, lose-lose proposition. Hurting our trade partners unequivocally hurts ourselves. Trump's predecessors understood this.

Not since Herbert Hoover has a U.S. president been so cavalier about the consequences of protectionism. Never has a president been more dismissive of the importance of trade to our prosperity and security. Never has a president been so impervious to the lessons of history.

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