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Ask Huawei About The "Coming" U.S.-China Trade War

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Speculation is rampant that President Trump will soon announce sanctions against China for its heavy-handed intellectual property and technology transfer policies, cavalierly thrusting us into a deleterious trade war. Huawei Technologies has news for these speculators: For over a decade, Washington and Beijing have been waging a tit-for-tat technology trade war, which is escalating and claiming victims as you read.

The latest hostilities occurred Monday when AT&T, poised to deliver its long-gestating plan to sell smart phones produced by Chinese technology giant Huawei, instead abruptly announced that it was aborting that plan. If history is any guide, AT&T likely was compelled to change course by U.S. policymakers with leverage to affect the telecom's fortunes.

China's technology ambitions, which at times have been promoted and advertised with brazen disregard for intellectual property and the norms of international trade and investment, are increasingly in the crosshairs of U.S. policymakers. Since at least 2006, Beijing has been promoting discriminatory indigenous innovation policies, which accord preferential treatment to companies that develop or register their intellectual property in China. In 2009, the American Chamber of Commerce in China issued a report that exposed "a web of industrial policies," as well as Chinese government plans to build national champions by "borrowing" Western technology.

More recently, Beijing approved a $160 billion investment to help close the technology gap between the domestic semiconductor industry and the world's cutting-edge firms. The government also implemented two new laws—the National Security Law and the Cybersecurity Law—which aim to tighten state control over information by requiring data and technology used in certain sectors of the economy to be "secure and controllable." U.S. companies are concerned that the Cybersecurity Law's vague objectives and ambiguous language grant too much discretion to Chinese authorities, who could require firms to share source code and other proprietary information to gain market entry. Forced technology transfer has been a long-standing complaint of U.S. companies.

Meanwhile, China's "Made in China 2025" initiative, which is Beijing's roadmap for achieving technological preeminence, has put U.S. policymakers on the defensive, causing all Chinese acquisitions of U.S. (or other foreign) technology companies to be viewed with suspicion. Just last week, China's ANT Financial's bid to acquire U.S. MoneyGram was rebuked by the Committee on Foreign Investment in the United States (CFIUS), which has become an increasingly insurmountable obstacle to technology acquisitions over the past year.

What does this have to do with Huawei? Well, rather than attempt to resolve these issues by bringing complaints to the World Trade Organization, the United States chose to impose de facto bans on Chinese technology firms and to make it more difficult for Chinese companies to acquire U.S. technology. Over the years, Huawei—one of the world's most successful information and communications technology companies—has been held accountable for the Chinese government's transgressions (both real and imagined). Huawei has been crucified for the sins of its government, standing accused of being affiliated with the People's Liberation Army and a conduit for cyber-malfeasance.

In 2008, Huawei's bid to acquire U.S. software company 3Com was scuttled by opposition from U.S. policymakers and CFIUS on the grounds that the transaction, if consummated, would present a threat to U.S. national security. In 2011, the U.S. House Permanent Select Committee on Intelligence initiated an investigation into whether Huawei and ZTE (another Chinese ICT company) presented security threats to U.S. telecommunications networks. The investigation culminated in a report recommending that U.S. firms—especially telecoms with hopes of participating in federally funded infrastructure projects—avoid contaminating their supply chains with equipment and components produced by these Chinese companies. But the report contained no evidence to support the claims—only innuendo.

Six months after publication of the House Intelligence Committee report, U.S. lawmakers inserted language into the Continuing Budget Resolution making it illegal for U.S. government agencies to purchase or use Chinese ICT products. Later that year, as conditions for its approval of a Japanese telecommunications company's acquisition of Sprint Nextel, CFIUS required the purchaser, Softbank, to purge Chinese ICT components from its supply chain and to obtain preapproval from the U.S. government for any new vendors it wished to bring into its supply chain. Similar notification and approval conditions have been required in subsequent acquisitions.

Although the public record is devoid of any evidence to support the assertions that Huawei is a bad actor, the company has essentially been shut out of the U.S. market by way of U.S. policymakers reminding the big telecoms that they have much to lose if they do business with Huawei.

Considering that Huawei products are ubiquitous throughout the world and that the company partners with British Telecom in building and servicing telecommunications networks in the United Kingdom, might it be possible that protectionism is masquerading as a national security imperative in this case? Might AT&T's decision to drop Huawei have something to do with its desire to win approval for its pending merger with Time-Warner?

For those wondering how the Trump administration might "retaliate" against China for any infractions it finds during the course of its Section 301 investigation, bear in mind that "pretaliation" is already underway. The U.S. government has chosen to address China's pursuit of its technological ambitions by depriving Chinese tech companies of both U.S. technology and U.S. consumers. Along with providing a false sense of cybersecurity, that approach is sure to reduce the scope for innovation, collaboration, and economic growth, and it will threaten the global trading system.

All of that might be averted if the Trump administration uses the evidence it obtains from its Section 301 investigation to file a formal challenge of China's practices at the WTO and Beijing, likewise, launches a WTO challenge of U.S. restrictions of Chinese ICT companies. The outcomes might then be parlayed into an enduring solution devoid of debilitating unilateral sanctions.

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