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Trump Risks Bringing Back a Dud in 1980s-Era U.S. Trade Weapon

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The Trump administration wants to revive a trade policy that was fashionable in the 1980s, but that might be about as wise as wearing parachute pants again.

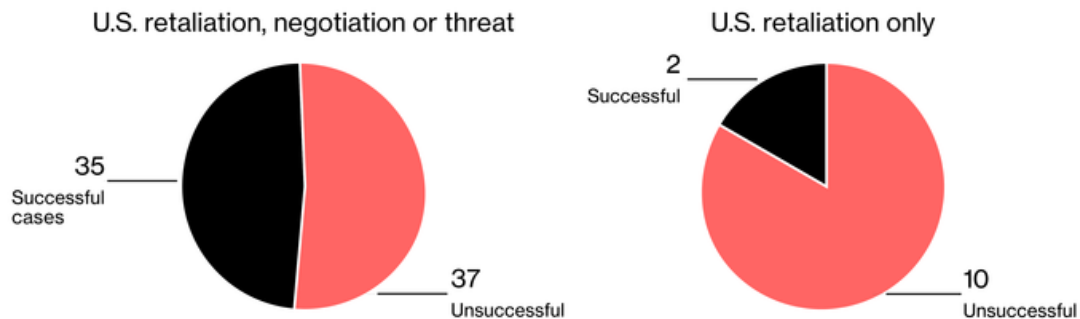
The White House strategy would be part of its push to level the playing field for U.S. firms. In this instance, it's considering opening an investigation into alleged Chinese infringement of U.S. intellectual property under section 301 of the 1974 Trade Act, an administration official said.

Used frequently during the Reagan administration in the 1980s, the law allows the president to impose tariffs and other measures to force open export markets.

But even in its heyday from 1975 to 1994, section 301 improved trade imbalances less than half the time, according to research in a forthcoming paper by Cato Institute adjunct scholar Scott Lincicome. Much of that success came when the mere threat of U.S. punitive measures convinced trade partners to give in. When the U.S. moved from threats to retaliatory action, the success rate plunged to less than 20 percent, according to Lincicome's findings.

Spotty Record

The U.S. rarely achieved its objectives when it used the section 301 trade tool



Note: Data drawn from 72 probes that permitted analysis from 1975-94. Success is defined as achieving at least some U.S. negotiating goals on trade.

Source: Scott Lincicome, citing work by Thomas Bayard and Kimberly Ann Elliott

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America has enjoyed better results under the World Trade Organization since its start in 1995, winning more than 85 percent of the cases it brought to the Geneva-based organization, according to Bloomberg calculations.

“Section 301 fell into disuse,” Chad P. Bown, a senior fellow at the Peterson Institute for International Economics in Washington, wrote in an Aug. 3 report on section 301. “The increasingly effective and internationally accepted WTO dispute settlement system meant that Washington could use a better approach to pursue its grievances.”

Despite the controversy over section 301, there’s little disagreement in the U.S. that companies have a grievance against China when it comes to intellectual property. The U.S. Trade Representative Office accuses China of stealing trade secrets and engaging in “rampant” piracy. The Commission on the Theft of American Intellectual Property says the Asian country is the world’s leading culprit in a crime that costs the U.S. economy as much as \$600 billion a year.

Trade Conflict

China pays close attention to intellectual property rights and wants to maintain good relations with the U.S., according to Ministry of Commerce spokesman Gao Feng. Beijing has measures at the ready in case a trade conflict erupts, and has singled out imports of U.S. soybeans that exceeded \$14 billion last year, according to people familiar with the matter.

The White House hasn’t specified which industry or company it’s trying to help, and the USTR declined to comment. President Donald Trump is likely to wait until at least the end of his working vacation this month before taking any steps on an investigation, as he wants to reward China for backing sanctions on North Korea, an administration official said this week.

Cato’s Lincicome said there may be grounds for the administration to conduct a study under section 301 and bring the case to the WTO. Peterson’s Bown speculated that the government could be considering section 301 because the specific case isn’t covered by WTO agreements, though he questioned whether such a strategy would work.

“You could say to yourself, ‘If that’s what their argument is, they’re implicitly themselves saying that China’s not breaking any rules,’” he said by telephone. “If we don’t have a trade agreement with China on this issue, then what is China doing wrong?”