

## **US-China trade war risk grows over IP theft**

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News that US President Donald Trump is preparing to crack down on China's rampant theft of intellectual property from American businesses has reignited warnings of a potential trade war between Australia's two most important economic partners.

US trade analysts appear unanimous in their belief that China's industrial policy has failed to stop pilfering of commercial secrets, worth hundreds of billions of dollars a year, from US firms. President Trump had little choice but to try to fix the unfair behaviour, they said.

American carmakers, technology firms, media companies and advanced manufacturers entering the lucrative Chinese market are often forced to divulge valuable intellectual property or to share trade secrets, and are sometimes required to enter joint ventures with local partners.

David Dollar, a US Treasury emissary to China in the Obama administration and now a Brookings Institution senior fellow, said Beijing was unlikely to radically change its conduct despite years of talks with the US.

"So the US is left with the choice of doing something small and symbolic, or something big like across-the-board tariffs," Mr Dollar said.

"You can be sure China will retaliate. And then you've got a trade war which hurts the global economy."

The honeymoon between Presidents Trump and Xi Jinping appears over after their positive meeting at Mr Trump's Florida resort in April.

In May they achieved a modest deal for the US to export more gas and beef to China and open up the Chinese market to US ratings agencies and credit card companies. In exchange, the US promised to look favourably on Chinese foreign investment.

However, President Trump has grown frustrated with China's failure so far to rein in North Korea's nuclear weapons program and tepid progress from Beijing on broader market access for US businesses.

Reports suggest the Trump administration may bypass the multilateral World Trade Organisation and soon announce a unilateral investigation into China's mishandling of American IP under the rarely-used section 301 of the US Trade Act.

A final recommendation by US Trade Representative, Robert Lighthizer, on any pecuniary actions would likely take months.

Separately, the US is considering imposing tariffs or quotas against Chinese steel and aluminum flooding the world market.

In June, the Trump administration cut off a Chinese bank and a shipping company from the US financial system for aiding North Korea's illicit activity. It has signalled more sanctions are looming for Chinese entities that deal with Pyongyang.

American business for years has been frustrated at China's industrial policy, which seeks to copy trade secrets from US firms in return for investing in the huge Chinese consumer market.

Unlike Australia, which typically sells China iron ore, agriculture and education services, America's leading export industries are often IP-intensive,

Australia's economy would be vulnerable to any tit-for-tat trade war between the US, its biggest foreign investor and security ally, and China, Australia's largest trade partner.

US Acting Assistant Secretary for East Asian and Pacific Affairs, Susan Thornton, said on Thursday that intellectual property rights (IPR) were a "perennial" talking point between American and Chinese policymakers.

"I think many of us who have been looking at this issue feel that the progress remains insufficient and needs to continue to be worked on," she said.

The Commission on the Theft of American Intellectual Property in Washington estimates the US loses more than \$US225 billion annually in counterfeit goods and pirated software, and that theft of trade secrets could be as high as \$US600 billion. China has been fingered as the chief culprit.

The Chinese industrial playbook consists of restricting market access for foreign technology, media and advanced manufacturing firms; intellectual property theft; cyber hacking of offshore competitors; buying foreign rivals in strategically important sectors and favouring state-owned enterprises.

Automakers such as General Motors and Ford are forced into 50-50 joint ventures with Chinese partners.

A Beijing court last year temporarily ordered Apple, perhaps the world's most innovative company, to stop selling two iPhone 6 models because they were too similar to a Chinese brand.

Technology giant IBM in 2015 succumbed to pressure to become the first foreign firm to hand over its confidential source code to China in a secure environment, according to *The Wall Street Journal* and Chinese state media.

Qualcomm, a US chip maker, was fined \$US975 million in 2015 for violating China's anti-monopoly law. It was ordered to offer its licences for high-speed wireless data to smartphones at a steep discount to Chinese firms.

Apple and other American tech firms have been compelled to build local cloud data storage centres, under tough new cyber security rules.

Silicon Valley giants have been reluctant to publicly criticise China's mercantilism, for fear of being locked out.

There are signs that the US is starting to retaliate against China's mercantilist practices.

The Committee on Foreign Investment in the United States (CFIUS), which can block foreign acquisition of US assets on national security grounds, appears to be slowing down the approval of Chinese takeovers, particularly of US semiconductor manufacturers.

Dan Pearson, a former chairman of the US International Trade Commission and now Cato Institute senior trade fellow, said there was an element of American "protectionism" creeping in.

"Right now, neither the US or China is being a responsible player in the global trading system," Mr Pearson said.

"China's actions have been egregious enough that they have helped fuel a political climate in the US that has become anti-Chinese and anti the global trading system."

President Trump is under pressure to live up to his hardline campaign promises to take stronger trade sanctions against China.

The Democratic Party has recently ramped up its anti-trade rhetoric and policies against China, to try to outflank President Trump with working class voters who feel they have lost jobs and pay to Chinese manufacturers.

Democratic Senate minority leader Charles Schumer has said CFIUS should block all Chinese takeovers until China assists the US on disarming North Korea.

"The problem is President Trump has talked a good game but done nothing on trade but study it," Senator Schumer said.

"We need action now."

Gary Hufbauer, a former US Treasury deputy assistant secretary for international trade and now senior fellow at the Peterson Institute for International Economics, said: "They are trying to out-populist Trump on trade because they think this sort of thing gets votes."

"Since Trump has not gotten what he wanted out of China on North Korea yet, he has less restraint on hammering China on the trade front."

If the US imposed tariffs or other harsh measures, China would be expected to retaliate.

Potential targets could be US soybeans, further restrictions on Silicon Valley firms or delays to Boeing's manufacturing plant in China.

President Barack Obama negotiated an agreement with President Xi to halt Chinese state-sponsored cyber hacking theft of US commercial secrets, a deal that appears to have been largely successful.

China has also set up IPR courts.

But "American companies are not satisfied", Mr Dollar said.

The US and China have been slowly negotiating a bilateral investment treaty for years, but without concrete results.

Brookings' Mr Dollar said the Trans-Pacific Partnership was supposed to set up the trade and investment rules for IP and state-owned enterprises in the Asia Pacific region, with the aim of creating norms for China to eventually adopt if it joined the 12-country pact.

Mr Trump withdrew from the TPP in January.

"The TPP was the third way that the Trump administration immediately cut off," Mr Dollar said.