



Geneva WATCH

An overview of the bilateral, plurilateral and multilateral trade negotiations

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Are We Looking at a Trade War?

Back in August last year, U.S. President, Donald Trump, asked U.S. Trade Representative, Robert Lighthizer, to initiate an investigation under Section 301 of the Trade Act of 1974 regarding China's acts, policies, and practices related to technology transfer, intellectual property, and innovation.

The results of this investigation led the U.S. President to instruct his USTR to follow three separate actions in responding to "China's harmful" practices such as the transfer of technologies from U.S. companies to Chinese companies. The actions are:

1. Tariffs – The President has instructed the Trade Representative to publish a proposed list of products and any tariff increases within 15 days of today's (March 22) announcement. After a period of notice and comment, the Trade Representative will publish a final list of products and tariff increases.
2. WTO dispute – The President has instructed the Trade Representative to pursue dispute settlement in the World Trade Organization (WTO) to address China's discriminatory technology licensing practices.
3. Investment restrictions – The President has directed the Secretary of the Treasury to address concerns about investment in the U.S. directed or facilitated by China in industries or technologies deemed important to the U.S.

A day after President Trump's announcement, the USTR filed a request on March 23rd for consultations with China at the WTO to essentially "confront China over its policies that result in unfair treatment for U.S. companies and innovators trying to do business in China." The challenge is the U.S.'s second in less than 10 days after it launched one against the Indian export subsidy programs on March 14th – the first under the Trump administration.

"China appears to be breaking WTO rules by denying foreign patent holders, including U.S. companies, basic patent rights to stop a Chinese entity from using the technology after a licensing contract ends. China also appears to be breaking WTO rules by imposing mandatory adverse contract terms that discriminate against, and are less favorable for, imported foreign technology," the USTR wrote in a statement released on March 23rd.

Council for Trade in Goods

The WTO's Council for Trade in Goods discussed both the U.S.'s decisions to impose tariffs on steel and aluminium and the "Section 301" investigation of China, among other issues, at its March 23rd meeting, which continued on March 26th.

The U.S.'s "unilateral action" will not only impair the rights and interests of WTO Members, but will also seriously undermine the multilateral trading system, China told the full Membership. China reminded Members that article 23 of the Dispute Settlement Understanding (DSU) prohibits WTO countries from unilaterally determining a trade violation, such as what the U.S. has done with its recent Section 301 action, which sets a "very bad precedent" by breaching its commitment to WTO rules.

China promised to fight back with its own announcement of tariffs on U.S. goods.

"We should not stay put watching someone rocking the boat. The WTO is under siege and all of us should lock arms to defend it," China added.

The U.S. retorted that China's forced technology transfer policies and practices are causing "billions of dollars in losses annually to U.S. businesses and individuals".

Japan and the EU, meanwhile, stressed that while they share U.S.' concerns of the need for stronger protection of intellectual property rights and concerns over technology

licensing and transfers in China, any trade measures taken should be consistent with WTO agreements.

“It is positive to see Members continuing to use the WTO as a place to discuss these issues,” WTO Director General, Roberto Azevêdo, said following Friday’s meeting. Azevêdo encouraged delegates to use the organisation’s various forums and mechanisms to address their concerns and explore potential solutions.

“Actions taken outside these collective processes greatly increase the risk of escalation in a confrontation that will

have no winners, and which could quickly lead to a less stable trading system,” he added in reference to many that have warned against a potential trade war, which could put the entire organisation at risk.

In the meantime, rumours are circulating that China and the U.S. have started secret talks to allow U.S. companies better access to China’s vast market, which observers said may be the best path to resolving the U.S.’s concerns.

Geneva Watch is published by Dairy Farmers of Canada, Chicken Farmers of Canada, Egg Farmers of Canada, Turkey Farmers of Canada and Canadian Hatching Egg Producers to report on the various events occurring in Geneva, particularly on the WTO negotiations on agriculture.

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Legal Deposit: National Library of Canada, ISSN 1496-9254

