



## U.S.-China Trade War: Same Script, Different Outcomes

### **The U.S. and China increased the pace of their bilateral discussions throughout the month of February.**

At the end of latest round of negotiations, the fourth since the beginning of the year, the sides reported progress in many areas of their talks, including intellectual property rights (IPR), forced technology transfers, agriculture, and services. U. S. President Donald Trump himself tweeted that a deal has been achieved on the thorny issue of currency manipulation, an encouragement which led him to delay the March 2<sup>nd</sup> deadline previously set to achieve a deal.

The week of February 25<sup>th</sup>, the two countries were said to be near an “historical” deal that could be announced at a second summit between Trump and Chinese President, Xi Jinping, at Mar-a-Lago, toward the end of March. That deal, according to the U.S., would force China to cut its subsidies provided to its state-owned enterprises (SOEs), inviting Beijing to revisit its “Made in China 2025” economic strategy launched in 2015 by altering the government’s role in the economy.

Striking while the iron was hot, on March 1<sup>st</sup>, President Trump asked China to abolish its tariffs on several U.S. agricultural products given the good progress in their ongoing bilateral discussions.

“We have engaged in a very intense, extremely serious, and very specific negotiation with China on crucial structural issues for several months now,” U.S. Trade Representative, Robert Lighthizer, told the House Ways and Means Committee on February 27. “We are making real progress. If we can complete this effort – and again I say “if” – and can reach a satisfactory solution to the all-important outstanding issue of enforceability as well as some other concerns, we might be able to have an agreement that helps us turn the corner in our economic relationship with China. Let me be clear: much still needs to be done both before an agreement is reached and, more importantly, after it is reached, if one is reached,” the USTR added.

Observers remain optimistic that the two economic superpowers will reach a deal at some point as both nations acknowledge the need to lessen their trade tensions. It therefore becomes a question of how substantial that deal would be for the U.S., rather than if they reach one.

That being said, if Washington and Beijing seem to be on the same page in their bilateral talks, the same cannot be said of their relationship at the World Trade Organization (WTO). Indeed, the two trade powerhouses clashed several times at various meetings held throughout the week of February 25<sup>th</sup>.

### **Self-Declared No More**

In a 45-page proposal circulated for Decision at the General Council last month, the U.S. put the self-declared developing country status and the special and differential treatments (S&DT) attached to it, at the heart of the organization’s problem. The WTO – unlike other international institutions such as the World Bank, the IMF or the UN – “does not specify criteria or process for determining development status.” It is still entrenched in a “simplistic and clearly outdated construct of ‘North-South’ division, developed and developing countries” which in turn has severely damaged its negotiating function by holding developed Members to high standards while allowing “vast flexibilities or exemptions” to developing countries, the U.S. wrote.

This status quo makes no sense today as it can lead to “unpredictable and illogical results in the operation and implementation of existing WTO agreements.” The U.S. went on to suggest that countries that are members of the OECD, or the G-20 should not benefit from the S&DT.

The same goes for high income “developing countries” such as Qatar and Singapore, and countries whose share of global trade equates 0.5%. These four categories include several WTO Members beside the main targets (China and India).

As such, many developing countries (Bolivia, Cuba, Kenya, Laos, South Africa, and Venezuela) either joined or endorsed China's counter proposal on self-designation focusing on "per capita indicators" as top criteria when assessing the development level of a given country.

The U.S. suggested that its proposed classification only applies to current and future WTO agreements. China meanwhile considers the move as divisive and potentially damaging to the multilateral trading system. The U.S. paper selectively picked up criteria to serve its goals. It described the OECD as a policy-driven group rather than a rich countries' club, just like the G-20 is only a group of influential countries.

S&DT should remain untouched, most developing countries said, pointing to the U.S.'s own special and differential treatment i.e. its exemption under Paragraph 3(a) of GATT 1994 (the so-called "Jones Act")<sup>1</sup> which the U.S. continues to defend as a matter of national security.

The EU stressed that differentiation between developing countries should be much more granular. Although these Members need flexibilities, the EU agrees with the U.S. that self-designation should be reviewed. Along with Canada and Australia, the EU suggested that Members consider a more pragmatic approach to the question mirroring the Trade Facilitation Agreement (TFA) whereby three categories of commitments were defined: Category (A) where developing countries agree to immediately implement the agreement; (B) where Members are given additional time to implement the proposal or (C) where countries get both additional time and technical assistance to implement the agreement.

### Impacts on Agriculture and Fisheries Negotiating Groups

China's domestic support came under huge scrutiny at the February 26-27 Committee on Agriculture where Members discussed Beijing's latest notification for 2011-2016, circulated last December. The notification confirmed what many suspected – starting with the U.S. who successfully challenged China's domestic support for wheat, rice and corn – that China's excessive de minimis support for a number of crops breached its WTO commitment.

China candidly recognized the breach, admitting that it faces great challenges in reforming its agriculture policy but is

doing its utmost to implement new programmes that are in line with its WTO commitment. Nevertheless, the issue as the EU put it, will definitely have a spillover effect in the domestic support working group where Members discuss new limit for trade-distorting support.

Members are currently trying to break the agriculture negotiation process into specific issues through dedicated working groups. This motivates them to be as creative as they can be in order to find an outcome on specific elements where differences can be bridged, Agriculture negotiating group Chair, Ambassador Deep Ford (Guyana), stressed.

Although some countries showed readiness to enter into full negotiating mode, which is encouraging, the goal remains the 12<sup>th</sup> Ministerial Conference in Astana, Kazakhstan (MC12), the Chair said. The idea is to select elements of an incremental package on which Members could focus on, using that as the basis for negotiations this fall with the aim to deliver something at the MC12.

Past experiences have shown that tackling everything at the same time is a recipe for disaster, Ford added.

For his part, Ambassador Roberto Zapata Barradas (Mexico), stressed that Members have already shifted to full negotiating mode in the fisheries subsidies talks, which much like agriculture, is also heartening. That being said, he too urged Members to take the time to advance the issues at stake.

This past week saw Members tabling new proposals on how to prohibit subsidies for fishing of overfished stocks and on subsidies that contribute to overfishing and overcapacity. Other proposals are said to be in the pipeline, the Chair said. However, how to grant flexibilities to developing and least-developed countries Members while still clamping down on excessive fishing, remains the biggest question, as the U.S. and China continue to differ on S&DT.

<sup>1</sup> Paragraph 3(a) of GATT 1994 provides an exemption from Part II of GATT 1994 for measures under specific mandatory legislation — enacted by a Member before it became a contracting party to GATT 1947 — which prohibits the use, sale or lease of foreign-built or foreign-reconstructed vessels in commercial applications between points in national waters or waters of an exclusive economic zone. (Source: WTO)

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