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White House considers “national emergency” powers against Chinese investment

The Trump administration is actively considering invoking legislation previously regarded as covering only military conflicts to step up its trade war measures against China in the area of high-tech development.

Speaking to a conference in Washington on Thursday, Heath Tarbert, assistant Treasury secretary for international markets and investment, said the administration was looking at invoking the International Emergency Economic Powers Act (IEEPA) as part of the moves against China ordered by Trump last month.

Under the 1977 law Trump could declare a national emergency in response to an “unusual and extraordinary threat” which would allow him to block transactions and even to seize assets.

Use of the legislation has been raised previously, but this is the first time an administration official has confirmed that it is under consideration. Its invocation would be directed against Chinese investment and activities in areas regarded as central to US “national security” including semi-conductors, new mobile phone technology and robotics.

The move was foreshadowed by Commerce Secretary Wilbur Ross earlier this week. Speaking to Fox Business Network on a bi-partisan bill before the Congress to increase the powers of the Committee on Foreign Investment (CFIUS), the panel that currently reviews foreign takeovers, Ross said there would be “limitations on foreign investment” adding that Trump would also take “other action.”

Tarbert told the conference the Treasury was supporting the bill to expand the powers of the panel but was not involved in the use of the IEEPA. “We have separate offices in Treasury which are considering two issues distinctly,” he said.

Treasury Secretary Steven Mnuchin has until May 21 to report back to Trump on the initiation of trade war measures against China involving the imposition of a 25 percent tariff on a range of 1,333 products, mainly covered by Beijing’s “Made in China 2025” plan under which it is seeking to expand its high-tech production.

Since the initial announcement, Trump has threatened to impose tariffs on a further \$100 billion worth of Chinese exports in retaliation for counter-measures proposed by China on US agricultural exports.

The issue of the US trade war measures, which are directed against not only China but Europe as well, is a central topic at talks during the meeting of the International Monetary Fund being held in Washington over the weekend. The UK Chancellor of the Exchequer Philip Hammond told reporters: “We do not believe the imposition of tariffs is the way ultimately to resolve the problem in the global trade system.”

David Lipton, the deputy managing director of the IMF said: “We need to pivot where we are. The US needs to be letting go of unilateral pressures to achieve its goals.”

US Treasury Secretary Steven Mnuchin pushed back saying the IMF had to be a “strong voice” for its members to dismantle trade and non-tariff barriers and to protect intellectual property rights.

“We strongly believe that unfair global trade practices impede stronger US and global growth, acting as a persistent drag on the global economy,” Mnuchin wrote in a statement. The increasingly feverish atmosphere surrounding the issue of Chinese trade and investment, and its direct link to military issues, was exemplified by the reaction of Texas Republican Senator Joh Cornyn, the chief sponsor of the CFIUS legislation, to opposition from major business groups including IBM and General Electric. Under the legislation, CFIUS would be able to review takeovers to include investments in “critical” technologies.

“The CFIUS process wasn’t originally designed and is now insufficient to address today’s rapidly evolving technology as well as the threats to our technological edge,” Cornyn said. He accused the corporations opposed to the changes of “trying to perpetuate the status quo as long as possible, not to protect our national security interests but just the opposite, so they can bolster their bottom line.”

In other words, some of America's leading corporations are being accused of selling out the country's national security interests.

The trade war measures of the Trump administration are not confined to its newest rival, China, which it considers its greatest medium-term threat to American economic dominance in high-tech areas and their associated military applications. They are also directed against old ones, notably Japan and Germany, with which the US has large trade deficits.

At his two-day meeting with Japan's prime minister Shinzo Abe at his Mar-a-Lago Florida resort earlier this week, Trump not only sent the Japanese leader home empty-handed but subjected him to what the *Financial Times* described as "maximum humiliation."

Following a dinner at the end of the first day of talks, Trump fired off a tweet reversing an announcement last week that he was reconsidering his decision to leave the Trans-Pacific Partnership, which Japan has continued to promote after Trump pulled out from it on his first day in office.

"While Japan and South Korea would like us back into the TPP, I don't like the deal for the United States," he tweeted. "Too many contingencies and no way to get out of it if it doesn't work. Bilateral deals are far more efficient, profitable and better for our workers. Look how bad the WTO [World Trade Organisation] is to the US."

Significantly, the administration has refused to exempt Japan from the immediate application of the 25 percent tariff on steel imports introduced at the beginning of March on "national security" grounds. While the European Union was granted an exemption, at least until May 1, this was not extended to Japan despite the fact that it is considered to be a "strategic ally" of the US.

Trump's actions are clearly aimed at pursuing the US agenda of having Japan enter a bilateral trade deal with it. However, Japan is extremely reluctant to enter such an agreement. It fears that under Trump's "America First" agenda it would be putting its head into the lion's mouth and it would be forced to give greater concessions than it made in the TPP negotiations under the Obama administration and get nothing in return.

Tensions with the EU are also on the rise. Under the exemption provisions, negotiations were to have taken place to secure a permanent carve-out from the tariff. But they have not occurred and seem unlikely to in the time remaining.

Speaking to a press conference in Strasbourg, the EU's trade policy commissioner Cecilia Malmström said Brussels called on Trump to grant it a permanent exemption from the

steel tariffs but made it clear there would be no negotiations until the threat had been lifted.

The EU had “not started to negotiate anything” with the US and would not do so until there was an “unconditional and permanent exemption,” she said.

“We have not offered the US anything, we are not going to offer them anything to get exemptions from tariffs that we consider are not in compliance with the WTO.”

But the reference to the WTO will fall on deaf ears within the Trump administration. As far as Trump and his trade advisers are concerned, the WTO functions in a manner inimical to the interests of the US.

Malmström said when permanent exemption was confirmed “we are as always, willing to discuss anything when it comes to trade facilitations, trade irritants ... But we are not negotiating anything under threat. We are not offering them anything.”

Earlier this week, in introducing the International Monetary Fund’s *World Economic Outlook*, its chief economist Maurice Obstfeld said there were prospects for an upswing in global growth but trade conflicts were “jarring.” Within a matter of days of his remarks, the jarring has become more intense.