

INTERNATIONAL ECONOMIC LAW

President Trump Issues Trade-Related Executive Orders and Memoranda

doi:10.1017/ajil.2017.81

The United States' total trade deficit in 2016 was \$502.3 billion.¹ President Trump believes that the deficit—and especially its consequences (“wealth . . . stripped from our country”), causes (“bad trade deals”), and images (“shuttered factories”)—played a prominent role in his electoral success in 2016.² Since taking office, Trump has signed a series of executive orders and memoranda on trade in order to fulfill various campaign promises on this front.³ The executive orders and memoranda focus mainly on gathering information and laying groundwork for future executive action. Taken together, they signal the Trump administration's intention to address the United States' trade deficits, especially with China.

On March 31, President Trump signed two executive orders related to trade enforcement. The first—titled “Omnibus Report on Significant Trade Deficits”—requires the U.S. Department of Commerce and U.S. Trade Representative to identify trading partners with which the United States ran a significant trade deficit in goods in 2016.⁴ The executive order requires these agencies to submit to the president a report that, for each identified trading partner, shall

- (a) assess the major causes of the trade deficit, including, as applicable, differential tariffs, non-tariff barriers, injurious dumping, injurious government subsidization, intellectual property theft, forced technology transfer, denial of worker rights and labor standards, and any other form of discrimination against the commerce of the United States or other factors contributing to the deficit;
- (b) assess whether the trading partner is, directly or indirectly, imposing unequal burdens on, or unfairly discriminating in fact against, the commerce of the United States by law, regulation, or practice and thereby placing the commerce of the United States at an unfair disadvantage;
- (c) assess the effects of the trade relationship on the production capacity and strength of the manufacturing and defense industrial bases of the United States;
- (d) assess the effects of the trade relationship on employment and wage growth in the United States; and
- (e) identify imports and trade practices that may be impairing the national security of the United States.⁵

¹ Bureau of Economic Analysis Press Release, 2016 Trade Gap Is \$502.3 Billion (Feb. 7, 2017), available at https://www.bea.gov/newsreleases/international/trade/2017/pdf/trad1216annual_fax.pdf.

² White House Press Release, Remarks by President Trump et al. at Signing of Trade Executive Orders (Mar. 31, 2017), at <https://www.whitehouse.gov/the-press-office/2017/03/31/remarks-president-trump-et-al-signing-trade-executive-orders> [hereinafter Mar. 31 White House Press Release].

³ See, e.g., White House Press Release, Presidential Memorandum for the Secretary of Commerce (Apr. 20, 2017), available at <https://www.gpo.gov/fdsys/pkg/DCPD-201700259/pdf/DCPD-201700259.pdf> [hereinafter Presidential Memorandum Regarding Steel Imports].

⁴ Executive Order 13786, Omnibus Report on Significant Trade Deficits, 82 Fed. Reg. 16721 (Mar. 31, 2017), at <https://www.federalregister.gov/documents/2017/04/05/2017-06968/omnibus-report-on-significant-trade-deficits>.

⁵ *Id.*

At the signing ceremony, President Trump announced that the findings in the omnibus report would be used to take “necessary and lawful action to end those many abuses.”⁶

Secretary of Commerce Wilbur Ross, who is taking the lead on preparing the report, said that enforcement of international trade obligations is a “very primary objective of this administration on trade.”⁷ Notably, in order to impose antidumping or countervailing duties under World Trade Organization (WTO) rules, a member state must determine whether there is evidence of dumped or subsidized imports, material injury to the domestic industry, and a causal link between the two; then the member state must conduct an impartial investigation which gives all interested parties—including foreign producers—“full opportunity for the defense of their interests.”⁸

The second executive order issued at the end of March focuses on collection of antidumping and countervailing duties and enforcement of U.S. trade and customs laws. The order provides, in relevant part:

Sec. 3. Implementation Plan Development. Within 90 days of the date of this order, the Secretary of Homeland Security shall, in consultation with the Secretary of the Treasury, the Secretary of Commerce, and the United States Trade Representative, develop a plan that would require covered importers that, based on a risk assessment conducted by [Customs and Border Patrol (CBP)], pose a risk to the revenue of the United States, to provide security for antidumping and countervailing duty liability through bonds and other legal measures, and also would identify other appropriate enforcement measures. . . .

Sec. 4. Trade and Suspected Customs Law Violations Enforcement.

- (a) Within 90 days of the date of this order, the Secretary of Homeland Security, through the Commissioner of CBP, shall develop and implement a strategy and plan for combating violations of United States trade and customs laws for goods and for enabling interdiction and disposal, including through methods other than seizure, of inadmissible merchandise entering through any mode of transportation, to the extent authorized by law.
- (b) To ensure the timely and efficient enforcement of laws protecting Intellectual Property Rights (IPR) holders from the importation of counterfeit goods, the Secretary of the Treasury and the Secretary of Homeland Security shall take all appropriate steps, including rulemaking if necessary, to ensure that CBP can, consistent with law, share with rights holders:

⁶ See Mar. 31 White House Press Release, *supra* note 2.

⁷ Vicki Needham, *Trump Signs Executive Orders Ramping Up Trade Enforcement*, HILL (Mar. 31, 2017), at <http://thehill.com/policy/finance/326803-trump-signs-executive-orders-ramping-up-trade-enforcement>.

⁸ Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 (Anti-Dumping Agreement), 1868 UNTS 201, available at https://www.wto.org/english/docs_e/legal_e/19-adp.pdf (providing threshold requirements for initiating an investigation in Article 5 and regulating the procedure of investigations in Article 6); see also Agreement on Subsidies and Countervailing Measures, 1869 UNTS 14, available at https://www.wto.org/english/docs_e/legal_e/24-scm.pdf.

- (i) any information necessary to determine whether there has been an IPR infringement or violation; and
- (ii) any information regarding merchandise voluntarily abandoned . . . before seizure, if the Commissioner of CBP reasonably believes that the successful importation of the merchandise would have violated United States trade laws.

Sec. 5. Priority Enforcement. The Attorney General, in consultation with the Secretary of Homeland Security, shall develop recommended prosecution practices and allocate appropriate resources to ensure that Federal prosecutors accord a high priority to prosecuting significant offenses related to violations of trade laws.⁹

Explaining the motivations behind the executive order, Secretary of Commerce Ross said that he was “horrified” by the ways in which “very clever” foreign exporters dodged billions of dollars in antidumping and countervailing duties by “setting up shell companies here so when the fine [i.e., duty] is levied there is no way to collect.”¹⁰ This charge tracks reports that some foreign exporters have established shell companies to evade such payments,¹¹ misrepresented the country of origin of goods, transshipped goods to hide their origin, and otherwise misclassified goods.¹² The Government Accountability Office found in July 2016 that CBP had failed to collect \$2.3 billion in antidumping and countervailing duties between 2001 and 2014, due in part “to the U.S. government’s retrospective and complex process for determining final [antidumping/countervailing duty] duty rates.”¹³

Section 3 of the executive order requires the Department of Homeland Security (DHS) to develop a plan to combat certain importers’ potential nonpayment and evasion by requiring those importers to post bonds and possibly fulfill other security requirements.¹⁴ Depending on the form, severity, and reasonableness of these bonding requirements as ultimately

⁹ Executive Order 13785, Establishing Enhanced Collection and Enforcement of Antidumping and Countervailing Duties and Violations of Trade and Customs Laws, 82 Fed. Reg. 16719 (Mar. 31, 2017), at <https://www.federalregister.gov/documents/2017/04/05/2017-06967/establishing-enhanced-collection-and-enforcement-of-antidumping-and-countervailing-duties-and>.

¹⁰ Needham, *supra* note 7.

¹¹ *White House Issues Two Executive Orders Related to Trade Enforcement*, SIDLEY UPDATES (Apr. 3, 2017), available at <https://www.sidley.com/-/media/update-pdfs/2017/04/20170403-intl-trade-update.pdf>.

¹² *U.S. Customs and the New Trump Administration: Your Top Ten Questions Answered*, FOLEY & LARDNER LLP (Feb. 7, 2017), at <https://www.foley.com/us-customs-and-the-new-trump-administration-your-top-ten-questions-answered-02-07-2017>.

¹³ U.S. Government Accountability Office (GAO), Antidumping and Countervailing Duties: CBP Action Needed to Reduce Duty Processing Errors and Mitigate Nonpayment Risk (July 2016), available at <http://www.gao.gov/assets/680/678419.pdf> [hereinafter U.S. GAO Antidumping and Countervailing Duties Report]. The report does not make findings of bad faith, but a comment from U.S. Customs and Border Protection (CBP) filed in the appendix of the report notes that the GAO statistical analysis may “understate the impact of the duty evasion issues relating to high-risk imports from China.” *Id.* at Appendix IV.

¹⁴ These steps build on the 2015 Enforce and Protect Act, which “establishe[d] formal procedures for submitting and investigating antidumping or countervailing allegations of evasion against” foreign exporters. *See* The Enforce and Protect Act, 19 USC §1517 (2016), at <https://www.cbp.gov/trade/trade-enforcement/tftea/enforce-and-protect-act-eapa> [hereinafter EAPA]. On August 14, 2017, the CBP issued its first final decision under EAPA authority, finding that certain wire hangers were transshipped from China through Thailand to avoid antidumping duties, in one of its many recent investigations of illegal imports from China. *See* U.S. Customs and Border Protection Press Release, U.S. Customs and Border Protection Exercises EAPA Authority, Launches Multiple Investigations on Illegal Imports from China (Aug. 17, 2017), at <https://www.cbp.gov/newsroom/national-media-release/us-customs-and-border-protection-exercises-eapa-authority-launches>.

promulgated by DHS, they may face challenge at the WTO.¹⁵ In 2005, both national courts and the WTO Appellate Body upheld challenges to certain enhanced bonding requirements on imported shrimp; in the Appellate Body's case, finding that bonds are a form of antidumping duty under the General Agreement on Tariffs and Trade (GATT), and thus subject to a reasonableness requirement, relative to the margin of dumping.¹⁶

When asked about President Trump's March 31 executive orders and the Trump administration's concerns with the United States' trade deficit with China, China's Foreign Ministry Spokesperson Lu Kang said:

You may say that China holds a trade surplus on trade in goods, but the US also has huge trade surplus in services. Even in terms of trade in goods, 40% of China's trade surplus was created by US enterprises operating in China. China-US trade and economic relations have developed to such a stage that the two countries' interests are inextricably intertwined. For issues that might crop up amid cooperation, the two sides should properly resolve them through consultation. I said yesterday that we hope that China and the US could work together to make bigger the cake of common interests, which the two sides certainly have the potential to achieve, instead of bending over on which side grabs a larger share.¹⁷

In April, President Trump signed two memoranda for the Secretary of Commerce initiating investigations into the ways in which large volumes of excess capacity may affect national security (the first dealt with steel; the second with aluminum).¹⁸ These memoranda provide, in identical language (excepting the substitution of "steel" with "aluminum"), that:

The Secretary of Commerce (Secretary) has initiated an investigation under section 232(b)(1)(A) of the Trade Expansion Act of 1962 (the "Act") (19 U.S.C. 1862(b)(1)(A)) to determine the effects on national security of steel [aluminum] imports. In conducting this investigation, and in accordance with section 232(d) of the Act (19 U.S.C. 1862(d)), the Secretary shall, as appropriate and consistent with law:

- (a) consider the domestic production of steel [aluminum] needed for projected national defense requirements; the capacity of domestic industries to meet such requirements; the existing and anticipated availabilities of the human resources, products, raw materials, and other supplies and services essential to the national defense; the

¹⁵ U.S. GAO Antidumping and Countervailing Duties Report, *supra* note 13.

¹⁶ *Natl Fisheries Inst., Inc. v. United States Bureau of Customs and Border Protection*, 30 C.I.T. 1838 (Nov. 13, 2006), available at <https://www.cbp.gov/bulletins/41slipops1.pdf>; Appellate Body Report, United States—Customs Bond Directive for Merchandise Subject to Anti-Dumping/Countervailing Duties, United States—Sections 301–310 of the Trade Act of 1974, WT/DS345/AB/R (circulated July 16, 2008), available at https://www.wto.org/english/tratop_e/dispu_e/343_345abr_e.pdf.

¹⁷ Ministry of Foreign Affairs of the People's Republic of China Press Release, Foreign Ministry Spokesperson Lu Kang's Regular Press Conference (Mar. 31, 2017), at http://www.fmprc.gov.cn/mfa_eng/xwfw_665399/s2510_665401/2511_665403/t1450613.shtml.

¹⁸ Presidential Memorandum Regarding Steel Imports, *supra* note 3; White House Press Release, Presidential Memorandum for the Secretary of Commerce (Apr. 27, 2017), at <https://www.whitehouse.gov/presidential-actions/presidential-memorandum-secretary-commerce> [hereinafter Presidential Memorandum Regarding Aluminum Imports].

requirements of growth of such industries and such supplies and services, including the investment, exploration, and development necessary to assure such growth; and the importation of goods in terms of their quantities, availabilities, character, and use as those affect such industries and the capacity of the United States to meet national security requirements;

- (b) recognize the close relation of the Nation's economic welfare to our national security, and consider the effect of foreign competition in the steel [aluminum] industry on the economic welfare of domestic industries;
- (c) consider any substantial unemployment, decrease in government revenues, loss of skills or investment, or other serious effects resulting from the displacement of any domestic products by excessive steel [aluminum] imports; and
- (d) consider the status and likely effectiveness of efforts of the United States to negotiate a reduction in the levels of excess steel [aluminum] capacity worldwide.¹⁹

The Secretary of Commerce is to submit a report and provide recommendations.²⁰

In conjunction with the memorandum on steel, Secretary of Commerce Ross explained:

Over the years, we've conducted 152 steel cases against improper imports of one type of steel or another, and we have another 25 cases pending. The problem with those anti-dumping and countervailing duty cases is they're very, very limited in nature to a very, very specific product from a very, very specific country. So what really happens is you'll bring the action and that will help eliminate the problem with that one little product from that one country. That country then will start shipping something else in, or they'll modify slightly the product to get around the order, or they will ship it in through another country and pretend that it came from a country not subject to the duties.

So it's a fairly porous system, and while it has accomplished some fair measure of reduction, it doesn't solve the whole problem. So we're groping here to see whether the facts warrant a more comprehensive solution that would deal with a very wide range of steel products and a very wide range of countries.²¹

The international community's reaction to these Section 232 investigations was generally negative. At a June 2017 meeting of the WTO Goods Council, Russia said that the United States should refrain from these Section 232 investigations and instead rely on "concerted action in the international community."²² The EU said that a "proliferation of actions from the US Section 232 investigations would pose 'systemic risks.'"²³ China said that "US Section 232 investigations were inconsistent with the GATT and the "imports of

¹⁹ Presidential Memorandum Regarding Steel Imports, *supra* note 3; Presidential Memorandum Regarding Aluminum Imports, *supra* note 18.

²⁰ *Id.*

²¹ White House Press Release, Press Briefing by Secretary of Commerce Wilbur Ross on the Memorandum Regarding the Investigation Pursuant to Section 232(B) of the Trade Expansion Act (Apr. 20, 2017), at <https://www.whitehouse.gov/briefings-statements/remarks-president-trump-signing-memorandum-regarding-investigation-pursuant-section-232b-trade-expansion-act>.

²² World Trade Organization Press Release, National Security Cited in Two Trade Concerns at Goods Council Meeting (June 30, 2017), at https://www.wto.org/english/news_e/news17_e/good_10jul17_e.htm.

²³ *Id.*

steel and aluminum were not a threat to national security.”²⁴ Notably, Article XXI of the GATT (“Security Exceptions”) provides: “Nothing in this Agreement shall be construed . . . to prevent any contracting party from taking any action which it considers necessary for the protection of its essential security interests”²⁵—though whether member states are entirely free to judge their own security needs remains unsettled and uncontroversial.

The Trump administration took additional trade related measures on April 28, when the Office of the U.S. Trade Representative (USTR) released its annual Special 301 Report. As with every report since USTR began publishing them in 1989, this year’s report placed China on its Priority Watch List of countries about which USTR has significant intellectual property (IP) concerns—this year citing insufficient protection of trade secrets, manufacture of counterfeit goods, piracy in e-commerce markets, conditioning market access on disclosure of IP, lack of promotion of indigenous innovation through patents and other policies, and lack of effective redress in civil courts.²⁶ In response, China’s Ministry of Commerce released a statement saying that China had “serious concerns” about the “widely opposed” “unfair report,” and that China accords a “high priority to IPR protection.”²⁷

On April 29, President Trump celebrated the 100th day of his presidency by holding a rally at the site of a company that has produced shovels continuously in Pennsylvania since 1774.²⁸ There he announced his signing of two more executive orders addressing trade issues.²⁹ The first—titled “Addressing Trade Agreement Violations and Abuses”—provides as follows:

Sec. 2. Conduct Performance Reviews. The Secretary of Commerce and the United States Trade Representative (USTR), in consultation with the Secretary of State, the Secretary of the Treasury, the Attorney General, and the Director of the Office of Trade and Manufacturing Policy, shall conduct comprehensive performance reviews of:

- (a) all bilateral, plurilateral, and multilateral trade agreements and investment agreements to which the United States is a party; and
- (b) all trade relations with countries governed by the rules of the World Trade Organization (WTO) with which the United States does not have free trade agreements but with which the United States runs significant trade deficits in goods.

Sec. 3. Report of Violations and Abuses.

²⁴ *Id.*

²⁵ General Agreement on Tariffs and Trade, Oct. 30, 1947, 61 Stat. A-11, 55 UNTS 194, at https://www.wto.org/english/docs_e/legal_e/gatt47_02_e.htm#articleXXI [hereinafter GATT].

²⁶ OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE, 2017 SPECIAL 301 REPORT (Apr. 28, 2017), available at <https://ustr.gov/sites/default/files/301/2017%20Special%20301%20Report%20FINAL.PDF>; see, e.g., OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE, 1989 SPECIAL 301 REPORT (May 25, 1989), available at <https://ustr.gov/sites/default/files/1989%20Special%20301%20Report.pdf>.

²⁷ Ministry of Commerce People’s Republic of China Press Release, Regular Press Conference of the Ministry of Commerce – May 11, 2017 (May 12, 2017), at <http://english.mofcom.gov.cn/article/newsrelease/press/201705/20170502577390.shtml>.

²⁸ Associated Press, *Trump Highlights Executive Orders on Trade*, LA TIMES (May 1, 2017), at <http://www.latimes.com/politics/la-pol-updates-everything-president-trump-highlights-executive-orders-on-1493672444-htmlstory.html>.

²⁹ *Id.*

- (a) Each performance review shall be submitted to the President by the Secretary of Commerce and the USTR within 180 days of the date of this order and shall identify:
 - (i) those violations or abuses of any United States trade agreement, investment agreement, WTO rule governing any trade relation under the WTO, or trade preference program that are harming American workers or domestic manufacturers, farmers, or ranchers; harming our intellectual property rights; reducing our rate of innovation; or impairing domestic research and development;
 - (ii) unfair treatment by trade and investment partners that is harming American workers or domestic manufacturers, farmers, or ranchers; harming our intellectual property rights; reducing our rate of innovation; or impairing domestic research and development;
 - (iii) instances where a trade agreement, investment agreement, trade relation, or trade preference program has failed with regard to such factors as predicted new jobs created, favorable effects on the trade balance, expanded market access, lowered trade barriers, or increased United States exports; and
 - (iv) lawful and appropriate actions to remedy or correct deficiencies identified pursuant to subsections (a)(i) through (a)(iii) of this section.
- (b) The findings of the performance reviews required by this order shall help guide United States trade policy and trade negotiations.

Sec. 4. Remedy of Trade Violations and Abuses. The Secretary of Commerce, the USTR, and other heads of executive departments and agencies, as appropriate, shall take every appropriate and lawful action to address violations of trade law, abuses of trade law, or instances of unfair treatment.³⁰

In a statement accompanying the signing of the two executive orders, President Trump said that if trade violations and abuses identified by the performance reviews “don’t get cleared up, [Secretary of Commerce] Wilbur [Ross] will end the trade agreements.”³¹ The second April 29 executive order created the Office of Trade and Manufacturing Policy (OTMP) and instructed the office to:

- (a) advise the President on innovative strategies and promote trade policies consistent with the President’s stated goals;
- (b) serve as a liaison between the White House and the Department of Commerce and undertake trade-related special projects as requested by the President; and
- (c) help improve the performance of the executive branch’s domestic procurement and hiring policies, including through the implementation of the policies described in Executive Order 13788 of April 18, 2017 (Buy American and Hire American).³²

³⁰ Executive Order 13796, Addressing Trade Agreement Violations and Abuses, 82 Fed. Reg. 20819 (Apr. 29, 2017), at <https://www.federalregister.gov/documents/2017/05/04/2017-09156/addressing-trade-agreement-violations-and-abuses>.

³¹ White House Press Release, Remarks by President Trump at Signing of Executive Orders on Trade (Apr. 29, 2017), at <https://www.whitehouse.gov/briefings-statements/remarks-president-trump-signing-executive-orders-trade> [hereinafter Apr. 29 White House Press Release].

³² Executive Order 13797, Establishment of Office of Trade and Manufacturing Policy, 82 Fed. Reg. 20821 (Apr. 29, 2017), at <https://www.federalregister.gov/documents/2017/05/04/2017-09161/establishment-of->

According to the president's statement, the mission of the OTMP is to "defend American workers and companies from those who would steal our jobs and threaten our manufacturing base."³³

China responded by emphasizing a more positive conception of trade with the United States. China's Ministry of Commerce described U.S.-China trade as "win-win cooperation" and the "natural result of advantage complementarity," and stated that concerns should be addressed by "bilateral pragmatic cooperation."³⁴ The ministry's comments coincided with the release of a report titled "Research Report on China-US Economic and Trade Relations" that, though generally optimistic, lays out China's areas of concern in the area of U.S.-China trade: use of unfair benchmarks in calculating dumping margins in WTO antidumping investigations of China; U.S. export control against China; unfair treatment of Chinese enterprises investing in the United States, and abuses of trade remedy measures of the United States.³⁵ As for allegations that the U.S. is abusing trade remedy measures, the report states that

the US has a tendency to use alternative state, separate rates, public institutions, external benchmarks and other unfair approaches, with the intention to impose abnormally high tax rates on Chinese products, which has definitely hindered Chinese exports to the US.³⁶

On August 14, President Trump signed another memorandum directing the USTR to evaluate whether to investigate China's practices with respect to intellectual property:

The United States Trade Representative shall determine, consistent with section 302(b) of the Trade Act of 1974 (19 U.S.C. 2412(b)), whether to investigate any of China's laws, policies, practices, or actions that may be unreasonable or discriminatory and that may be harming American intellectual property rights, innovation, or technology development.³⁷

[office-of-trade-and-manufacturing-policy](#). Through Executive Order 13788, President Trump established that "[i]t shall be the policy of the executive branch to buy American and hire American." That order provides, in part:

In order to promote economic and national security and to help stimulate economic growth, create good jobs at decent wages, strengthen our middle class, and support the American manufacturing and defense industrial bases, it shall be the policy of the executive branch to maximize, consistent with law, through terms and conditions of Federal financial assistance awards and Federal procurements, the use of goods, products, and materials produced in the United States.

Executive Order 13788, Buy American and Hire American, 82 Fed. Reg. 18837 (Apr. 18, 2017), at <https://www.federalregister.gov/documents/2017/04/21/2017-08311/buy-american-and-hire-american>.

³³ See Apr. 29 White House Press Release, *supra* note 31.

³⁴ Ministry of Commerce People's Republic of China Press Release, Regular Press Conference of the Ministry of Commerce - May 25, 2017 (May 27, 2017), at <http://english.mofcom.gov.cn/article/newsrelease/press/201706/20170602585140.shtml>.

³⁵ Ministry of Commerce of the People's Republic of China Press Release, Research Report on China-US Economic and Trade Relations (Courtesy Translation) (May 25, 2017), available at <http://images.mofcom.gov.cn/www/201705/20170525093626470.pdf>.

³⁶ *Id.*

³⁷ White House Press Release, Presidential Memorandum for the United States Trade Representative (Aug. 14, 2017), at <https://www.whitehouse.gov/the-press-office/2017/08/14/presidential-memorandum-united-states-trade-representative>.

In response, Chinese Foreign Ministry Spokesperson Hua Chunying emphasized three broad points:

[F]irst, we think the US should not be a spoiler of multilateral rules; second, any protectionist action by the US side will surely undermine the bilateral economic and trade relations as well as the interests of both Chinese and American enterprises; third, if the US take measures that are harmful to bilateral economic and trade relations in disregard of facts and with no respect to multilateral rules, the Chinese side will never sit idly and will take every appropriate measure to resolutely uphold its lawful rights and interests.³⁸

Notably, the Trump administration has suggested that it may connect its actions on trade—especially with China—with its separate attempts to deal with North Korea’s nuclear belligerence. On April 11, President Trump tweeted, “I explained to the President of China that a trade deal with the U.S. will be far better for them if they solve the North Korean problem!”³⁹ President Trump has continued to link the two issues during the subsequent months. On September 3, President Trump tweeted, “The United States is considering, in addition to other options, stopping all trade with any country doing business with North Korea.”⁴⁰

USE OF FORCE, ARMS CONTROL, AND NONPROLIFERATION

United States, Russia, and Jordan Sign Limited Ceasefire for Syria

doi:10.1017/ajil.2017.80

As the civil war in Syria continues, some of the key actors have sought ways to reduce the conflict’s toll on civilians.¹ In May, 2007, Russia and the United States began exploring the possibility of establishing “safe” or “de-escalation” zones.² On July 7, this dialogue yielded a trilateral agreement and memorandum signed by Russia, the United States, and Jordan to establish a ceasefire in southwest Syria.³ The resulting ceasefire—the first in Syria signed

³⁸ Ministry of Foreign Affairs of the People’s Republic of China Press Release, Foreign Ministry Spokesperson Hua Chunying’s Regular Press Conference (Aug. 15, 2017), at http://www.fmprc.gov.cn/mfa_eng/xwfw_665399/s2510_665401/t1484923.shtml.

³⁹ Donald J. Trump (@realDonaldTrump), TWITTER (Apr. 11, 2017, 4:59 AM), at <https://twitter.com/realDonaldTrump/status/851766546825347076>.

⁴⁰ Donald J. Trump (@realDonaldTrump), TWITTER (Sept. 3, 2017, 9:14 AM), at <https://twitter.com/realDonaldTrump/status/904377075049656322>.

¹ Kristina Daugirdas & Julian Davis Mortenson, *Contemporary Practice of the United States*, 112 AJIL 781 (2017).

² See White House Press Release, Readout of President Donald J. Trump’s Call with President Vladimir Putin of the Russian Federation (May 2, 2017), at <https://www.whitehouse.gov/the-press-office/2017/05/02/readout-president-donald-j-trumps-call-president-vladimir-putin-russian> (describing telephone discussion between Trump and Russian Prime Minister Vladimir Putin regarding “safe, or de-escalation,” zones); see also Suleiman Al-Khalidi, *U.S., Russia Discuss De-escalation Zone for Southwest Syria: Diplomats*, REUTERS (June 9, 2017), at <http://www.reuters.com/article/us-mideast-crisis-syria-deraa-idUSKBN1902HR> (describing a series of meetings between the Russian and U.S. special envoys for Syria regarding the possible addition of new de-escalation zones).

³ White House Press Release, Press Briefing on the President’s Meetings at the G20 (July 7, 2017), at <https://www.whitehouse.gov/the-press-office/2017/07/07/press-briefing-presidents-meetings-g20-july-7-2017>; Zachary Cohen & Kevin Liptak, *Tillerson: Trump, Putin Reach Syria Ceasefire Agreement*, CNN (July 8, 2017), at <http://www.cnn.com/2017/07/07/politics/syria-ceasefire-us-russia-tillerson/index.html>.