The Bottom Line

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U.S. TO COUNTER CURRENCY MANIPULATION WITH COUNTERVAILING DUTIES

Summary

On February 4, 2020, the Commerce Department issued a final rule that paves the way for imposing tariffs on imports from countries determined by the U.S. government to be undervaluing their currency relative to the U.S. dollar.

Background

Currency manipulation is a policy used by governments and central banks of some of America's largest trading partners to artificially lower the value of their currency. To weaken its currency, a country will sell it in exchange for another foreign currency, usually U.S. dollars. Doing so increases the demand on the dollar and decreases demand on its own currency, resulting in a deflated value. If the currency is weak, the cost of their exports is lowered and they gain an unfair competitive advantage. The Trump administration publicly labeled China as a currency manipulator in August 2019 with support from the Treasury Department. Countervailing Duties (CVDs) are tariffs levied on imported goods to offset subsidies made to producers of these goods in the exporting country. For example, because American farmers are subsidized, many U.S.-exported agricultural products are subject to countervailing duties when imported at destination. The WTO's "Agreement on Subsidies and Countervailing Measures," which is contained in the General Agreement on Tariffs and Trade (GATT) 1994, defines when and how an export subsidy can be used and regulates the measures that nations can take to offset the effect of such subsidies. These measures include the affected nation using the WTO's dispute settlement procedure to seek withdrawal of the subsidy or to apply countervailing duties (CVDs) as a remedy for material injury (real or threatened) to domestic industries.

Current Status

The final ruling from the Commerce Department, published in the Federal Register on February 4, modifies two regulations that determine benefit and specificity in countervailing duty proceedings. In essence, the definition of benefit is being expanded to include subsidies from undervalued currency.

The publication outlines the process in which a determination of undervaluation is made prior to any analysis of benefit being conferred as a result. Commerce will only make an affirmative finding if there has been "government action on the exchange rate" and "will not normally include monetary and related credit policy of an independent central bank or monetary authority."

Phase one of the U.S.-China trade deal in January removed China's designation as a currency manipulator. The Office of the United States Trade Representative (USTR) said the agreement would include a currency chapter that detailed "high-standard commitments to refrain from competitive devaluations" and targeting of exchange rates. The trade pact is expected to include an enforcement mechanism, which the office said would ensure that China could not use its currency practices to compete unfairly against American exporters. President Trump has also expressed concerns about the exchange rate policies of the Eurozone, Brazil, and Argentina.

On April 26, 2020, the new rule is to go into effect and U.S. industries can begin submitting petitions for potential relief to the U.S. International Trade Commission and Commerce's International Trade Administration.

Impact

Cheaper currency helps foreign exporters offset much of the pain of American tariffs, which otherwise would make imported goods considerably more expensive in the United States. Countervailing duties are designed to offset that tactic and 'level the playing field' for domestic producers of the same products. The rate of countervailing duties would be set based on the analysis of the benefit conferred.

RESOURCES:

The U.S. Labeled China a Currency Manipulator (NY Times)
Currency Manipulation and Countervailing Duties (CRS)
Macroeconomic and Foreign Exchange Policies (Treasury Department)
Benefit and Specificity in Countervailing Duties (Federal Register)