Trump goes with Mnuchin plan on Chinese investment

By Nick Beams
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President Donald Trump has moved away from imposing restrictions on Chinese investment in the US under a 1977 law that allows him to declare a “national emergency.” Instead he will rely on legislation currently passing through Congress to strengthen controls on investment from China and other countries.

While the administration denied it, the move appears to have been motivated to a considerable extent by Wall Street’s reaction to the more hardline proposal. The Dow dropped by as much as 500 points in trading on Monday, along with falls of more than 1 percent in other indexes.

In a White House statement, Trump threw his support behind legislation to strengthen the powers of the Committee on Foreign Investment in the US (CFIUS). The bill is in the final stage of its passage through Congress after a 400–2 vote in the House of Representatives.

Trump said Congress had made “significant progress towards passing legislation that will modernize our tools for protecting the nation’s critical technologies from harmful foreign acquisitions. This legislation … will enhance our ability to protect the United States from new and evolving threats posed by foreign investment while also sustaining the strong, open investment environment to which our country is committed.”

The measures were being developed in line with an investigation Trump ordered under section 301 of the 1974 Trade Act to protect American technology, he said. The new legislation provided additional tools to combat the “predatory investment practices that threaten our critical technology leaders, national security, and future economic prosperity.”

The new bill does not specifically single out China but Trump left no doubt that is where it is aimed. He said he would seek to have it implemented “promptly and rigorously” in order to address concerns regarding “state-directed investment in critical technologies in the Section 301 investigation”—a clear reference to China.

Trump’s decision came after a conflict within the administration over how to take action against China’s acquisition of companies in high-tech areas. It was widely reported that the administration’s two main anti-China hawks, White House economic adviser Peter Navarro and US Trade Representative Robert Lighthizer, favoured using the 1977 International Emergency Economic Powers Act.

Treasury Secretary Steven Mnuchin, who has clashed with Navarro during trade negotiations with China, favours a less direct approach by using the CFIUS, which comes under his jurisdiction.

In his statement, Trump did not rule out the possibility of using the measures advocated by Navarro and others. He warned that should Congress fail to pass “strong” legislation that “better protects the Crown jewels of American technology and intellectual property from transfers and acquisitions that threaten our national security,” he would “direct my administration to deploy new tools, developed under existing authorities, that will do so globally.”

Trump’s move is being reported as a softening of the administration’s stance on China and possibly even as offering an olive branch in the lead up to the imposition of a 25 percent tariff on $$34 billion worth of Chinese goods on July 6.

However, the new legislation represents a considerable strengthening of the CFIUS powers to block Chinese acquisition of US high-tech companies.

Former Chinese mission chief for the International Monetary Fund, Eswar Prasad, told the *Financial*

Times:"Strengthening the CFIUS process rather than setting up new procedures means no addition hurdles but the existing hurdle will become much more daunting. Chinese investments into the US, especially in high-tech sectors, will no doubt face considerable additional scrutiny in the period ahead."

In fact, existing measures have already seen a significant fall in Chinese investment. It dropped by more than 90 percent, to $1.8 billion, for the first six months of the year, compared to the same period in 2017, and down from the record level of $46 billion in 2016.

The new bill represents a clear tightening of restrictions. Speaking to the business channel CNBC, Mnuchin said the CFIUS would have broader powers. Currently, if a Chinese company tried to acquire a US firm, it could be blocked but not if it formed a joint venture. This would now change, he said, "if it is critical technology."

"We've been very aggressive," Mnuchin said. Under the Obama administration, there were cases that, if reviewed, "we would probably have taken a much more aggressive view on. But the purpose of this legislation is that there are areas we can protect."

The Trump administration's "very aggressive" actions under its economic nationalist agenda are not only directed against China. They are also aimed against Europe. This prompted a warning from European Council president Donald Tusk that the "divisions" between the US and the European Union could threaten the unity of the Western alliance.

In a letter to EU governments ahead of a summit meeting this weekend, Tusk said they had to prepare for "worst case scenarios" as relations with the Trump administration rapidly deteriorate.

"Despite our tireless efforts to keep the unity of the West, transatlantic relations are under immense pressure due to the policies of President Trump," he wrote. "Unfortunately the divisions go beyond trade… It is my belief that, while hoping for the best, we must prepare our Union for worst case scenarios."

Elaborating on Tusk's remarks, an unnamed senior official said the disagreements with the Trump administration were not just incidents. They were "starting to look like a pattern" that was "very worrying" from the perspective of Europeans. The official warned that it was "a pattern of a doctrine in which a rule-based international system is not at the very centre, is not the very biggest value. This is a doctrine that for the EU, and more broadly for Europe, is very dangerous."

The European powers have been infuriated by the Trump administration's decision not to exclude it from its tariffs, imposed on "national security" grounds, on steel and aluminium. They have responded with tariff measures on a range of US products, including bourbon and Harley-Davidson motor cycles.

Even more significant US measures are in the pipeline. Trump has ordered an investigation into whether a tariff similar to that imposed on steel and aluminium, and on the same "national security" grounds, should be levied on cars—a move that would have a major impact on the German auto industry.

The US decision to unilaterally withdraw from the Iran nuclear deal is another point of conflict. Washington this week issued a threat to impose sanctions on countries that do not cut oil imports from Iran to "zero" by November 4.

The decision, which directly impacts on European investment plans, came as a shock because the administration previously indicated there would be waivers from the sanctions for buyers of Iranian oil who significantly reduced their purchases.

But in the words of an administration official cited by the *Wall Street Journal*, the predisposition is: "No, we're not going to do waivers. We view this as one of our top national security priorities."

Banks, traders and companies which breach the US dictates risk not only being excluded from US markets but face restrictions on financial transactions. Warnings have been issued by the US State Department to countries in Europe and Asia, and visits to China, India and Turkey are planned.