Trump's claims on IP are misguided

US protectionist narrative does not reflect the reality of intellectual property development in China

By DAN STEINBOCK

In mid-August, United States President Donald Trump asked US Trade Representative Robert Lighthizer to open an investigation into China's intellectual property (IP) practices. And the first public hearing on China's trade conduct is scheduled for Oct 10 in Washington.

Lighthizer is a trade hawk who also served in the Ronald Reagan administration.

As Lighthizer initiated the investigation, he seized on the notorious Section 301 of the US Trade Act of 1974, which in the 1980s was used against Japan, and which Japan and the European Union regarded as a violation of World Trade Organization rules. Instead of free trade, it represents "aggressive unilateralism" and authorizes retaliatory tariffs.

Lighthizer draws from the highly partisan US Commission on the Theft of American Intellectual Property, which was mobilized in the early 2010s amid the rise of China's indigenous innovation and foreign investment.

Using contested estimates, the commission assumes IP theft could be between $225 billion and $600 billion a year in counterfeit goods, pirated software and theft of trade secrets. As a result, it advocates more aggressive policy enforcement "to protect American IP".

Essentially, the US' IP narrative claims the Chinese government forces US companies to relinquish their IP to China. The narrative is consistent with Trump's America First policy and has been quoted uncritically by the media, but it is deeply flawed.

While foreign companies in China are often warned not to part with "too much" in technology transfer and IP deals, they are not forced by the Chinese government or other interested parties into those deals.

Moreover, in contested legal cases, the Chinese government has often supported foreign companies. As *The Wall Street Journal* reported last year, when foreign companies sue in Chinese courts, they typically win. From 2006 to 2014, foreign plaintiffs won more than 80 percent of their patent infringement suits against Chinese companies, virtually the same rate as domestic plaintiffs.

For years, foreign multinationals have effectively exchanged their technology expertise for market share in China. The rush of IP companies to China intensified a decade ago amid the global crisis, when the Silicon Valley giant Intel opened a $2.5 billion wafer fabrication foundry in Dalian, in Northeast China's Liaoning province. As advanced economies struggled with stagnation, China continued to grow vigorously. So the bet proved very lucrative.

"Some US observers see the Trump administration's IP investigation as less a scrutiny of forced technology transfers than a negotiation ploy."

At that time, Craig Barrett was Intel's chairman. Today Barrett is one of the five commissioners of the US IP Commission which portrays the US as a victim of massive IP fraud. Not surprisingly, some US observers see the Trump administration's IP investigation as less a scrutiny of forced technology transfers than a negotiation ploy.

In reality, much of China's IP progress can be attributed to past technology transfers and the government's huge investment in science and technology. And as Chinese companies have moved up the value-added chain, they stress the need for IP protection, particularly patents.

In 2006, I wrote in the US foreign policy journal, *The National Interest*, that emerging Chinese multinationals were "no longer satisfied with imitating. Instead, they seek to convert cost advantages to more sustainable competitive advantages — often through innovation." Few took the contention seriously then.

Typically, the Trump IP debacle is escalating as Chinese companies join the global rivalry for cutting-edge innovation. In terms of the number of total patent applications, China's share has exploded. Two decades ago, it was far behind the US, Japan, the Republic of Korea and Germany, the world's leading patent players. Now it is ahead of all of them.

But in these rivalries, not all patents are of equal value. The so-called triadic patents, which are registered in the US, the EU and Japan to protect the same invention, tend to be the most valuable commercially and globally.

In triadic patents, too, China's patent power has increased dramatically and will surpass that of the ROK and Germany soon. The patents of Japan and the US peaked around 2005-06. Despite some progress, US patents are still 15 percent below their peak, whereas those of China have increased more than sixfold in the past decade.

Since patent competition is accumulative, catch-up requires time. But here's the thing: If, for instance, US and Chinese triadic patents would increase in the future as they have in the past five years, China could surpass the US by the late 2020s. And perhaps that is why Trump is targeting China's IP today.

However, neither innovation nor intellectual property is an exclusive privilege of the West.

The author is the founder of Difference Group and has served as research director at the India, China and America Institute (USA) and visiting fellow at the Shanghai Institutes for International Studies (China) and the EU Centre (Singapore).

A path to financial integration

Belt and Road can open up markets and create new practices, allowing money to move more freely

By P ELISABETH SMITS

Financial integration is one of the five areas of cooperation prioritized for the China-proposed Belt and Road Initiative, but it seems this topic has not received the consideration it deserves.

Rather, most analyses have focused on the ambitious infrastructure investment goals of the Belt and Road in the countries along the two routes — the Silk Road Economic Belt and the 21st Century Maritime Silk Road — because big amounts of money easily grab attention.

For instance, the *Financial Times* has suggested the "colossal undertaking" could cost tens of trillions of dollars to finance.

If we define financial integration as enhancing capital mobility across borders, can we find indications that the Belt and Road will pave a path in that direction?

To help answer that question, three documents are especially useful.

The first is from March 2015, titled *Vision and Actions on Jointly Building Silk Road Economic Belt and 21st Century Maritime Silk Road*. It provides the initial framework for the concept proposed by President Xi Jinping in the fall of 2013.

It states that "financial integration is an important underpinning for implementing the Belt and Road Initiative", and offers a long list of options in the financial space, including cross-border economic cooperation zones, bond market development, regulatory coordination, development of new institutions like the Asian Infrastructure Investment Bank and the Silk Road Fund, and credit rating cooperation.

If implemented, these plans could result in a decrease of regulatory barriers to cross-border financial transactions, and an increase in gross cross-border portfolio investment, gross foreign direct investment and cross-border banking activity.

In other words, we would see signs of more money moving more freely along the Belt and Road.

The second document, the communique issued at the Belt and Road Forum for International Cooperation in Beijing in May, includes "enhancing financial infrastructure connectivity", and "promoting openness and connectivity among financial markets, including through cooperation on payment systems".

If successful, it will expand the areas where the Belt and Road can reduce barriers to financial integration.

And the *Guiding Principles on Financing the Development of the Belt and Road*, also issued at the forum in May, calls for "the orderly opening-up of local and regional financial markets" and the "steady expansion of market access of banking, insurance and securities sectors", as well as strengthening cooperation in cross-border supervision, which could increase capital flows across borders.

The three documents may not be binding, but the Belt and Road is providing new opportunities and perhaps more importantly, new institutions (such as the Silk Road Fund) that could foster tangible movement toward financial integration among countries.

Perhaps the more immediate results will be seen in local and regional bond markets. For example, top Chinese banks are developing new products for domestic and overseas markets, including a standardized bond for use specifically in the region.

And their activities linked to the infrastructure investment could offer much-needed long-term investment vehicles for pension and insurance investors, and start to fill an important gap as a low-cost alternative to bank financing, especially as the projects move into operational phases.

Perhaps the momentum of the Belt and Road itself might be enough to create opportunities for new instruments, new market practices, and new market access that endure and stimulate the benefits that accrue to well-integrated financial markets.

The Belt and Road could also be the routes along which the yuan increases its weight as a global currency, or might help create pathways served by new financial infrastructure projects that operate in parallel to existing systems.

After all, as Xi said at the May forum: "Finance is the lifeblood of modern economy. Only when the blood circulates smoothly can one grow."

The author is a PhD candidate at Paul H Nitze School of Advanced International Studies.
Source: chinausfocus.com