On 23rd August, the US Administration imposed yet another set of discriminatory tariffs on China under its Section 301 Trade Act covering US$16 billion of its imports from China. This is in addition to the additional tariffs imposed on 6 July 2018 on US$34 billion of its imports from China. According to the US, these actions are supposedly because of China's unreasonable or discriminatory practices relating to technology transfer, intellectual property and innovation.

US' Section 301 law allows the US Administration to unilaterally take retaliatory tariffs, contrary to its own WTO obligations in order to punish a country which it deems have practices or laws that are unreasonable and burden or restrict US commerce.

US' Section 301 actions are illegitimate and misguided. Chief amongst these reasons include:

- The WTO's panel ruling in 1999 already established that unilateral actions under Section 301 are 'inconsistent with WTO obligations'. Members cannot take action contrary to their WTO obligations unless allowed to retaliate after their case has been heard in the WTO's dispute settlement system. US' current disregard for rules could lead to very serious systemic implications.
- US' Section 301 accusations against China on technology transfer through joint ventures or supports to investors are based on US' own standards, rather than WTO standards. Joint ventures are perfectly legal under the WTO regime and it is commonplace that companies in joint ventures negotiate their terms of engagement including those concerning the use of technology.
- The US itself plays a very heavy activist industrial policy role to support its global conglomerates so that they are at the technological edge. Why point fingers at China? The many aspects of US' hidden industrial policies include – supports to innovation programmes such as through its complex state-military-industry nexus; subsidies to industries; its use of venture capital funds to support high risk research by technology companies; legal requirements in the Buy America government procurement Act; the government's role in reforming companies to prevent their failure; as well as tax breaks. All of these have allowed American companies to enjoy technological and economic dominance for at least the last six decades.
- There are many causes of the US trade deficit beyond competitive exports from China. These include US companies located in China producing for the US market; US' over-consumption patterns, supported by a strong dollar, as compared to the Chinese who have a much higher savings rate; and the fact that the dollar is the world's reserve currency, allowing the US to enjoy 'debt-driven' growth without paying the price of over-inflation. Blame should therefore not be put on China for these structural issues for which US has reaped benefits, especially its control of the world's leading reserve currency.
- US' accusations of China's Intellectual Property Protection go beyond the WTO's Trade-Related Aspects of Intellectual Property Rights (TRIPS) Agreement. Furthermore, big strides are currently being made in China's intellectual property regime, in many areas even going beyond the WTO's own standards. A look back into history shows that the US itself had liberally used 'technological imitation' when it was still developing, borrowing from the UK and Germany.
- China has made impressive progress in creating its own indigenous research and development (R&D) and innovation capacities. It is now a top innovator ranking #17 on the Global Innovation Index (2018). Portraying China as a country where innovation is based on 'theft' is far from the reality.

Indeed, the real rationale behind US' actions under Section 301 is an attempt to slow down or stop China's legitimate policies to advance its industrial development and technological catch up. Trade is not the real target. Ironically, many of the instruments China is using to industrialise are versions of policies US and other OECD countries themselves have been using and continue to use.

If the trade war continues and deepens, it will erode the WTO's legitimacy and capacity to regulate trade. It is also likely to cause global economic slowdown or recession, with consequences on employment and human development. It may even spark off a severe financial crisis in emerging economies exposed to the loss of investors' appetite. Very unfortunately, it would likely cast a heavy grey cloud over multilateral cooperation stretching far beyond the WTO.

South Centre's new study on why US' Section 301 measures are illegitimate and misguided will be published on 3 September 2018.