US-China trade deal still in the balance

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The back-and-forth trade negotiations between China and the US continue next week in Washington with a visit by China's chief trade negotiator Vice Premier Liu He following the trip to Beijing this week by US Treasury Secretary Steven Mnuchin and Trade Representative Robert Lighthizer.

Talks between the top-level negotiators concluded in Beijing yesterday without any reported movement on the most significant questions, including the enforcement mechanism for any deal and the protection of intellectual property rights. No details were released but Mnuchin tweeted the talks had been "constructive."

According to a report by Bloomberg, much of the discussion centred on working through line by line the text of what had been agreed so far, with differences between the Chinese and English versions.

Citing one of the officials involved, Bloomberg said that "the two sides have very different understandings of certain words." Both negotiating teams are seeking to establish their own interpretation of the text because this will be significant in determining enforcement procedures in the event of disputes that are certain to occur even if a deal is reached.

The US officials were also reported to have accused China of backtracking on previous commitments, particularly on the question of intellectual property.

At this stage the plan is for a final agreement to be reached in the Washington talks, leading to a signing ceremony at the end of the April.

However, Lighthizer told the Senate Finance Committee earlier this month that there were still "major, major issues" to be resolved. In a speech delivered on Thursday, White House economic adviser Larry Kudlow indicated negotiations may continue for some time yet.

"This is not time-dependent," Kudlow said. "This is policy and enforcement-dependent. If it takes a few more weeks, or if it takes months, so be it. We have to get a great deal … that works for the United States. That's our principal interest."

The issue of enforcement has been at the centre of the US demands since it documented its position to Beijing last May. It specified that the United States would retain the right to impose tariffs on China, without any retaliation. The Chinese regard the one-sided US demand as being akin to the unequal treaties imposed throughout the 19th and early 20th centuries beginning with the first Opium War launched by Britain in 1839.

Speaking on the sidelines of China's National People's Assembly earlier this month, Commerce Vice Minister Wang Shouwen said any enforcement mechanism should be "two-way, fair and equal." But the US is continuing to insist it must be the final arbiter in any dispute, with the right to take unilateral action if it considers the agreement is being breached.

The hostility of China to the US demands reportedly surfaced during discussions in Beijing in mid-January when members of the Chinese negotiating team said they would be labelled as "traitors" if they made too many concessions to the US.

There have been various proposals for an enforcement mechanism from the US side. However, the most likely appears to be one in which the US retains at least some of the tariffs presently imposed on $250 billion worth of Chinese goods and only relaxes them when it considers that China is complying.

Earlier this month, Trump said a deal with China was "coming along nicely" but made it clear the US would not lift tariffs immediately if an agreement were reached.

"We're not talking about removing them, we're talking about leaving them for a substantial period of time, because we have to make sure that if we do a deal with China that China lives by the deal," Trump said.

This line was echoed by Kudlow in his remarks on Thursday when he said the US may remove some

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tariffs but not all of them. “We’re not going to give up our leverage. Some of the tariffs would be kept there.”

Kudlow has already inflamed tensions with his comments in an interview with the business channel CNBC that Lighthizer had read the “riot act” to Liu during one of the negotiating sessions.

The hostility to the US demands was expressed back in May when the state-controlled *Global Times* greeted the initial US document with the headline “Is it now 1840?”—a reference to the First Opium War.

Lighthizer has played his cards close to his chest. But his basic perspective has been revealed in references to “reformers” within the Chinese regime—those with a more free market orientation who would like to see a shift from the state control espoused by President Xi Jinping and his supporters.

In an interview on National Public Radio on Monday, Lighthizer said he was “hoping” for an agreement “but not necessarily hopeful.” “If there’s a great deal to be gotten, we’ll get it—if not we’ll find another plan.”

Asked if there were signs that China was willing to give ground on major issues such as intellectual property rights and what the US calls “forced technology transfers,” Lighthizer said there was movement on those issues “and a variety of others. Now, the question will be the details and the enforceability.”

Apart from technology and enforcement, another major issue is China’s state backing of major industries that the US has denounced as “market distorting.” Lighthizer was asked how realistic it was for China to change its economic model “just because the US is demanding it right now?”

Lighthizer replied that everything was not going to happen in a month. “But I think you have to start with the proposition that there are people in China who believe that reform is a good idea. And you have to believe that those people are at a very senior level.”

These “reformers,” he continued, believed that protection of intellectual property was not anti-Chinese and halting forced technology transfers was not anti-Chinese. “In fact, the reformers would say it’s pro-Chinese. It will help their economy, not hurt their economy.”

Lighthizer is pointing to elements within the Chinese political establishment more in favour of the free market, who were pushed back somewhat with the coming to power of President Xi Jinping in 2012. They have now started to become somewhat more critical of the direction of the Chinese economy under conditions where growth is officially at its lowest levels in three decades and may be even lower than government figures would indicate.

In other words, Lighthizer is calculating that, while these forces may not be able to effect a regime change, they will at least be able to secure a shift in the regime's economic policy.

The problem, however, for these “reform” elements is that under conditions where the US is openly laying down its diktats, they will be branded as the 21st century equivalent of the compradors of earlier times who helped impose the unequal treaties.

Pressures for an agreement are being exerted on the US side as well. Agriculture, a key section of Trump’s support base, has been badly hit by the trade conflict and the uncertainty of the outcome has created problems for major industries as they try to formulate their investment plans.

There is also concern that failure to reach an agreement will have a major impact on US stock markets which, by and large, have continued to rise in the past two months, not least on the belief that a deal is in the offing.

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