

POLITICIO'S MORNING TRADE (Oct. 30, 2017)

[ITA Aluminum Foil / Market Economy Status / Non-Market Economy]

THE TRADE CASE HEARD ROUND THE WORLD: If the trade war between the U.S. and China that many fear actually comes to pass, Friday was one of the days people will look back on and see as consequential. At the risk of provoking China before President Donald Trump arrives in Beijing in early November, the Commerce Department late Friday hit imports of Chinese aluminum foil with preliminary anti-dumping duties - a decision that infuriated Beijing, because it was based on a methodology China says is no longer valid.

Commerce decided to calculate the duties based on China's long-held status as a so-called **non-market economy**. The case was the first test of whether the U.S. was willing to treat China as a market-driven economy for the purposes of anti-dumping duties since December of last year, the 15th anniversary of Beijing's WTO membership.

China has argued the U.S. and other WTO members no longer have the right to use a non-market methodology to calculate anti-dumping duties on its goods as of its anniversary. The U.S. has been resistant to changing China's status - which could lead to lower duty rates on Chinese goods - arguing that its rival is not truly a market economy.

The preliminary anti-dumping duties, ranging from 97 percent to more than 162 percent, won't be finalized by Commerce until February 2018. Commerce had previously deferred the decision until the end of November. In August it set hefty preliminary countervailing duties on Chinese aluminum foil. The U.S. International Trade Commission is expected to make its final injury determination in April.

PROVOKING THE DRAGON: Don't expect China to let the U.S. decision slide. Being treated as a non-market economy for the purposes of trade cases may seem like an arcane thing, but the chance to graduate from that status represents for China a major evolution of its position in the global trading system. Beijing also views being treated as a market economy as a right it has earned, promised in the terms of its WTO membership.

"The Chinese government will adopt necessary measures to safeguard the legal rights and interests of Chinese enterprises and reserve relevant rights under the WTO's dispute settlement mechanism," Wang Hejun, the head of the trade remedy and investigation bureau for China's Ministry of Commerce, said in an informal translation of a press release.

The Chinese government said it was "strongly dissatisfied" and urged Washington to correct what it viewed as a mistaken decision.

One of the main questions is whether an eventual ruling in a pending WTO case on the matter will escalate the Trump administration's ill feeling toward the global trading body. U.S. Trade Representative Robert Lighthizer said earlier this year that the case is "without question" the most serious litigation the WTO is handling right now, and that a ruling in Beijing's favor would be "cataclysmic." Such a ruling would likely add to Lighthizer's long-held view that WTO legal decisions threaten U.S. sovereignty and federal government decisions made in the interests of American industry and workers.