PUBLICATION

Supply Chain Challenges and Opportunities Under the Second Trump Administration

Authors: Prentiss Lee Smith
November 21, 2024

Trade action was a touchstone of the first Trump Administration. Statements throughout the campaign by President-Elect Trump and his surrogates suggest significant trade actions in the second term. The actions and potential retaliation by trading partners present supply chain challenges for companies' imports and exports. There will also be opportunities for U.S. manufacturers and companies seeking to invest in the United States. At this time, companies should understand their current exposure to the challenges and be prepared to take advantage of upcoming opportunities.

Challenges: China-Focused And Potential Actions Against All Trading Partners

Increasing Tariffs

Statements suggest an increase in tariffs across the board – 60 percent on all Chinese imports and 10 percent to 20 percent on imports from all other countries. Tariffs also can be increased through a variety of investigations. Section 232 National Security, Section 301, Section 201, and Antidumping and Countervailing Duty investigations were used during the first Trump Administration and are expected to be used again. Congressional action also could increase tariffs on China even higher, such as ending Permanent Normal Trade Relations (PNTR) with China. Certain officials, however, support targeted tariffs rather than across the board tariffs. As Inauguration Day approaches, the contours of the trade policy will take shape as the incoming President discusses actions during his first 100 days and related Executive Orders.

Expanded Trade Enforcement

The incoming Administration will ensure that both existing and new tariffs are collected through Customs and Border Protection (CBP) enforcement. CBP will be directed to use all of its existing authorities to investigate tariff evasion.

Expanded enforcement of the Uyghur Forced Labor Prevention Act (UFLPA) also is expected. Senator Rubio, nominee for Secretary of State, introduced the UFLPA legislation and has signed Congressional letters demanding more enforcement. CBP likely will increase its enforcement of the UFLPA and detain shipments across a more diverse group of industries which will require importers to demonstrate a lack of forced labor in their imported products.

USMCA Renegotiation

The U.S.-Mexico-Canada Free Trade Agreement (USMCA) is up for review and renegotiation in 2026. Administration officials will immediately begin a review of the agreement. Issues related to automobiles, steel, country of origin, and substantial transformation will receive attention. Moreover, Senator Rubio also signed a letter urging Canada and Mexico to pass laws modeled on the UFLPA, indicating the forced labor provisions will be important.

National Security Issues

The Administration likely will take an expansive view of National Security and industrial sectors that present National Security risks, which could result in more Committee on Foreign Investment in the U.S. (CFIUS) filings. Foreign investment, however, will be incentivized. Increasing use of export controls on dual use items and sanctions can be expected with particular attention on China.

Retaliation

Trading partners will implement tariffs and take other actions in response. Retaliatory actions will make exports to foreign markets more expensive and increase supply chain costs. For example, China passed an "anti-foreign sanctions law" that allows it to counter measures taken by other countries through a variety of means, including tariffs and export restraints. This law includes an "unreliable entity list" for foreign companies that it deems to have undermined China's national interests and can be used against Chinese affiliates of U.S. companies.

Opportunities For U.S. Manufacturers

Initiating Trade Investigations

The incoming Administration seeks to create more U.S. jobs through growing U.S. manufacturing. U.S. manufacturers can take advantage of and benefit from certain actions. For example, Antidumping and Countervailing Duty Investigations allow U.S. manufacturers to bring actions against foreign competitors to place company and product specific duties on foreign competitors. Section 232 actions can be brought on behalf of industries that are critical to U.S. national security.

Incentives For U.S. Manufactures

Tax credits and other tax benefits are expected to incentivize U.S. manufacturing, such as expanding the R&D tax credit and direct subsidies for building new manufacturing plants. A Sector-Specific Focus on industries important to U.S. national security is likely through the Defense Production Act, Congressional Action, and Section 232 investigations. Lower Corporate Tax Rates also can be expected.

What Companies Can Do Now?

- Review supply chains to understand exposure to potential actions, with a particular focus on China.
- Review contract language to understand which party covers cost increases from tariffs and other actions, including the cost of detained imports.
- Develop a narrative demonstrating why your company benefits the U.S. and consider seeking allies that will understand and promote your company.
- Monitor developments such as draft executive orders and statements regarding potential actions within the first 100 days.
- Consider supply chain diversification or reshoring.

Our International Trade and National Security team will continue to monitor developments and provide updates as warranted. If you have any questions or would like to discuss in further detail, please reach out to P. Lee Smith or any member of Baker Donelson'sInternational Trade and National Security Team.