Practice Update

New Year, New Tariffs: Threats, Risks, and Opportunities for Companies in the International Supply Chain

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President-elect Trump vows to impose tariffs on U.S. imports as early as on his first day in office.

Preparing for his second term, President-elect Donald Trump has made it clear that he will leverage tariff hikes to resolve trade and non-trade issues. Whether as an attempt to curb illegal immigration and drug imports, promoting an "America First" trade agenda, or addressing IP-related violations by China, it's "tariffs all the way," as announced by Trump, and U.S. importers and foreign exporters should prepare. In the new year, we may see tariffs imposed on a variety of finished goods, components, and raw inputs across industries. It is still uncertain when additional tariffs will go into effect, even if announced on Day 1 of his presidency, and which countries and sectors could be most affected. It is also unclear which legal authority President-elect Trump may use to impose the new tariffs, as he has several mechanisms available to him. Despite these uncertainties, the risk of additional tariffs is high. U.S. trade partners are already preparing and discussing potential retaliatory action and negotiating favorable positioning, including Mexico and Canada (the United States' largest trading partners), as evidenced by the latest rounds of discussions between the United States and Canada in

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Palm Beach, Florida, on Friday, December 27, 2024. While economists and policy makers opine that the United States could win this trade war, companies operating globally should consider these uncertainties and potential challenges carefully, evaluate their tariff risk exposure, and devise mitigation strategies ahead of the potential imposition of increased tariffs under the new Trump administration. United States manufacturers may also have unique opportunities available in the shift of supply chain. Below, we summarize the latest tariff threats, possible mechanisms for the new administration to implement tariffs, and steps to take to prepare for Trump's return to office.

Trump's Tariff Threats

President-elect Trump announced his intention to impose additional tariffs on imported goods, both during his presidential campaign and most recently in posts published on Truth Social.

On the campaign trail, President-elect Trump promised to impose additional tariffs including:

- **On All U.S. Imports**: 10–20%, a universal tariff, regardless of country of origin.
- **China**: 60% on all goods imported from China.
- **Mexico**: 100% on electric vehicles (EVs) made in Mexico by Chinese-owned companies; later he suggested tariffs higher than 200% on vehicles from Mexico.

Further, President-elect Trump threatened to impose a 100–200% tariff on products from U.S. companies if they moved their production abroad.

In addition to the tariffs above, on November 25, 2024, and via posts on Truth Social, President-elect Trump voiced his concern over the "long simmering problem" of illegal drug importation and immigration, with his intention to impose tariffs on imports from the following countries:

- **Mexico**: 25% on all imports, until Mexico stops the flow of migrants and fentanyl into the United States.
- **Canada**: 25% on all imports, similar reason and requirement as for Mexico.
- **China**: 10% on all imports, until China stops the flow of drugs, particularly fentanyl.

On November 30, 2024, President-elect Trump declared on Truth Social his intention to impose 100% tariffs on the "BRIC" block of nations — Brazil, Russia, India, China, South Africa, Egypt, Ethiopia, Iran and the United Arab Emirates — if the BRIC countries try to develop a common currency that could rival the U.S. dollar. And most recently, he threatened tariffs against the European Union that would leverage tariffs if the EU does not import more U.S. oil and gas.

Statutory Authority to Implement New Tariffs

President-elect Trump has not yet announced which legal mechanism he will rely upon to implement the tariffs, and many are potentially available to the administration. While Art. 1, Section 8 of the Constitution vests Congress with the authority to enact tariffs, Congress has passed several laws delegating some of this authority to the President.

During the first Trump administration, the president used Section 301 of the Trade Act of 1974 (Section 301) to impose additional tariffs on Chinese goods; and used Section 232 of the Trade Expansion Act of 1962 (Section 232) to impose global tariffs on steel and aluminum. Section 301 requires the Office of the U.S. Trade Representative (USTR) to conduct an investigation prior to the imposition of tariffs. Similarly, under Section 232, the U.S. Department of Commerce (DOC) must conduct an investigation before imposing tariffs. These investigations involve processes that may take several months, although we anticipate a shorter lead time during Trump's second term in the Oval Office. There are, however, other statutes available to the executive, such as

Section 338 of the Tariff Act of 1930 and Section 203 of the International Emergency Economic Powers Act (IEEPA), which do not have such investigation procedural requirements that delay a president's ability to announce new tariffs. More specifically, the IEEPA authorizes the president to regulate imports during a national emergency declared under the National Emergencies Act (NEA) (50 U.S.C. §§1601 *et seq.*). The incoming president could exercise his statutory authority under the IEEPA, just as President Richard Nixon implemented Proclamation 4074 for tariffs and President Joe Biden leveraged for sanctions, to impose the intended tariffs soon after taking office.

Potential Retaliation From Trade Partners

Adding to the uncertainties surrounding President-elect Trump's tariff are potential retaliatory measures from U.S. trading partners. China, the European Union, and Mexico have already indicated that they would retaliate. Canada, India, Russia, and other countries that may be substantially impacted by Trump's intended country-targeted and universal tariffs may also consider retaliation. Ultimately, potential retaliation by U.S. trade partners could negatively impact not only U.S. exports, but also U.S. exporters.

Other Related Topics of Concern

In addition to the new tariffs, companies that engage in international trade may also need to keep apprised of related issues, such as:

- Changes to U.S. sanctions law
- Actions by the Committee on Foreign Investment in the United States (CFIUS) regarding national security implications of foreign acquisitions and direct investments in U.S. businesses
- Opportunities and challenges for nearshoring
- Changes to trade agreements, including the United States-Mexico-Canada Agreement (USMCA) as a result of the scheduled 2026 review

- Changes to laws that affect supply chains, like forced labor laws including the Uyghur Forced Labor Prevention Act

Suggested Action for Companies Potentially at Risk

President-elect Trump's tariffs are looming over U.S. trade partners as his inauguration day on January 20, 2025 approaches. Companies involved in international trade and potentially affected by Trump's tariffs plan should take a close look at their U.S. import and export operations, foreign manufacturing operations (if applicable) and supply chains to test their vulnerability to the threatened tariffs. We encourage you to consult your international trade professionals and Akerman to see what opportunities lay ahead and how best to mitigate the risk of increased tariffs.

Our Akerman International Trade, Customs, Export Controls, and Sanctions Attorneys stand ready to assist companies to navigate these changes, opportunities and risks.
