

2017 U.S. TRADE REMEDIES OUTLOOK

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BASIC GOVERNMENT STRUCTURE

U.S. TRADE POLICY

Antidumping/Countervailing Duty Investigations

- U.S. Department of Commerce (Enforcement and Trade Compliance)
- U.S. International Trade Commission

Antidumping/Countervailing Duty Administrative Reviews

- U.S. Department of Commerce

Negotiating Trade Deals/Filing of WTO Complaints?

- U.S. Trade Representative
- U.S. Department of State

New Trade Laws/Approval of Trade Deals

- U.S. Congress (House Ways and Means Subcommittee/Senate Finance Committee)

U.S. CONGRESS TRADE OVERSIGHT

- Congress
 - U.S. House of Representatives: 435 members (two year terms)
 - U.S. Senate: Two senators from each of the 50 States (six year terms)
- U.S. Constitution grants broad authority to the Congress to establish tariffs, enter into international trade agreements, and regulate trade.
- House Ways and Means Committee:
 - Chief tax writing body for House of Representatives and manages government revenue raising provisions.
 - Oversight of executive actions on trade
- Senate Finance Committee (Counterpart to House Ways and Means)
- Congress must approve trade agreements; can propose amendments.
- Trade Promotion Authority (TPA) – allows Congress to fast track approval of trade agreements, through “yes” or “no” – up for renewal.

OTHER TRADE AGENCY DEPARTMENTS

- U.S. Department of Commerce, Bureau of Industry and Security
 - Promotes U.S. national security through export controls and licensing.
- U.S. Department of Treasury, Office of Foreign Asset Controls
 - Administers and enforces economic and trade sanctions based on trade policy and national security
- U.S. Department of Homeland Security
 - U.S. Customs and Border Protection
 - U.S. Citizenship and Immigration Services

2016 U.S. PRESIDENTIAL ELECTION DONALD TRUMP

- Elected as 43rd president of United States
- Will take office on January 20, 2017
- Billionaire real estate businessman
- Best known for reality TV show – the “Apprentice”
- No prior government service

U.S. TRADE POLICY PRIOR TO TRUMP

- Trans-Pacific Partnership (TTP) – 12 Pacific-rim nation trade deal
- Little support in Congress
- Idea is to drive a wedge against China - level the playing field by strengthening labor and IP protections and divert industrial and financial activity away from China.
- 18,000 tax reductions on U.S. exports

TRUMP CAMPAIGN STATEMENTS

- Get tough trade policy – direct confrontation with trading partners
- “Make America Great Again” and “America First” theme
- U.S. jobs lost due to unfair trade by China
- Called China a currency manipulator
- Vowed to impose significant tariffs on Chinese imports to strengthen U.S. manufacturing sector.

THREE POSSIBLE SCENARIOS

- Scenario One: Aggressive position based on existing laws and institutions (e.g., filing more cases against China in U.S. and at WTO; labeling China a currency manipulator)
- Scenario Two: Invoke emergency authority to impose broad-based tariffs on imports from certain countries, like China and Mexico; retaliation from trade partners
- Scenario Three: Start disruptive trade wars by imposing harsh tariffs on China and other countries without concern for retaliatory actions.

TRADE OUTLOOK

- Enforcement actions likely will increase
- Increase power of U.S. Department of Commerce (traditionally a weak cabinet position)
- More extreme positions may run into opposition from Congress
- Trump's appointees range from free traders to trade protectionists.

REORGANIZATION OF TRADE STRUCTURE

- Cut the influence of U.S. trade representative
- Boost role of U.S. Department of Commerce
- Secretary of Commerce “will be [Trump] administration’s leader on setting many of our trade priorities.”
- Reorganization will likely run into resistance by Congress, which has the power to regulate international trade.

U.S. DEPARTMENT OF COMMERCE

WILBUR ROSS

- Billionaire “king of bankruptcy”
- TPP a “horrible deal” for U.S.; wants to boost U.S. exports to narrow trade deficit.
- Wants to treat foreign countries as suppliers for U.S. consumer market.
- Downplays prospect of hefty import duties and trade wars
- Calls tariffs part of negotiation
- Could bring more cases against China and seek stiffer penalties for Chinese dumping.

U.S. DEPARTMENT OF STATE

REX TILLERSON

- CEO of ExxonMobil (world's third largest energy corporation)
- No previous government experience
- Extensive negotiating experience with foreign leaders, including Russia's Vladimir Putin
- Proponent of free trade; once praised the TPP
- As Secretary of State, will have voice in U.S. trade policy, but under USTR
- May be forced to shift views in support of Trump's position that U.S. has "stupid trade."

WHITE HOUSE NATIONAL TRADE COUNCIL PETER NAVARRO

- New administration position created by Trump
- Navarro is outspoken China critic and author of “Death by China”
- Likely to play a key role in shaping U.S. trade policy.
- Possible “realignment of [imbalanced] trade relationship” between China and U.S.
- According to Navarro:
 - China practices form of “perverse capitalism” by working with U.S. companies to provide cheap labor.
 - Over time, China picks off U.S. jobs, know-how, and uses them against United States.

U.S. TRADE REPRESENTATIVE ROBERT LIGHTHIZER

- Former deputy USTR under President Ronald Reagan
- Partner at Skadden Arps – in private practice for three decades, representing U.S. companies in antidumping and countervailing duty cases.
- Likely to support Trump in advancing protectionist policies to help U.S. workers.

U.S. HOMELAND SECURITY NOMINEE JOHN KELLY

- Retired Marine General
- A pragmatist – not a supporter of building a wall at the Mexican border (a more layered approach – economic aid and education more useful in stopping flow of migrants).
- President-elect Trump would nominate Customs and Border Protection Commissioner (CBP).

OVERALL 2017 TRADE OUTLOOK

- More trade remedy enforcement actions against China and other trading partners.
- Threat of executive action on broad-based tariffs against China and Mexico.
- Clash between President-elect Trump and Congress over any unilateral actions by Trump to restructure trade agencies and powers.