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What Every Multinational Company Should Know About … Managing Import Risks Under the New Trump Administration (Part I): Identifying Risks and Opportunities

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The expected focus on tariffs and supply chain issues by the Trump administration presents significant risks for frequent importers. Determining the best strategy to deal with potential import uncertainties are muddled by President-elect Trump not yet being in office and the ever-shifting tariff-related statements that he has made — ranging from plans to target Canada and Mexico with 25 percent tariffs, BRICS countries (comprising Brazil, Russia, India, China, and more recently additional countries in the Middle East and Africa) with 100 percent tariffs, and the rest of the world with 10–20 percent tariffs. Just before publication of this article, the *Washington Post* published an article indicating the Trump team had moved on from an initial focus on universal tariffs to a targeted approach, looking to increase tariffs on certain products with a national security focus — a claim that President Trump promptly dismissed as “fake news.” So while it is clear that increased tariffs are a virtual certainty, the specific form and scope that such tariffs will take is still very much up in the air.

It also is clear that, along with increasing tariffs (in some form), there will be an increasing emphasis by Customs on ensuring that U.S. importers are not manipulating country-of-origin principles to make an end-run around higher tariffs, particularly from China. Among increasing anecdotal reports that many importers are using Chinese parts and components with minor assembly operations in third countries to erroneously claim a non-Chinese country of origin — and thus avoid paying Section 301 duties — it is very clear that Customs will be closely scrutinizing imports from third countries, particularly imports from Southeast Asia and Mexico, to be certain that products containing substantial Chinese-origin content are claiming the correct country of origin.

Finally, there is another China-related issue that also is going to receive heightened scrutiny, which is supply chain integrity. With many supply chain concerns directly or indirectly relating to China — an almost-certain future target for import-related actions — it is apparent that increasing regulator focus on supply chain integrity concerns, including under the Uyghur Forced Labor Prevention Act (UFLPA), have to be handled alongside concerns about potentially rising tariffs.

So all in all, while the broad contours of how the importing environment will change is clear, the specifics are difficult to fathom. But the lack of import-related certainty is not a reason for importers to throw up their hands and do nothing; rather, it is a reason to engage in risk-based contingency planning. What is needed is a strategic approach to navigate what will likely be rapid changes in the importing environment, so importers can risk-plan and position themselves to navigate likely increases in tariff levels, regulator expectations of importers implementing supply chain integrity measures, and enforcement actions — all while taking steps to ensure minimal disruption to import operations.

We are frequently receiving requests to help importers deal with both tariff and supply chain integrity concerns in light of the expected priorities of the incoming administration. In response to these requests, we are publishing a two-part article with the goal of helping frequent importers risk-plan for the tariff and supply chain integrity priorities we think will be a focus of the new administration. In Part I, we identify the nine key risks (and three potential tariff-saving opportunities) that most major importers face. Part II, to be published in two weeks, provides a 12-step plan for coping with tariff and supply chain uncertainties.

Since the starting point in risk-planning is to identify the universe of potential issues, for most importers it is important to take into account the following 12 risks and opportunities:

Tariff-Related Concerns

- **Risk #1: Risks Arising from Potentially Rising Tariffs:** Rising tariffs on imports from key trade partners — such as China, Canada, Mexico, or perhaps the entire world — can disrupt supply chains, increase costs, and force companies to reconsider their import practices. Importers that are heavily reliant on imported goods face financial uncertainty for their business operations and need to evaluate closely the financial impact of threatened (and other) potential tariff increases as a basis for preparing mitigation plans.
- **Risk #2: Risks Arising from Increasing Antidumping and Countervailing Duty Orders:**Antidumping and countervailing duty orders can impose duties that are sharply higher than normal Chapter 1–97 duties or even Section 301 duties — ranging into the triple digits, especially for non-market economies like China or Vietnam. The environment for U.S. industries to take actions against what they believe to be unfairly priced or subsidized imports will be very receptive in the new administration. Such actions are particularly likely to target China, although it is possible to bring petitions against multiple countries. Monitoring the filing of new petitions is essential, as is risk-planning how to handle such actions.
- **Risk #3: Risks Arising from USMCA Exposure:** The U.S.-Mexico-Canada Agreement (USMCA) introduced complex rules of origin, content, and other requirements, particularly for companies with industry-specific rules, such as the automotive sector. Failure to comply with these rules can lead to penalties or loss of preferential tariff treatment. Monitoring claims for preferential tariff treatment under the USMCA already is an enforcement priority for CBP; importers should plan for an enhanced focus on USMCA compliance under the new administration. Importers should evaluate their USMCA exposure and their compliance with the rules, including through potentially conducting USMCA-focused compliance audits.
- **Risk #4: Risks Arising from USMCA Renegotiations:** Under the terms of the USMCA, the three parties are required to review and reauthorize the agreement in 2026. The scope of the review is expected to be broad based, ranging from technical changes and updates to cover

new industries that were not as much a focus when the USMCA was originally negotiated (artificial intelligence, electric vehicles, etc.). It is widely expected that trade-related areas that have become political hot topics (imports of fentanyl, border security, etc.) also will occupy the personal attention of President-elect Trump. We also anticipate that the increasing investment of Chinese companies in Mexico and the use of Chinese-origin parts and components (potentially to navigate around Section 301 tariffs imposed against China by the first Trump administration) will be a key focus. Proper risk planning needs to take USMCA uncertainties and potential USMCA changes for all these areas into account.

- **Risk #5: Risks Arising from CBP Data Mining*:*** All importers are now required to provide full electronic information for each entry using the Automated Commercial Environment (ACE) portal. CBP has full access to this ACE data and uses sophisticated data mining algorithms to identify anomalies and potential duty underpayments. Importers who lack accurate and consistent reporting when importing may become targets for audits and investigations. Part of import risk planning is to review such data in advance of CBP, such as through risk-based customs audits.
- **Risk #6: Risks Arising from Customs Non-Compliance:** Non-compliance with customs regulations, whether intentional or accidental, can lead to penalties, audits, and shipment delays. Regularly reviewing import documentation, country of origin determinations, tariff classifications, valuation methods, assists tracking, and other elements required to ensure the correct payment of duties is especially important when operating in a high (and rising) tariff environment.

Risks Arising from Supply Chain Concerns

- **Risk #7: Risks Arising from Supply Chain Integrity Concerns:** The increased enforcement of regulations targeting forced labor, such as the increasing CBP enforcement of the UFLPA, raises risks for companies with opaque supply chains. Such enforcement is likely to be higher in the new administration. Importers should consider implementing supply chain best practices such as mapping supply chains, implementing thorough know-your-supplier due diligence, updating their terms and conditions to implement supply chain integrity measures, adopting traceability tools, and conducting supply chain audits to ensure compliance.
- **Risk #8: Risks Arising from Not Having Flexible Supply Chain Arrangements:** Global trade dynamics necessitate flexible supply chain contracts. Fixed terms may prevent your firm from adapting to sudden tariff increases or the need for rapid sourcing shifts. Part II will cover a variety of supply chain suggestions that can help ensure supply chains are robust and flexible.

Risks Arising from Enforcement of Partner Agency Regulations

- **Risk #9: Risks Arising from Enforcement of Partner Agency Regulations:** Imports subject to partner agency oversight — such as the Food & Drug Administration (FDA), the National Highway Traffic Safety Administration (NHTSA) for automotive items, or the Environmental Protection Agency (EPA) for certain chemicals — face heightened enforcement. Because Customs increasingly is using ACE data to flag potential partner agency non-compliance, there is every reason to believe this trend will continue and increase in the new administration. Non-compliance with these regulations can result in detentions, penalties, and shipment rejections. Any customs audit should include compliance with applicable partner agency regulations enforced by Customs.

Opportunities from Enhanced Risk Planning

- **Opportunity #1: Opportunities from Duty-Saving Strategies*:*** Despite rising tariffs, importers can leverage duty-saving programs such as bonded warehouses, foreign-trade zones (FTZs), duty drawbacks, and temporary importation under bond (TIB). Proper classification can, in some instances, result in duty savings (or the reduction in risk). Importers should include the potential application of duty-saving measures in any customs audit to look for opportunities to reduce duty liabilities and improve cash flow.
- **Opportunity #2: Opportunities Arising from Establishing a Flexible Supply Chain:** A flexible supply chain allows businesses to respond swiftly to tariff changes or supply chain disruptions. Diversifying suppliers and sourcing from lower-risk regions, setting up alternative and secondary sources, and taking other measures to create a flexible supply chain can help enhance resilience and set up the company for import cost efficiencies if the tariff situation rapidly changes.
- **Opportunity #3: Opportunities from Tariff-Engineering:**Tariff engineering — redesigning products to shift classifications or the country of origin, using the middle-man rule, changing production patterns to allow full access to free trade agreement preferences, or employing other tariff-saving measures — can help businesses reduce tariff liabilities and increase flexibility in responding to rapid changes in the tariff environment.

The new Trump administration could not be signaling any more obviously that it will have an initial and relentless focus on tariffs and supply chain issues. Importers should anticipate import-related risks and seize opportunities by strengthening compliance efforts, diversifying supply chains, and exploring duty-saving mechanisms. A robust import management strategy is essential for navigating the complexities of global trade in the coming administration while safeguarding profitability.

Our next biweekly article will explore practical risk-modeling strategies to help address these import-related risks, including a 12-step plan for coping with tariff and supply chain uncertainties.

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