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Taking Stock of Trade Issues

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In early January, the incoming U.S. presidential administration loudly signaled that businesses should expect changes in trade policies in 2025. Although no specific policies had yet been promulgated, then President-elect Trump stated in social media outlets that broad sweeping import tariffs may be imposed on goods from Mexico, Canada and China. As of May 15, many new tariffs have been imposed, and then promptly deferred, rolled back and modified. As a result, experienced trade professionals generally have no clear understanding of the Trump administration's trade policies objectives for global trade. Instead, it appears that tariffs will be used in horse trading to pursue a variety of federal government objectives. A review of the rollout of tariffs is instructive to businesses impacted by the tariffs.

Starting with an Executive Order (EO) on Feb. 1[1], the White House has issued a slew of EOs, social media posts and press releases that unleashed tariff chaos well beyond expectations of those active with trade issues. The seesaw of the proposed scope and size of tariffs can itself provide insights for businesses (as discussed later in the article).

Then, on April 2, President Trump issued additional executive orders that unleashed a massive restructuring of U.S. import tariffs that upends trading terms with all other countries. Subject to some exceptions, including under the U.S.-Mexico-Canada Trade Agreement, a base tariff of 10% is imposed on all goods imported from any country, increasing and customizing the rate for each country exporting to the U.S. At the same time, President Trump signaled his intent to continue to negotiate tariffs by stating that he retains authority to adjust the tariffs in response to actions by exporting countries.

In the midst of this tariff chaos, it remains critical for any business purchasing goods from outside the U.S. to review shipping terms for existing and new orders to assess whether the shipping terms may subject the business to payment of new tariffs or whether the cost remains on the seller. Product purchase terms, such as "EXW [seller]" for a Wisconsin business importing Canadian products, may subject the business to pay import tariffs.

Tariffs differ from first Trump administration tariffs

The authorization that President Trump is using for tariffs differs substantially from the tariffs imposed during his first administration. Most of the proposed (and now in effect) tariffs are based upon the International Emergency Economic Powers Act (IEEPA) instead of traditional authority referred to as Section 232 or Section 301. Sections 232 and 301 tariffs require agency research to assess harm to the U.S. economy to form a basis for any tariffs. Under IEEPA, all that is required is a presidential declaration and action. As a result, the EOs establishing tariffs can be imposed almost instantaneously and just as quickly revoked. Importantly, this authorization for tariffs does not include a procedure for a business to seek a tariff exemption.

Practical consequences of Trump tariffs

First, the basis for the new tariffs permits the president to quickly impose, change and withdraw tariffs, and the tariffs do not need to directly relate to specific trade inequities. This means that tariff scope and rate can be quickly negotiated with target countries, sometimes within a single 24-hour cycle. Since the policy objectives may be unrelated to the imported goods, a business seeking to import the goods is just collateral damage in the international dispute. A business cannot effectively and discretely plan for any specific tariffs since there is no rule-making process providing advance notice of a new tariff.

Second, even though the initial EOs focused on three countries — Mexico, Canada and China — consistent with the president's earlier public comments, as of April 7, a new tariff regime impacts the entire global trading system. However, even with the broad-brush announcement, tariff rates and coverage are not uniform or universal. Businesses should be alert if the president identifies a policy objective in a country from which it sources materials or goods because tariffs may be used as leverage in cross-border negotiations with that country. This ambiguity and uncertainty will likely deter a business from immediate plans to alter sourcing strategies. Changes to supply-chain strategies require sufficient knowledge before incurring the substantial costs to alter sources. Also, any change to a business's supply chain will likely have multiple unintended results as the multitude of other businesses also simultaneously implement changes. Anticipated issues resulting from dislodged supply chains include transportation disruption and delays in entry processing.

Third, with the rapid pace of new U.S. tariffs, foreign retaliatory tariffs have emerged, impacting U.S. businesses and consumers. However, the retaliatory tariffs may be unrelated to the initial tariffs. Retaliatory tariffs may not have a direct impact on businesses harmed by the increased costs from import tariffs.

Practical actions for Wisconsin businesses

Any business that imports goods should assess all existing purchase orders or similar obligations in detail to determine which party bears the burden for tariffs. This will enable an assessment of the financial impact of increased tariffs. Since the Customs and Border Protection system for assessing tariffs falls at the end of the import process, each business needs to actively evaluate exposure in advance. A business may consider placing imported goods into a bonded warehouse in lieu of immediate entry to defer tariff impact in case the applicable tariff is reduced.

Regular communication with the customs broker for the business will be critical for details of each new tariff, including the effective dates of the tariffs. The headline "All goods subject to import tariffs" may look different when reviewing the actual harmonized tariff system numbers for goods subject to tariffs.

Based upon the often seemingly irrational tariff rate adjustments, such as the tariffs on China imports escalated to 145%, and then without much explanation, dropped to 30% above the 10% global baseline tariff, any Wisconsin business must factor into its pricing for imports some amount for tariffs. Although the rapid rollout of new tariffs seen in the first 100 days of the administration will likely slow, tariffs will remain a cornerstone of the international actions by this presidential administration.

All businesses should closely watch the trade policies announced by key destination countries for its exports. For example, a number of Wisconsin manufacturers export goods to Canadian provinces, whether as part of the automotive, agriculture or other lines of businesses. Since Wisconsin is one of the top 25 exporting states, collectively businesses in Wisconsin have significant risk to retaliatory tariffs. As Canadian federal and provincial governments either react to U.S. policies or act on their own initiatives, the actions may directly impact current imports Wisconsin businesses rely upon. The interplay between existing requirements of the United States–Mexico–Canada Agreement and new trade policies may also create havoc in the tariffs imposed on many goods. The pervasive impact of new tariffs on all imported goods will ripple through the manufacturing, distribution and retail businesses in ways not yet understood.

Any Wisconsin business that either exports or imports should regularly engage with its trade association advocacy efforts in order to ensure that critical information about its industry is timely and effectively communicated to state and federal agencies and legislators. At the same time, businesses may be able to obtain key updated information from trade association contacts to help negotiate through the changing trade environment.

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[1] 90 FR 9113 https://www.govinfo.gov/app/details/FR-2025-02-07/2025-02406
