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Checklist: Preparing for potential US trade policy changes in 2017 and beyond

This checklist is designed to help you focus on steps you can take now to get ready for possible US trade policy shifts under a new presidential administration.

As a 2016 US presidential candidate, Donald J. Trump made many campaign promises to significantly revise US trade policy—signaling the Trump administration may follow a different approach than previous recent US presidential administrations. No one knows exactly how US trade policy may change. Yet despite this uncertainty, businesses and governments can begin preparing now for some of the risks and opportunities that new US trade policy changes could create.

Here are useful steps you can follow immediately:

Learn the most potentially disruptive US trade policy changes

Several US law provisions could permit a Trump administration to raise tariffs, restrict imports or modify or withdraw from US trade agreements, even unilaterally (without Congressional approval).

At the same time, some of the more controversial campaign proposals for US trade policy changes might generate severe opposition from Congress, the US business community and other governments. So, it is not clear whether President Trump will pursue these proposals, including pledges to:

- Withdraw the United States from the World Trade Organization (WTO)
- Withdraw the United States from the North American Free Trade Agreement (NAFTA)
- Withdraw the United States from other free trade agreements (FTAs) to which currently it is a party
- Impose substantial tariffs on all Chinese imports through little-used national security statutes, such as Section 232 of the Trade Expansion Act of 1962

Understand the most potentially likely US trade policy changes

A Trump administration may be more likely to take less controversial actions, including possible attempts to:

- Aggressively encourage the US Department of Commerce (DOC) and the US International Trade Commission to seek trade remedies and enforcement actions under current US anti-dumping and countervailing duty laws
- Withdraw the United States from the Trans-Pacific Partnership (TPP). (If the TPP enters into force in its current (or slightly modified) form, it probably will not include the United States)
- Abandon future efforts at trade liberalization, including ongoing negotiations for the Transatlantic Trade and Investment Partnership (TTIP) and Trade in Services Agreement (TiSA)
- Designate China or other countries a “currency manipulator” and change the DOC’s longstanding practice of not using a country’s currency practices as grounds to apply countervailing duties or anti-dumping duties
- Attempt to renegotiate NAFTA, either through non-controversial issues (such as e-commerce or consultations) or through contentious issues (such as lumber trade, country-of-origin labeling, domestic taxes or bilateral trade balances)
- Bring WTO disputes more actively and frequently (for example, against China)
- Expand the Obama administration’s previous efforts to enforce various provisions of current US bilateral and regional FTAs

- Reduce the US role in negotiating new multilateral trade agreements in the WTO and limit US involvement at the WTO to dispute settlement (a significant change to both longstanding US trade policy and the world's current multilateral trading system)
- Alter the scope and targets of US economic sanctions, as well as review of inbound foreign direct investments by the Committee on Foreign Investment in the United States (CFIUS)

Identify your risks and opportunities in likely US trade policy changes

No one can predict which sectors or companies will be affected by changes in US trade policy. But public statements indicate that companies with any of the following characteristics should pay particularly close attention to US trade developments over the coming months:

- Reliance on open trade with countries (such as China or Mexico) that might rank high on a Trump administration's list of potential targets for unilateral trade measures. Unilateral trade measures could also trigger some type of retaliation that disrupts supply chains, even for companies not directly involved in the events prompting those measures
- Reliance on one or more FTAs between the United States and another country for
 - critical parts or components
 - investment sources or
 - other aspects of current or planned business operations
- Current or planned investments or transactions involving either
 - businesses in the US that depend on sales in other countries' markets through an FTA or
 - businesses in other countries that rely on easy access to US markets

- Ability to benefit from new provisions in new trade negotiations between the US and specific countries

Develop a plan based on careful analysis

If the most likely US trade policy changes could create significant risks or opportunities for you, seek professional guidance to analyze your specific situation and brainstorm strategies you could use to your advantage. This could include plans to:

- Find alternative options for your supply chain, investment sources or other aspects of your current business operations that could be at risk—and be ready to pursue one of these alternative options quickly, if needed
- Begin a dialogue with others in a similar position, such as other companies that share your particular issues, and with responsible Trump administration officials (or those who influence the administration) about how trade policy changes would affect your specific interests
- Talk to your US Senators and Congressional Representatives (if you are in the US) about the seriousness of your situation and the need for their support and assistance
- Talk to sympathetic government officials in your home country (if you are not in the US) about your situation and any actions that could dissuade a Trump administration (for example, China or another country targeted by the DOC as a currency manipulator could launch a WTO challenge against new countervailing duties or anti-dumping duties)
- Explore avenues for legal recourse, which could include US court litigation or WTO proceedings

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