Trade and Tariffs Under Trump 2.0: What's Next for U.S. Trade Policy

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Navigating Policy Shifts Under a Second Trump Administration

As we look ahead to a new political state of affairs, join us for series of webinars that will offer insights into the key regulatory and policy changes expected under a second Trump presidency.

We'll explore how leadership transitions, executive actions, and congressional dynamics will shape the future of industries ranging from healthcare and financial services to energy, trade, and beyond.

Each session will feature analysis from Venable attorneys and senior policy advisors, providing actionable guidance on how businesses and organizations can navigate the evolving policy landscape. Join us for a comprehensive look at the changes coming to Washington in 2025 and beyond.

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Agenda

- Trump Tariff Actions
  - What has happened so far
  - What's coming next and how to mitigate the tariff impact

- Non-Tariff Trade Actions
  - Proposed Sec. 301 Service Fee on Chinese-Built Vessels
  - Avoidance of East Coast/Gulf port strike
  - DOGE impact on trade agencies

- Congressional Response

Tariffs: What’s Happened So Far

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Current Tariffs on China

- **Basis:**
  - Expanded national emergency declared addressing border security and the public health crisis caused by deaths from fentanyl and other illicit drugs. This allowed for the imposition of tariffs pursuant to the International Emergency Economic Powers Act (IEEPA).

- **Amount and Scope of Tariffs:**
  - Total of 20% on all articles that are products of China and Hong Kong.
  - Very limited exceptions for donated humanitarian products, informational materials, and personal goods carried by passengers.

- **When They Apply:**
  - First 10% effective on February 4, 2025; second 10% effective on March 4, 2025.

- ***De minimis:***
  - Tariffs will be applicable to low-value shipments as soon as "adequate system" to collect tariffs is in place.

- **Other Provisions:**
  - The duties imposed under this order are **in addition** to any other duties, fees, exactions, or charges.
    - Meaning that these tariffs are additive – for example, goods from China subject to Section 301 tariffs of 25% will now be subject to a cumulative tariff amount of 45% (25% Section 301 tariff + 20% IEEPA tariff).
  - No drawback available.
  - A retaliation clause stating that if China retaliates with import duties or similar measures, the president may increase or expand the duties under this order to maintain its effectiveness.

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China Retaliatory Tariffs

- **Amount and Scope:**
  - Effective February 10, 2025
    - 15% tariff on certain types of coal and liquefied natural gas
    - 10% tariff on crude oil, agricultural machinery, large-displacement automobiles, and pickup trucks
  - Effective March 10, 2025
    - 15% tariffs on chicken, wheat, corn, and cotton
    - 10% tariff on sorghum, soybeans, pork, beef, aquatic products, fruits, vegetables, and dairy products
  - These additional tariffs will be imposed on top of the current applicable tariff rates and are not subject to reduction or exemption.

- **Other Actions:**
  - New export controls on tungsten, tellurium, bismuth, molybdenum, and indium-related items.
  - China has also added 15 U.S. companies to its export control list and 10 U.S. companies to its unreliable entity list.

Steel and Aluminum Tariffs

- **Basis:**
  - Previous Section 232 investigation

- **Amount and Scope of Tariffs:**
  - All effective March 12, 2025
  - 25% tariffs on all steel and aluminum, and derivative products from all countries
    - For derivative products that are outside of Chapters 73 or 76, the tariff applies only to the value of the steel or aluminum included in the product.
  - Exemption for derivative steel or aluminum products where the steel/aluminum was melted and poured in the U.S.

- **Other Provisions:**
  - Exclusion process terminated; but existing exclusions stay in place until their date of expiration.

- **Retaliation**
  - EU:
    - The EU announced the implementation of countermeasures targeting U.S. imports into the EU. In total, the EU's countermeasures could affect up to 26 billion euros worth of U.S. goods.
    - The EU will delay implementing its first set of tariffs on U.S. goods until April 13 to align the timing of the two sets of EU countermeasures.
  - Canada:
    - Canada announced that it will impose a 25% tariff on approximately $29.8 billion worth of U.S. goods, **effective March 13**, in response to U.S. tariffs on Canadian steel and aluminum products.
    - This is in addition to the 25% tariffs on $30 billion worth of U.S. goods that Canada previously imposed on March 4.

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Tariffs on Canada and Mexico

- **Basis:**
  - Expanded national emergency declared addressing border security and the public health crisis caused by deaths from fentanyl and other illicit drugs. This allowed for the imposition of tariffs pursuant to the International Emergency Economic Powers Act (IEEPA).

- **Amount and Scope of Tariffs:**
  - 25% on all articles that are products of Canada (except energy products as noted below)
  - 10% on energy and energy resources, including crude oil, natural gas, lease condensates, natural gas liquids, refined petroleum products, uranium, coal, biofuels, geothermal heat, the kinetic movement of flowing water, and critical minerals from Canada
  - 25% on all articles that are products of Mexico
  - 10% on potash from Canada or Mexico

- **Other Provisions:**
  - Briefly effective March 4, 2025 – March 7, 2025
  - Exemption for USMCA qualifying goods until early April
  - No drawback; no *de minimis* pending "adequate systems"
  - Retaliation clause

- **Retaliation**
  - Canada responds with 25% tariffs against $155 billion of U.S. goods.
    - Starting with tariffs on $30 billion worth of goods immediately (effective March 4)
    - Additional tariffs on the remaining $125 billion of American products pending.
  - Canada's Duties Relief and Duty Drawback programs will be available.

Two important developments

Recent legislative actions have effectively restricted Congress's ability to challenge President Trump's national emergency declaration, which he relies on to invoke IEEPA tariffs for the remainder of 2025.

Sec. Rubio declaration eliminating notice and comment requirements for agency rulemaking related to the import/export of goods, services, and technology

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Tariffs: What's Coming Next

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Reciprocal Tariffs

- **Scope and Amount?**
  - Unclear which countries/products will be impacted.
    - USTR comment request included reference to G20 countries.
    - Treasury Secretary Scott Bessent has identified a group of countries (the "dirty 15") that make up 15% of the U.S. trade volume but maintain significant tariffs and non-tariff barriers against U.S. exports. This group may include China, the EU, Mexico, Vietnam, Ireland, Germany, Taiwan, Japan, South Korea, Canada, India, Thailand, Italy, Switzerland, and Malaysia.
  - Likely to be a per-country average rate to offset barriers against U.S. exports.

- **Timing?**
  - No set time frame within the EO
    - Directs agencies to start the review after America First EO reports (which are due by April 1).
    - Expected announcement of tariffs on or around April 2.

Other Tariff Actions

- **Section 232 Investigations**
  - Copper and derivative products
  - Timber, lumber, and their derivative products (Including paper products, furniture, etc.)

- **Section 301 Investigations**
  - Digital Service Taxes
    - Likely impacting France, Austria, Brazil, the Czech Republic, the European Union, India, Indonesia, Italy, Spain, Turkey, and the United Kingdom
  - Chinese-built vessels service fees

- **Secondary Tariffs**
  - 25% on countries that buy Venezuelan oil

- **Other threats**
  - Autos
  - Wine
  - Dairy

What you can do to mitigate tariffs

- **Customs Review/Analysis**
  - Review USMCA eligibility
  - Review country of origin
    - Possible substantial transformation arguments to move away from the highest tariff countries, i.e., China
    - Shifting sourcing
  - Chapter 98 eligibility as exclusion or to account for US inputs
  - Review customs valuation
    - Possible application of first sale
- **Contractual Provisions**
  - Burden shifting via contractual provisions
  - Use of Incoterms
  - Use of third-country duty relief programs

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Non-Tariff Trade Actions

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USTR Proposal for Fees and Other Actions on Chinese Vessels

Backgrounds:

- On March 12, 2024, **five national labor unions** requested that USTR investigate China's attempts to dominate the maritime, logistics, and shipbuilding industries. On April 22, 2024, USTR launched a Section 301 investigation into these sectors.
- On January 16, 2025, **USTR released the investigation results**, determining that China's actions, policies, and practices in the maritime, logistics, and shipbuilding sectors are actionable under Section 301 of the Trade Act of 1974.
- On February 21, 2025, USTR proposed **several remedial actions** and invited public comments.
  - A public hearing was held March 24, 2025, with requests to appear due by March 10. **Public comments had to be submitted by March 24.**

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USTR Proposed Actions

1. Impose substantial service fees on Chinese maritime transport operators and other operators with existing fleets of Chinese-built vessels or prospective orders for such vessels when docking at U.S. ports.
   - Each U.S. port call by a vessel operated by a Chinese maritime transport operator would incur a fee of up **to $1,000,000**.
   - Carriers having Chinese-built vessels in their fleet would face fees of **$500,000 to $1,500,000** per U.S. port visit.
   - Maritime transport operators with **pending orders** from a Chinese shipyard would face fees of **$500,000-$1,000,000**.
   - USTR also noted that the fees may be refunded, on a calendar-year basis, in an amount of up to $1,000,000 per entry into a U.S. port of a U.S.-built vessel through which the operator is providing international maritime transport services.
2. Increasing the use of U.S. vessels to carry American goods in coastwise and international transport from U.S. ports.
   - Requiring a **specific percentage** of U.S. goods be exported on **U.S.-flagged vessels by U.S. operators**. The requirement begins at 1% immediately, increases to 3% within two years, 5% within three years (with at least 3% on U.S.-flagged, U.S.-built vessels by U.S. operators), and reaches 15% within seven years (with at least 5% on U.S.-flagged, U.S.-built vessels by U.S. operators).
   - Requiring the export of U.S. goods on U.S.-flagged, U.S.-built vessels; however, permitting exports on non-U.S.-built vessels if the operator proves that at least 20% of U.S. goods will be transported annually on U.S.-flagged, U.S.-built ships.
3. **Recommending investigations** by relevant U.S. agencies into alleged anticompetitive practices by Chinese shipping companies, restricting access to U.S. shipping data for China's LOGINK platform or similar systems, and prohibiting or maintaining bans on the use of LOGINK software at U.S. ports and terminals.

Composition of PRC-Built Vessels

Globally:

Total Vessel Count: 32,544
Vessels Built in CN: 11,691 (~35.92% of Total)
Group Owner Domiciled in CN: 4,800 (~14.75% of Total)
Operator Domiciled in CN: 4,357 (~13.39% of Total)

Called the U.S. Ports in FY2024 (based on SPG Bill of Lading Data):

Total Vessel Count: 11,297
Vessels Built in CN: 3,504 (~31.02% of Total)
Group Owner Domiciled in CN: 1,035 (~9.16% of Total)
Operator Domiciled in CN: 535 (~4.74% of Total)

NB: All of the figures are scoped to: "In Service/Commission" Vessels with DWT (Dead Weight Tonnage) greater than 10,000 tons.

Source: S&P Global.

Questions of USTR Proposed Actions

- Will these proposed measures actually reduce China's influence in global maritime trade?
- Who will collect the fees, and how will the collection process be managed?
  - CBP, DOGE, local port authorities, "External Revenue Services"?
- How do you calculate the percentage of Chinese-built ships in a fleet and monitor any changes over time?
- When calculating the percentage of Chinese-built ships, is the distinction made between fleets serving the U.S. trades and the global fleet – or is a carrier's entire fleet considered?
- Are there mechanisms to provide flexibility or waivers in cases where U.S.-built vessel capacity is insufficient?
- Will the increased costs be passed down to U.S. shippers and consignees?
- Unintended consequences – carriers may reconsider the type of vessels deployed in U.S. trades, decrease in frequences, port calls, overall capacity – impact on FMC enforcement?

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No More Port Strike at U.S. East and Gulf Coasts

On January 8, 2025, the International Longshoremen's Association (ILA) and the United States Maritime Alliance (USMX) reached a tentative agreement on a new six-year master contract addressing wage and automation disputes, effectively averting a potential strike on the U.S. Gulf and East Coast ports set for January 15, 2025.

- On October 1, 2024, the contract between the ILA and USMX expired, leading to a three-day strike on the U.S. Gulf and East Coast ports.
- In December 2024, President Trump met with ILA leaders, including President Harold Daggett, to address the union's concerns, particularly the impact of automation on dockworkers' jobs.
- After the meeting, the president publicly endorsed the ILA's opposition to increased port automation, arguing that the financial savings do not outweigh the harm to American workers.
- President Trump's endorsement was credited with breaking the deadlock in negotiations. Both the ILA and USMX acknowledged Trump's influence in reaching the tentative agreement.
- President Trump's endorsement of the ILA appeared to play a pivotal role in resolving a major labor dispute, highlighting his influence on labor relations and sparking significant discussions about the future of automation in the U.S. port industry.

How DOGE is Impacting Trade Agencies

The US Trade Representative

- The agency operates with a lean staffing, employing just 259 full-time staff members.
- This structure at the agency may make it difficult for DOGE to impose significant staffing cuts without impacting core operations.
- While USTR may be spared substantial direct cuts, there is concern that reductions in other agencies that collaborate with USTR could indirectly affect its operations.

The Department of Commerce

- Based on public reports, Commerce is seeking to reduce its workforce by 20%. The agency currently employs approximately 47,650 personnel.
- DOGE has eliminated key advisory committees within the Commerce's Bureau of Economic Analysis and the Census Bureau.
- Specific actions by DOGE at the Bureau of Industry and Security and the International Trade Administration have not been extensively detailed, and the full extent of any potential impacts remains to be seen.

The Department of Homeland Security

- DOGE has terminated approximately 405 probationary employees across DHS.
- DOGE's focus is on DHS offices responsible for overseeing civil rights protections.
- U.S. Customs and Border Protection, which currently employs around 65,268 personnel, is unlikely to face significant personnel cuts, as the administration depends on the agency to carry out its tariff enforcement agenda.

Congressional Response

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Congressional Response

- Republican majorities in the House and Senate unlikely to publicly challenge Trump policies.
- Any legislation would require president's signature unless Congress has the two-thirds majority required to override a veto (67 in the Senate; 292 in the House).
- The Senate has some leverage with nominations, but top trade roles (Commerce, Treasury, USDA, USTR) have already been confirmed with bipartisan support.
- Democrats in the Senate are likely to force votes on privileged resolutions to terminate national emergencies. While such resolutions could potentially pass in the Senate, the House is unlikely to take them up.
- The House, concerned about its narrow majority and the political risk of having to cast votes related to Trump's tariffs, changed its rules for the remainder of 2025 to prevent members from forcing votes on resolutions to terminate national emergencies like those Trump declared for imposing certain tariffs on China, Mexico, and Canada.
- Tariffs as revenue to offset tax cuts? Remains unlikely, but at this early stage in the process nothing is off the table.

Trump 2.0 – Trade Positions

Confirmed / Senate Confirmation not Required

Nominated

U.S. Trade Representative	Jamieson Greer
Commerce Secretary	Howard Lutnick
Treasury Secretary	Scott Bessent
Deputy Secretary of State	Christopher Landau
Under Secretary of State for Economy and Growth	Jacob Helberg

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Trump 2.0 – Trade Positions

"Border Czar"	Tom Homan
National Economic Council Chair	Kevin Hassett
Customs & Border Protection Commissioner	Rodney Scott
Immigration & Customs Enforcement Acting Director	Todd Lyons
Senior Counsel for Trade & Manufacturing	Peter Navarro

Confirmed / Senate Confirmation not Required

Nominated

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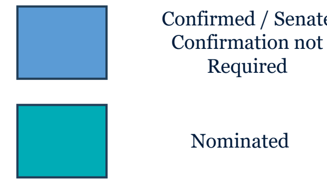
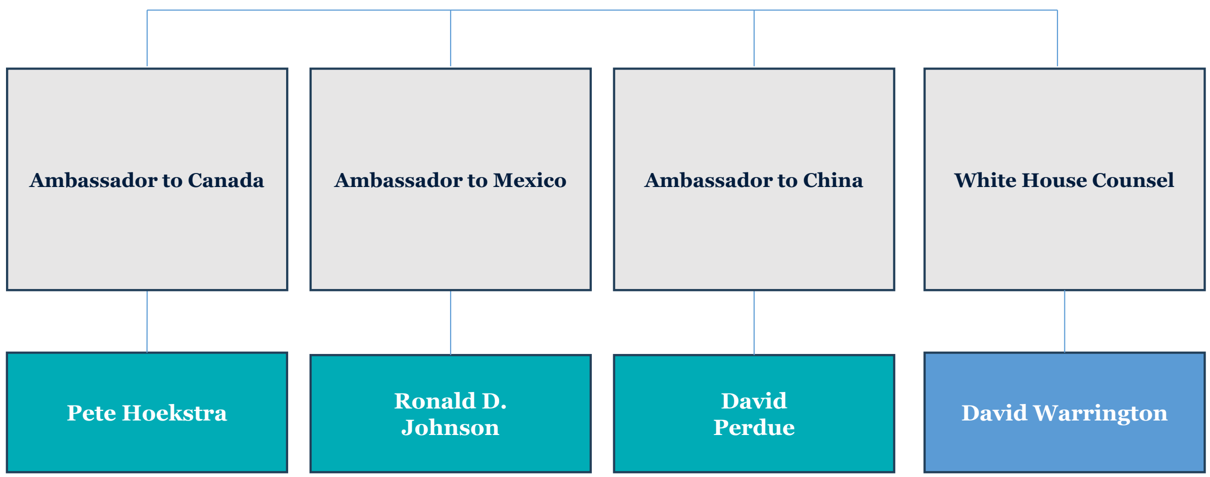
Trump 2.0 – Trade Positions





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Closing Comments

- Go/stop/go again action on tariffs over the past two months has created uncertainty and confusion.
- Business sectors are calling for clarity and a sense of stability – not certain how this resonates with the administration.
- Considerable uncertainty surrounds USTR's proposed actions on Chinese-built ships, especially the substantial port fees, including their potential impact on trade, enforcement mechanisms, and how carriers and trading partners will respond.
- What will be the impact of DOGE/government reduction on agencies dealing with global commerce ongoing work? What about pending or new rulemakings, given the White House's pronouncements?
- For the time being at least Congress is unlikely to interfere with the administration's tariff actions. Messaging, be that concern or support, is more likely than oversight or legislation.
- Remain vigilant, aware of developments and articulate positions.

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April

- April 3, 2025: Transportation, Infrastructure, and Telecommunication | 2:00-3:00 PM ET
- April 9, 2025: Cybersecurity | 2:00-3:00 PM ET
- April 16, 2025 (pending): First 100 Days | 2:00-3:00 PM ET

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