Updates
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International Trade and National Security Policy Under Trump 2.0

President-elect Donald Trump's second term will almost certainly usher in profound changes to U.S. international trade and national security policy.

But the nature and extent of those changes is difficult to predict, in part due to the plurality of strong and competing voices that will play a role in the second Trump administration. In this Update, we assess the factors that will shape the new administration's international trade and national security policies and actions. That includes revisiting the trade and national security record of the first Trump administration and parsing President-elect Trump's statements during and since the 2024 presidential campaign in the context of existing statutory and regulatory authorities that authorize but also circumscribe President-elect Trump's authority to take executive actions in these areas.

We also gauge the possible impact of trade and security proposals in the Heritage Foundation's *Project 2025*, which combines the work of various conservative authors, some of whom align closely with the populist and protectionist agenda that exemplified the first Trump administration and others who hew more closely to the pre-Trump Republican agenda favoring freer trade. Finally, we profile key announced Trump administration nominees and appointees who will have a significant role in international trade and national security policies (Sen. Marco Rubio, Scott Bessent, Howard Lutnick, Jamieson Greer, Peter Navarro, Rep. Michael Wentz, and Alex Wong)—some of whom played key roles in the first Trump administration—and what they have said about these issues.

While uncertainty remains regarding which specific proposals will be implemented and on what timetable, the incoming Trump administration will embark on aggressive measures that affect international trade conducted by U.S. businesses. Companies should consider the possible trade and national security actions discussed below and closely monitor the confirmation process of key cabinet officers, other executive branch appointments, and the statements by the Trump administration and members of Congress in the weeks following President-elect Trump's inauguration on January 20.

Click the following links to navigate to the respective section of the Update:

- Tariffs and International Trade Restrictions
- National Security Policy
- Key Trump Administration Nominees and Appointees Guiding New International Trade and Security Policies

Tariffs and International Trade Restrictions

- Tariff Measures
- Antidumping and Countervailing Duties
- Free Trade Agreements
- *De Minimis* Customs Threshold
- Uyghur Forced Labor Prevention Act

As President-elect Donald Trump embarks on his second term, we expect significant shifts in U.S. international trade policy, driven primarily by his concern about trade deficits with key trading partners, his stated goal of moving overseas manufacturing back to the United States, and his willingness to use trade actions as a coercive or retaliatory tool in furtherance of nontrade foreign policies.

Below, we consider the legal framework for potential tariff actions against key U.S. trading partners, allied and nonallied countries alike, as well as the potential for more aggressive initiatives across key trade mechanisms, such as Section 301 and Section 232 actions (which Trump used extensively in his first term) and antidumping and countervailing duty laws. We also examine other trade laws available to President-elect Trump that have been rarely used in recent years and the impact of existing Free Trade Agreements (FTAs)—most notably the upcoming review of the United States-Mexico-Canada Agreement (USMCA) in 2026.

Businesses should closely monitor these developments and prepare for impacts on global trade dynamics and supply chains.

Tariff Measures

Tariffs have been one of President-elect Trump's most consistent policy objectives, even before 2016, and were arguably the defining policies of his first term. During the 2024 campaign, Trump indicated at various times his intention to raise tariffs on *all* imports by 10-20%; proposed to raise tariffs on imports from Canada and Mexico by 25% (though, at times, Trump has threatened tariffs on imports from Mexico as high as 200%); and proposed to raise tariffs on imports from China by 60-100%.

Trump also strongly condemned discussions at the October 2024 BRICS Summit, which introduced a payment system named BRICS Pay designed to facilitate transactions and the interchange of financial information between central banks of partnered nations. It would serve as an alternative to the Western interbank system SWIFT, which is seen as a step towards replacing the U.S. dollar as the international reserve currency. Trump has threatened up to 100% tariffs on imports from countries that abandon the U.S. dollar as their reserve currency. In recent days, President-elect Trump has pledged to create a new "External Revenue Service" that will collect tariffs and "all Revenue" from foreign sources, vowing to "charge those that make money off of us with Trade."

We expect that President-elect Trump will follow through on at least some of these more recent promises to increase tariffs and that doing so will be a priority during Trump's first 100 days in office. At the same time, Trump will likely try to take advantage of his Republican majority in Congress to pass further tariff legislation, including the so-called "Trump Reciprocal Trade Act," which would increase the tariff on any imported good from a third country to equal that imposed by the third country in question on the same good when imported from the United States. Not all Republican legislators align with Trump on trade policy, however, so the narrow Republican majority in Congress may not suffice.

While it is likely that any new tariff action by the Trump administration will provoke significant litigation by affected importers and industries—especially tariff actions using legislative mechanisms that were not tested in the prior Trump administration—we note that virtually no litigation challenges were successful with respect to President Trump's trade actions taken during his first term. In the coming term, the federal reviewing courts may again give Trump wide latitude to implement his tariff policies.

Permanent Normal Trade Relations (PNTR)

During his 2024 presidential campaign, Trump pledged to end China's PNTR status (commonly known by its former designation "Most Favored Nation" or "MFN"), consistent with his expressed intention to impose tariffs exceeding 60% on Chinese imports. Revoking China's PNTR status would subject Chinese imports to significantly higher tariffs. Currently, the average tariff on Chinese goods is approximately 19.3%, due primarily to the additional tariffs China faces pursuant to Section 301 (discussed below). Without PNTR status, tariffs could escalate dramatically, potentially exceeding 60%, as Trump has proposed.

While *Project 2025* did not address this issue specifically, there appears to be broad support for this move among key members of the new administration.

Conversely, President-elect Trump could seek to restore the PNTR status of Russia (and perhaps also Belarus), which was revoked when President Joe Biden signed the Suspending Normal Trade Relations with Russia and Belarus Act in April 2022. To restore normal relations, Trump would need to certify to Congress that the relevant country has entered into a peace agreement with Ukraine, and Congress would need to acquiesce.

General Rates of Duty

Setting aside special duties like the Section 301 and Section 232 measures enacted during the first Trump administration, the United States applies relatively low general tariffs, averaging about 2.7% across all goods. This is considerably lower than the average U.S. *bound* tariff rate—the maximum rates the U.S. may impose under World Trade Organization (WTO) agreement commitments. The incoming administration, assuming support from Congress, could choose to increase the average duty applied to all items by 1-2% by simply raising all the duties in the Harmonized Tariff System of the United States to their WTO caps (although this would not achieve President-elect Trump's announced tariff goals).

Section 301

The Section 301 tariff measures against China are some of the best-known trade policies of the first Trump presidency. Section 301 of the Trade Act of 1974 grants the U.S. trade representative (USTR) authority to investigate and respond to foreign trade practices that are unjustifiable or discriminatory and burden U.S. commerce. While the Trump administration's previous Section 301 investigations ostensibly targeted specific Chinese economic practices, including intellectual property (IP) theft and forced technology transfers, the resulting Section 301 tariffs were widely considered an effort to redress the U.S. trade deficit with China.

Given that Section 301 was the main avenue used by the first Trump administration to impose substantial new tariffs on China—resulting in tariffs of 7.5% to 25% on nearly all Chinese goods—Section 301 would seem like a natural option for achieving at least some of the promised increase on China tariffs and presents a vehicle for pursuing substantial tariffs against other individual countries. Section 301 tariffs cannot be imposed quickly, however, as the statute requires a detailed investigation led by the USTR, consultations with the target country, opportunity for public input, and a factual and legal analysis that supports the conclusion that a particular foreign trading partner is either violating a trade agreement or engages in acts that are "unjustifiable" or "unreasonable" and "discriminatory" and burden U.S. commerce. Such investigations normally take 12 months and sometimes longer. Section 301 authorizes retaliatory measures that can include tariffs or other import restrictions that "affect goods or services of the foreign country in an amount equivalent in value to the burden or restriction being imposed by that country on" U.S. commerce.

Project 2025 advocates for the strategic use of Section 301 to combat unfair trade practices, particularly those emanating from China. It recommends establishing a dedicated task force within the USTR's office to monitor and address such practices proactively. There is something of a split within *Project 2025* on the topic of tariff measures like Section 301: while some authors endorse robust use of such measures to redress trade deficits—with China, but also with other trading partners, like the European Union and India—others favor freer trade and advocate for more limited use of Section 301 and collaboration with allies to present a united front against unfair trade practices from China. Key figures in the new administration are also likely to favor use of Section 301, especially with regards to China.

Section 232

During his first term, Donald Trump extensively utilized Section 232 as a tool to impose tariffs targeted at protecting specific U.S. industries, including the production of steel and aluminum and certain downstream articles. Section 232 of the Trade Expansion Act of 1962 allows the president to impose trade restrictions on particular imports that threaten to impair U.S. national security.

The new Trump administration may expand the use of Section 232 to justify tariffs on a broader range of imports, including automobiles and critical minerals, citing national security concerns. Unlike Section 301, Section 232 broadly applies to all foreign sources of a particular product. The law requires the U.S. Department of Commerce to conduct an investigation and allow for public input to ascertain the effect of specific imports on U.S. national security. As with Section 301 cases, a Section 232 investigation leading to new tariffs can take up to a year, although there is nothing to prevent Commerce and the White House from expediting matters.

International Emergency Economic Powers Act (IEEPA)

Section 203 of IEEPA grants the president authority to regulate commerce after declaring a national emergency in response to an "unusual and extraordinary threat" to the United States. This includes the ability to control imports and impose tariffs. It was recently reported that President-elect Trump is considering declaring such an emergency to enact some or all of the tariffs he promised during his electoral campaign without requiring Congressional approval.

The use of IEEPA would seem consistent with Trump's promise to impose 25% tariffs on Mexico and Canada in response to the influx of undocumented immigration from both countries. At least one of President-elect Trump's key trade advisors, Peter Navarro, has previously expressed support for invoking IEEPA to impose tariffs on Mexican goods to pressure Mexico into addressing undocumented immigration into the United States.

Section 201

Section 201 of the Trade Act of 1974 allows the president to impose temporary trade restrictions, such as tariffs, quotas, or other measures, to protect domestic industries from serious injury caused by a surge in imports. This provision is also referred to as a "safeguard measure."

Presidential action under Section 201 is predicated on a determination by the U.S. International Trade Commission (ITC) that a particular industry has been injured by imports. Accordingly, President-elect Trump would not be able to directly use the ITC to accomplish his tariff objectives. Nevertheless, Section 201 investigations are likely to be an important part of protectionist measures in the new administration, as they were during Trump's first term; in January 2018, he approved Section 201 tariffs on imported solar panels and washing machines following determinations by the ITC that increased imports were harming domestic manufacturers.

President-elect Trump will likely fill two current Republican vacancies on the ITC (which, by statute, must consist of three Democrats and three Republicans). He has not yet indicated who he may nominate, but we would expect them to be candidates who share Trump's protectionist instincts.

Section 338

Section 338 of the Tariff Act of 1930 allows the president to impose duties of up to 50% on imports from countries that impose discriminatory practices against U.S. goods or services. This provision has been largely dormant since the 1940s—Trump did not utilize Section 338 to pursue his tariff agenda during his first term, and Section 338 has not been discussed specifically by any of his recent appointees.

Nevertheless, Section 338's large maximum duty level could be an attractive option for the new administration, especially as a reply to likely trade retaliation by other countries in response to tariffs imposed by the Trump administration under other statutory authorization, such as Section 301 and 232. Section 338 also has relatively few procedural requirements, unlike other statutory authorities, which could permit the new administration to act quickly.

Section 122

Section 122 of the Trade Act of 1974 authorizes the president to impose across-the-board tariffs of up to 15% on all imports for a maximum period of 150 days without congressional approval, specifically to address large and serious U.S. balance-of-payments deficits or to prevent an imminent and significant depreciation of the dollar. After the 150-day period, congressional approval is required to continue the tariffs.

President-elect Trump has not previously relied on Section 122, and the temporary nature of its relief, coupled with the relatively low 15% cap, suggest that Section 122 may not be a preferred vehicle for Trump's new tariff agenda.

However, the new administration could use Section 122 in conjunction with other tariff authority as a tool to address trade deficits, particularly with trading partners like China, Mexico, and the European Union. Temporary surcharges could also be applied strategically to specific industries facing significant import pressures.

Antidumping and Countervailing Duties (AD/CVD)

Antidumping and countervailing duty (anti-subsidy) measures are trade remedies that the United States employs to protect domestic industries that allege they have been injured by unfair import pricing. Antidumping duties counteract foreign products purportedly sold below fair market value, and countervailing duties address subsidies provided by foreign governments to their exporters. While AD/CVD cases are typically initiated by

U.S. industry, U.S. law permits "self-initiation" by the U.S. government without a domestic industry petition, and the incoming Trump administration will have latitude to either promote or deter the filing of new AD/CVD petitions.

During his first term, Trump signed Executive Order 13785 (March 31, 2017), directing U.S. Customs and Border Protection and other relevant agencies to develop strategies to ensure these duties were effectively collected. The volume of imports subject to AD/CVD duties increased by approximately 50% over the first Trump presidency and continued to increase under President Biden.

We expect the new Trump administration to support increased application of AD/CVD measures, particularly targeting imports from China and countries in Southeast Asia where Chinese companies have significant investments (such as Cambodia, Malaysia, Thailand, and Vietnam). Increased scrutiny of alleged "circumvention" involving these countries is also likely, continuing a trend that began only a few years ago (and will likely expand to include Mexico) to target Chinese investment intended to take advantage of preferential treatment under the USMCA. This approach aligns with President-elect Trump's broader protectionist trade agenda, aiming to shield American industries from perceived unfair trade practices.

Project 2025 emphasizes the need for robust enforcement of trade laws to protect American industries, while acknowledging differing conservative viewpoints on AD/CVD measures; some conservative thinkers view these laws as protectionist and contrary to free-market principles, while others consider AD/CVD tariffs as corrective actions addressing anti-free market behaviors by other governments that are essential for ensuring a level playing field for U.S. manufacturers. *Project 2025* therefore proposes enhancements to the current AD/CVD system to protect U.S. consumers and companies from improperly applied duties while defending against trade-distorting actions by other governments, including:

- Reinstating and expanding in-person verifications, particularly concerning China, and implementing advanced analytics to detect circumvention.
- Ensuring senior policy positions are held by political appointees and establishing effective processes for self-initiating AD/CVD proceedings when industries lack resources.
- Reviving the China-specific non-market economy unit and developing new methodologies to determine normal values in Chinese antidumping cases.

Free Trade Agreements (FTAs)

The Trump administration is expected to re-examine existing FTAs and pursue new agreements that prioritize U.S. economic interests. The scheduled 2026 review of the USMCA will likely serve as a key focal point, potentially morphing from a scheduled regular "review" into a comprehensive renegotiation.

Along with his Section 301 tariffs on China, the USMCA was one of the crowning trade achievements of the first Trump administration, born from Trump's insistence that the prior North American Free Trade Agreement (NAFTA) was the "worst trade deal ever made" and that it was to blame for the loss of American manufacturing jobs and the "offshoring" of industries to Mexico.

Speaking before the Detroit Economic Club in October 2024, Trump announced his intention to invoke the six-year review clause of the USMCA to renegotiate the agreement. He emphasized the need to amend the deal to better serve American interests, particularly in the manufacturing sector. The USMCA review is expected to begin in July 2026, with the Trump administration's report to Congress due at least 180 days in advance (*i.e.*, January 2026). We expect 2025 to signal the new administration's direction and involve coordination with the Republican majority in Congress on specific asks that will be put on the negotiating table.

The administration may also pursue new bilateral agreements with countries in Asia, Africa, and Latin America to counterbalance China's growing influence. Key members of the new Trump administration, like Marco Rubio and Jamieson Greer, strongly favor such strategic use of bilateral free trade agreements in pursuit of U.S. national security objectives and geopolitical interests.

Supporters of freer trade within *Project 2025* outline a strategic approach to U.S. trade policy, emphasizing the negotiation of new FTAs that prioritize American economic interests and national security. Project 2025 advocates for trade agreements that concentrate on trade-specific issues, avoiding the inclusion of non-trade-related provisions, such as labor, environmental, and (to some extent) IP regulations, arguing that incorporating these elements can dilute the effectiveness of trade deals and open them to manipulation by special interest groups.

De Minimis Customs Threshold

The *de minimis* threshold, which determines the value below which imported goods are exempt from duties and subject to minimal import paperwork, has come under increased scrutiny in recent years with the rise of Chinese e-commerce. This threshold was increased from $200 to $800 per shipment in 2016 under the Trade Facilitation and Trade Enforcement Act, meaning that most Chinese direct-to-consumer exports bypass U.S. duties (including hefty Section 301 duties).

In September 2024, the Biden administration announced that it would issue a notice of proposed rulemaking (NPRM) that would exclude from the *de minimis* exemption all shipments containing products covered by tariffs imposed under Sections 201 or 301 of the Trade Act of 1974 or Section 232 of the Trade Expansion Act of 1962. This NPRM has yet to be issued, and it will fall to the Trump administration to decide whether to move forward.

Several proposed bills introduced in Congress in 2023 and 2024 clamping down on the *de minimis* exception are likely to be renewed in 2025 with a supportive Republican majority. Also, while he would have no direct responsibility regarding U.S. customs law as the Trump administration's secretary of state, Senator Marco Rubio has been a vocal critic of the current *de minimis* threshold.

Uyghur Forced Labor Prevention Act (UFLPA)

The UFLPA aims to ensure that goods produced wholly or in part with forced labor in the Xinjiang Uyghur Autonomous Region (XUAR) of China do not enter the U.S. market. It establishes a rebuttable presumption that such goods are made with forced labor, prohibiting their importation into the United States.

Senator Marco Rubio, Trump's choice for secretary of state, has been a leading advocate for addressing human rights abuses in XUAR, particularly concerning forced labor practices. He co-authored the UFLPA, which passed with broad bipartisan support in Congress and was signed into law by President Biden on December 23, 2021.

While President-elect Trump was not directly involved in the passage of the UFLPA, he had previously signed the Uyghur Human Rights Policy Act of 2020 directing U.S. resources to address human rights violations and abuses, including forced labor, in the XUAR. Moreover, the UFLPA is consistent with Trump's general support for trade measures against China, suggesting that we should expect to see even more stringent enforcement of the UFLPA under the new administration.

National Security Policy

- Export Controls
- Economic Sanctions
- Committee on Foreign Investment in the United States
- Outbound Investment Security Program

The new Trump administration is poised to enact sweeping changes in export controls, economic sanctions, CFIUS reviews, and outbound investment regulations, with a clear focus on strengthening national security and protecting U.S. technological and economic interests.

Law firms and their clients should closely monitor these developments and prepare for potential compliance challenges. Companies involved in international trade, foreign investments, or high-tech industries should assess their exposure to these policy shifts and consider proactive measures to mitigate risks. By staying informed and adapting to the evolving regulatory landscape, businesses can position themselves for success in a more restrictive and security-focused environment.

Export Controls

During his first term, President-elect Trump implemented several novel export control rules.

For example, after the DOC's Bureau of Industry and Security (BIS) added Huawei and more than 100 of its affiliates to the Entity List in 2019—effectively restricting the company's access to U.S.-origin technology and components—BIS issued specific new export controls that applied only to these Huawei companies.

And between April 2020 and January 2021, BIS significantly expanded export controls applicable to "military end users" and implemented a new class of export controls applicable to "military intelligence end users."

We would generally expect President-elect Trump to intensify export controls, particularly concerning technologies with potential military applications. This approach aligns with previous efforts by both Trump and President Biden to restrict adversaries' access to critical technologies, especially in sectors like artificial intelligence (AI), semiconductors, and quantum computing.

However, Trump has also been willing to compromise on export controls in exchange for other trade concessions, as when he removed another Chinese telecom giant, ZTE, from the Entity List at President Xi Jinping's request as part of the "Phase 1" trade negotiations with China. While productive trade negotiations with China seem much less likely in the second Trump administration, there remains a possibility that such negotiations could be accompanied by the scaling back of export controls.

It is also conceivable that President Trump would seek to ease export controls on Russia, either as part of a negotiation to end hostilities in Ukraine or to pressure Ukraine's government into accepting such negotiations.

Finally, we expect that the Trump administration will generally be more willing to impose unilateral export controls rather than coordinating as closely with key allies, such as the Wassenaar Group members and, more specifically, the European Union. This is likely to be the case both with respect to imposing stricter export controls on countries like China and relaxing export controls on countries like Russia.

The authors of *Project 2025* emphasize strengthening export controls to prevent adversaries from acquiring technologies that could enhance their military capabilities, including a comprehensive review of existing controls and the implementation of measures to address emerging technological threats. *Project 2025*'s proposals include:

- Moving China and Russia to one of the more restrictive export control country groups.
- Paring back license exceptions, so more exports require a license application.
- Expanding the scope of "foreign direct product" (FDP) rules to capture more foreign items based on U.S. technology.
- Reducing the *de minimis* threshold for U.S. content in foreign-made items.
- Removing the limitation on certain controls to "specially designed" items.
- Narrowing the exception from export controls for "fundamental research."
- Implementing more restrictive rules regarding "deemed exports"—sharing of technical data with foreign persons.
- Eliminating licensing exceptions for sharing technology through standards-setting bodies.

Economic Sanctions

President-elect Trump's approach to economic sanctions is likely to be more mixed than other aspects of his trade and national security agenda. On one hand, Trump has frequently utilized and commented on economic sanctions as instruments of U.S. foreign policy, particularly concerning nations like China, Iran, and Venezuela. Notably, in May 2018, Trump announced the U.S. withdrawal from the Joint Comprehensive Plan of Action, commonly known as the "Iran nuclear deal." Subsequently, his administration reinstated comprehensive sanctions against Iran, targeting critical sectors of its economy.

However, Trump has also expressed concerns that excessive reliance on economic sanctions could undermine the U.S. dollar's global standing. He has advocated for a more measured application of sanctions, suggesting that overuse may drive countries to develop alternative financial systems, thereby diminishing the dollar's dominance. For this reason, Trump often favors tariffs over sanctions as tools of economic policy. He perceives tariffs as more flexible and effective in achieving foreign policy goals without jeopardizing the dollar's reserve currency status. Key Trump advisors are split; some, like Peter Navarro, share President-elect Trump's preference for tariffs, while Senator Rubio and others favor the use of sanctions.

In recent statements, Trump has proposed lifting U.S. sanctions on Russia, citing concerns about their unintended consequences, particularly regarding the U.S. dollar's global dominance. As with export controls, lifting economic sanctions on Russia could be a way to either reward Russia for negotiating a peace deal with Ukraine, or to force Ukraine to the negotiating table.

Still, we expect Trump to continue to make use of sanctions, including expanded economic sanctions, against nations he perceives as a security threat or as engaging in activities contrary to U.S. interests. This almost certainly includes strict sanctions on Iran and could include potential sanctions on more Chinese officials tied to perceived antidemocratic activities in Hong Kong and the forced labor/reeducation situation in XUAR, Chinese military and military intelligence agencies and partner companies, and Chinese financial institutions linked to Iran or other adversarial regimes.

As with export controls, we would also expect that the Trump administration will generally be more willing to impose unilateral sanctions rather than coordinating as closely with key allies like the European Union.

Committee on Foreign Investment in the United States (CFIUS)

During his first term, President-elect Trump oversaw a massive expansion of CFIUS activity. In August 2018, President-elect Trump signed the Foreign Investment Risk Review Modernization Act (FIRRMA) into law, significantly expanding CFIUS's authority to review foreign noncontrolling investments.

President-elect Trump has also shown his willingness to block foreign acquisitions of prominent U.S. companies. In March 2018, he followed CFIUS's recommendation to block Broadcom's proposed takeover of Qualcomm. In December 2024, he also expressed opposition to Nippon Steel's proposed $14.9 billion acquisition of U.S. Steel, aligning with President Biden's later decision to block the deal on national security grounds after CFIUS was unable to reach a recommendation.

Consistent with these earlier developments, we expect the Trump administration to continue to broaden the scope of CFIUS reviews, particularly concerning investments from China and other nations deemed as strategic competitors. We also expect continued hostility to acquisitions of particularly conspicuous U.S. companies by foreign investors, even those located in close allies.

Conversely, under the incoming Trump administration, CFIUS may be less wary of investments from Saudi Arabia—with which President-elect Trump has enjoyed warm relations—and may also permit some Russian investments in the event economic sanctions on Russia are scaled back.

We note that the authors of *Project 2025* have proposed significant reforms to CFIUS to enhance its effectiveness in safeguarding national security. Key recommendations include:

- Developing a more robust program to ensure compliance with mitigation agreements imposed on foreign investments.
- Extending CFIUS's authority to include greenfield investments, which involve foreign entities establishing new operations in the U.S., thereby closing existing gaps in oversight.
- Implementing stricter penalties for regulatory violations to deter noncompliance and reinforce the seriousness of adhering to U.S. investment regulations.
- Recommending that the U.S. Department of Defense serve as a co-chair of CFIUS alongside the U.S. Department of the Treasury, reflecting the increasing importance of national security considerations in foreign investment reviews.

Outbound Investment Security Program (OISP)

On January 2, 2025, the U.S. Department of the Treasury's OISP, which establishes new regulatory controls on certain investments by U.S. persons in or related to China (including the Special Administrative Regions of Hong Kong and Macau), took effect. These controls apply to investments in sectors such as semiconductors, quantum information technologies, and artificial intelligence. We recently wrote about it here.

While President-elect Trump has not publicly commented on OISP, we expect that his administration will at minimum continue—and likely expand—scrutiny and restrictions of outbound investments, particularly those involving strategic technologies and adversarial nations. Given President-elect Trump's historic focus on lower-tech manufacturing, it is even possible that the Trump administration would consider curbs on outbound investments seen as efforts to offshore U.S. manufacturing.

Congress had made considerable progress toward imposing even stricter outbound investment controls—and Trump nominees Senator Marco Rubio and Rep. Michael Waltz have been at the forefront of such efforts—but that legislation was stripped out of the recent three-month continuing budget resolution that passed in mid-December 2024. Some critics claimed that the removal was orchestrated by Elon Musk, who purportedly wished to protect his own investments in Chinese technology companies. It remains to be seen whether Musk will remain opposed to such measures and what role he will play in the new Trump administration's national security policymaking.

Key Trump Administration Nominees and Appointees Guiding New International Trade and Security Policies

- Sen. Marco Rubio
- Scott Bessent
- Howard Lutnick
- Jamieson Greer
- Peter Navarro
- Rep. Michael Waltz
- Alex Wong

Sen. Marco Rubio

Trump's nominee for secretary of state is the senior senator from Florida. He played a key role in shaping Latin America policy during the first Trump administration and is one of the most prominent and vocal "China hawks" in Congress. He strongly supports increased use of export controls, sanctions, and reviews of foreign inbound investment and U.S. outbound investment to protect U.S. national security interests, especially regarding China but also regarding Russia and other U.S. adversaries. He is also a stronger supporter of free trade agreements and less fond of tariffs than most key members of Trump's inner circle.

- Tariffs and Trade Policy
  - Rubio has been a prominent advocate for revoking China's MFN status, also known as PNTR. In September 2024, Senator Rubio, alongside Senators Tom Cotton and Josh Hawley, introduced the Neither Permanent Nor Normal Trade Relations Act. This legislation aims to end China's PNTR status, thereby revoking its MFN status. The bill proposes a phased increase in tariffs on Chinese products over five years, including 100% tariffs on goods deemed critical to national security. It also empowers the president to establish supplementary quotas and tariffs to phase out Chinese imports and implement bans on specific Chinese goods.
  - As secretary of state, Rubio would play a central role in clearing the way for new U.S. free trade agreements. Rubio has long been a strong advocate for strategic use of free trade agreements as a tool for geopolitical strategy, particularly in countering China's influence around the world, and maintaining the Americas as a U.S. sphere of influence. During the prior Trump administration, Rubio urged U.S. officials to initiate free trade talks with Taiwan, recognizing its strategic importance and the mutual economic benefits of such an agreement. Rubio has also recently raised concerns about China's attempts to exploit existing FTAs, such as the USMCA.
  - In June 2023, Senator Rubio, alongside Senator Sherrod Brown (D-OH), introduced the Import Security and Fairness Act. This bipartisan legislation aims to end *de minimis* treatment for goods from nonmarket economies on the USTR's priority watch list, notably China and Russia. The bill also seeks to require U.S. Customs and Border Protection (CBP) to collect more information on *de minimis* shipments entering the country. In September 2024, following the Biden administration's announcement of the upcoming NPRM targeting the *de minimis* loophole, Senator Rubio criticized the measure as insufficient, stating: "Hundreds of millions of Chinese packages will continue to flood our country through the de minimis loophole under this proposed Biden-Harris rule... The only way to stop Communist China from abusing the de minimis loophole is to pass my bipartisan bill to end de minimis treatment for all goods imported from China."
  - Senator Rubio is a leading advocate for addressing human rights abuses in XUAR, particularly concerning forced labor practices. He co-authored the UFLPA, which was signed into law by President Biden in December 2021, and will likely continue to champion strong UFLPA

enforcement in the new Trump administration.

- National Security
    - As Secretary of State, Rubio would be ultimately responsible for the Directorate of Defense Trade Controls (DDTC) and for the International Traffic in Arms Regulations, which contain U.S. export controls on military items. As a U.S. senator, Rubio has been a vocal advocate for strengthening U.S. export controls, particularly concerning the transfer of sensitive technologies to adversarial nations like China. He has criticized BIS for approving most license requests involving exports to Chinese companies (and previously asked BIS to adopt a "presumption of denial" for all such license requests), advocated for stricter export controls on semiconductors and related technology, and expressed concerns over the lack of biotech export controls. Rubio's hawkish views on China and his past roles on the Senate Intelligence and Foreign Relations Committees indicate he will support robust export control policies to counter foreign adversaries.
    - Although as secretary of state, Rubio would not be directly responsible for U.S. sanctions policy, he is likely to be the strongest advocate for robust sanctions in the new Trump administration. Rubio has been a steadfast advocate for the strategic use of economic sanctions to advance U.S. foreign policy objectives, particularly concerning nations like Iran, Venezuela, Russia, and China. Notably, his presumably prominent role in any peace negotiations in Ukraine and in other dealings with Russia may serve to keep Russia sanctions in place.
    - As a U.S. senator, Rubio has consistently emphasized the importance of CFIUS in safeguarding national security by scrutinizing foreign investments, particularly those involving adversarial nations like China. Rubio has also advocated for expanding CFIUS's jurisdiction further to cover foreign investments in fields such as artificial intelligence, biotechnology, and other emerging technologies. As head of the U.S. Department of State, one of CFIUS's constituent agencies, we expect that Rubio will advocate for more reviews of non-notified transactions.
    - Senator Rubio has been a vocal critic of OISP, expressing concerns that the measures are insufficient to protect U.S. national security interests. In August 2023, when the Biden administration introduced plans for OISP, Rubio called it "almost laughable" and "riddled with loopholes" for failing to adequately address the dual-use nature of critical technologies. Rubio strongly supports legislation aimed at creating a more robust outbound investment screening process.

Scott Bessent

Trump's nominee for secretary of the treasury, Scott Bessent, is a hedge fund manager. He is politically moderate and a proponent of adapting "Abenomics," the economic policies promoted by Shinzo Abe as prime minister of Japan characterized by government spending and growth strategy, in the United States. He advocates for containment of China in conjunction with key U.S. allies, such as Japan. He strongly supports President-elect Trump's plans to impose high tariffs on China but seems less eager to impose high tariffs on other U.S. trading partners.

- As secretary of the treasury, Bessent would be responsible for three key aspects of U.S. national security policy:
    - He would oversee the Office of Foreign Assets Control (OFAC), which administers all U.S. economic sanctions programs. Like President-elect Trump, Bessent has expressed a preference for tariffs over sanctions, which suggests he is unlikely to be a voice for expanding sanctions.
    - He would have significant influence over CFIUS's resources and agenda because the Department of the Treasury chairs CFIUS and provides its staff.
    - He would also oversee the implementation and administration of OISP. However, Treasury has limited discretion under OIPS, functioning primarily as enforcement for violations of the new rules.

- Given his lack of prior government service and his Wall Street background, we would not expect Bessent to be as involved in the national security aspects of Treasury's remit. He is likely instead to defer to his deputy secretary and/or officials within the Office of Terrorism and Financial Intelligence (on economic sanctions matters) and the Office of Investment Security (on CFIUS and OIPS matters). These individuals, who have not yet been named, will likely play important roles in setting Treasury's agenda on national security matters.

Howard Lutnick

Trump's nominee for secretary of commerce, Howard Lutnick, is the CEO of financial services firms Cantor Fitzgerald and BGC Group. He is a strong proponent of higher tariffs, both on Chinese goods and applied more broadly.

- **Tariffs and trade policy.** As secretary of commerce, Lutnick would oversee any new Section 232 investigations and AD/CVD investigations. He has expressed public support for President-elect Trump's tariff agenda but has not discussed specifics or spoken about AD/CVD.
- **National security.** As secretary of commerce, Lutnick would be ultimately responsible for BIS and for the Export Administration Regulations, which contain most U.S. export controls.
- Given his lack of prior government service, and his Wall Street background, it is likely he will defer to his undersecretary for international trade on AD/CVD issues, and to his undersecretary for industry and security on Section 232 issues and matters related to export controls. These individuals, who have not yet been named, will likely play important roles in setting Commerce's agenda on trade and national security matters.

Jamieson Greer

Trump's nominee for USTR, Jamieson Greer, is an international trade lawyer and was previously chief of staff for USTR Robert Lighthizer in the first Trump administration. He appears to hold views consistent with those of his former boss, favoring high punitive tariffs against China and pursuing strategic bilateral free trade agreements with key partners to curtail China. In testimony before the U.S.-China Economic and Security Review Commission (May 2024), Greer described China's economic strategies as a "generational challenge" to the United States and emphasized the necessity of strategic decoupling from China.

- **Free trade agreements.** As the incoming USTR, Greer would be responsible for negotiating new trade agreements. In 2023 testimony before the House Ways and Means Trade Subcommittee, Greer recommended the negotiation of new market-opening trade agreements with countries such as the United Kingdom, India, Kenya, and the Philippines. Greer would also be responsible for overseeing the USMCA review process. While he has not made any public statements regarding the current state of the USCMA, his experience with its original negotiation should provide some continuity in this latter role.
- **Tariff measures.**
    - As U.S. Trade Representative, Greer would initiate and conduct any new Section 301 investigations, shaping the administration's response to unfair trade practices. While Greer has not made any public comments regarding Section 301 duties, he previously served as chief of staff to former USTR Robert Lighthizer at the time the existing Section 301 measures were put in place.
    - As USTR, Greer would be responsible for initiating any Section 338 investigations. He has not publicly discussed Section 338, and it was not employed during his prior tenure as USTR chief of staff.
    - In May 2024, Greer testified before the U.S.-China Economic and Security Review Commission, recommending that Congress revoke China's PNTR, effectively removing its MFN status. He

argued that such a move would allow the United States to impose higher tariffs on Chinese goods, countering China’s unfair trade practices and its failure to comply with WTO commitments.

Peter Navarro

Trump’s appointee as senior counselor for trade and manufacturing, Peter Navarro, is a close Trump ally and veteran of the first Trump administration, where he held similar positions. He is considered one of the key architects of the protectionist trade policies of Trump’s first term and favors imposition of high tariffs on China and other U.S. trade partners to protect domestic industry. In the past, he has argued for the use of tariffs to accomplish national security objectives, instead of more traditional tools such as export controls, economic sanctions, and foreign investment reviews.

- **Tariffs and trade policy.**
  - Navarro has emphasized the strategic use of Section 301 tariffs to counter China’s industrial ambitions, particularly those outlined in the “Made in China 2025” plan. He stated that tariffs should be focused on sectors where China aims to achieve dominance, thereby addressing concerns over unfair trade practices and IP theft. In December 2024, Navarro warned against potential Chinese currency manipulation and indicated that such actions could prompt the United States to implement even higher tariffs on Chinese imports.
  - Navarro has also stressed that tariffs imposed under Section 232 are essential for protecting national security. In a January 2025 interview, Navarro outlined his vision for “Maganomics,” which includes the strategic use of tariffs to bolster domestic manufacturing and reduce trade deficits. He contends that implementing tariffs will lead to increased domestic production, higher real wages, and enhanced national security.
  - Navarro also publicly supported Trump’s prior Section 201 tariffs, describing them as “wildly successful” in promoting domestic manufacturing. Navarro believes that the influx of low-cost imports, especially from China, is detrimental to U.S. manufacturers and that Section 201 tariffs are essential to counteract unfair trade practices and revitalize American manufacturing.
  - In May 2019, during his tenure as assistant to the president and director of the White House Trade and Manufacturing Council, Navarro discussed the administration’s consideration of invoking IEEPA to impose tariffs on Mexican goods. This action aimed to pressure Mexico into addressing illegal immigration into the United States. Navarro emphasized that the tariffs were intended to incentivize Mexico to take effective measures to curb the flow of migrants. Navarro’s previous support for invoking IEEPA to impose tariffs reflects his commitment to utilizing executive authority to address trade-related national emergencies.
- **National security.**
  - Navarro favors strict regulation of foreign investment in U.S. companies and therefore supports expanded CFIUS authority. However, during debates within the first Trump administration, Navarro advocated for immediate restrictions on foreign investments from adversarial nations, favoring the use of emergency powers under IEEPA, as opposed to enhancing CFIUS’s capabilities through legislative means like FIRRMA. It remains to be seen whether Navarro will be content with CFIUS as the sole mechanism for foreign investment review.

Rep. Michael Waltz

Trump’s appointee as national security advisor, Michael Waltz, is a U.S. representative from Florida’s sixth district and was a key member of the House Foreign Affairs Committee’s China Task Force. He is considered as one of Congress’s most hawkish members on China and is a prominent voice in Congress on national security issues, and he has consistently advocated for robust export controls to safeguard American technological and economic interests, particularly concerning China.

- **Export controls.** Waltz has emphasized the necessity of stringent export controls and rigorous enforcement to prevent the transfer of sensitive U.S. technologies to adversarial nations. The China Task Force's final report includes numerous recommendations aimed at countering China's efforts to acquire American technology.
- **Sanctions.** Waltz has been a prominent supporter of strict economic sanctions, especially on Iran and Venezuela. He also supports sanctions against Russia and has called for stricter enforcement.
- **Investment security.**
    - Waltz has also consistently emphasized the importance of CFIUS in safeguarding national security, particularly concerning foreign investments from adversarial nations like China. As a member of the House's Future of Defense Task Force, Waltz contributed to findings that recognize China as a significant economic and national security threat. The Future of Defense Task Force's report underscores the importance of mechanisms like CFIUS in preventing adversarial nations from acquiring sensitive U.S. technologies and infrastructure.
    - Waltz collaborated with his House colleagues on currently pending outbound investment legislation aimed at preventing U.S. capital from supporting foreign adversaries' technological advancements, suggesting that he will support controls that go beyond OISP.

Alex Wong

Trump's appointee as deputy national security advisor, Alex Wong, is a national security lawyer who served as deputy assistant secretary for North Korea in the Bureau of East Asian and Pacific Affairs during Trump's first term. He is a strong critic of China, especially with respect to China's activities that undermine U.S. economic sanctions and to export controls against North Korea, Iran, and Russia.

- As vice chairman of the U.S.-China Economic and Security Review Commission, Wong has addressed the complexities of U.S.-China relations, particularly concerning export controls, and advocated for a comprehensive reassessment of the U.S. export control regime to address the challenges posed by China's pursuit of advanced technologies.
- Wong has also been a prominent supporter of strict economic sanctions, particularly with respect to North Korea, and Chinese activities that seek to undermine the effectiveness of U.S. sanctions on North Korea and Russia. As chairman of the U.S.-China Economic and Security Review Commission in November 2022, Wong noted that China's observation of international responses to Russia's invasion of Ukraine provided Beijing with insights into potential economic sanctions it might face if it used force against Taiwan. He also advocated for the creation of a permanent interagency committee to plan for the imposition of sanctions or other economic measures and has consistently emphasized that sanctions should remain in place until the targeted nation takes concrete steps toward compliance with international norms.

Conclusion

All indicators point to the Trump administration ushering in dramatic changes in international trade and national security policies in the first quarter of 2025 and beyond, which are likely to cause significant disruption for companies in the United States that rely on foreign goods, foreign markets, or foreign investment, and for foreign companies that sell to, buy from, or would like to invest in the United States.

Perkins Coie's international trade and national security attorneys, based in Washington, D.C., and Seattle, are experienced advisors who helped clients navigate these issues during the first Trump administration. Please reach out to the authors with any questions about the content of this Update.

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