

Welcome



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Welcome to the latest edition of TradeFlash newsletter, a round-up of the latest developments in Global Trade around the world – featuring materials available on ey.com, including insights, tax alerts, webcasts and podcasts.

In this issue, we provide links to EY articles, webcasts and tax alerts covering trade developments and key trade topics such as the impact of sustainability on international trade. We also include an article on the possible impact of the forthcoming US presidential election on global trade issues. The US plays a pivotal role in shaping international trade dynamics, so the outcome of this election could have a significant impact on trade policies, global partnerships, tariff structures and the overall economic landscape, both domestically and abroad.

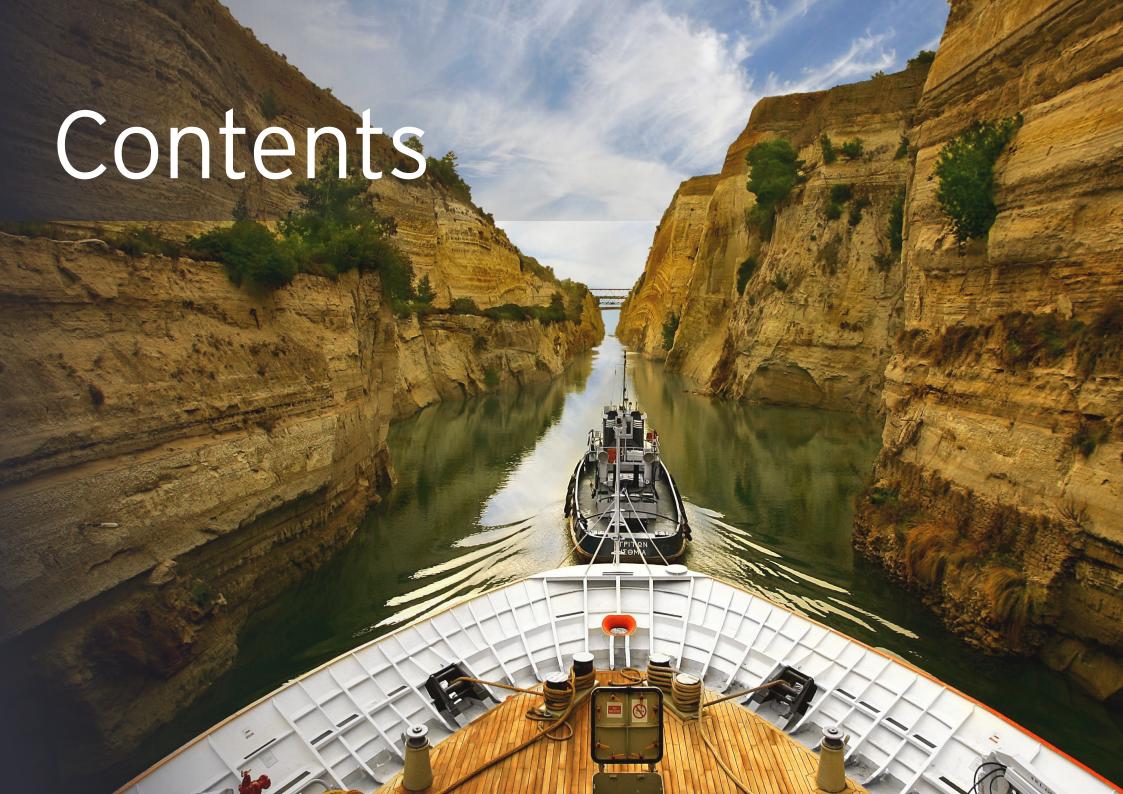
The Contacts section lists EY Global Trade professionals from around the world, all of whom will be very pleased to discuss any trade issues that affect your business.

This newsletter is issued on a recurring basis as a companion to TradeWatch, our interactive trade magazine that provides insights on customs and trade matters worldwide. Recent editions of TradeWatch can be found on our global trade page on ey.com. Look out for the next regular edition of TradeWatch in late 2024.

We hope you find this newsletter useful and would welcome your feedback.

Kind regards,

Jeroen Scholten



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As the US presidential election approaches, the implications for global trade and tariffs are at the forefront of economic discussions around the world. The US plays a pivotal role in shaping international trade dynamics, so the outcome of this election could have a significant impact on trade policies, global partnerships, tariff structures and the overall economic landscape, both domestically and abroad.

From a trade and economic front, the impending elections have contributed to market volatility, with stock prices and product price disruptions reflecting concerns over potential changes in trade policy. Exporters and importers in the US are preparing for the different scenarios, knowing the election's result will influence their business strategies and economic prospects for the foreseeable future.

Moreover, the impact of this election will likely extend beyond US borders. Neighboring countries and key trade partners are preparing for the possibility of renegotiated trade agreements and shifts in US tariff policies that could significantly affect their own economies. The global community recognizes that the direction the US chooses will have wide-ranging implications for the international economy, trade negotiations and the stability of the global market.

Election's influence on trade and tariffs

The executive branch of the US government has wide-ranging authority to modify tariff rates and impose trade remedies on the basis of national security or economic injury, including under Section 232 of the Trade Expansion Act of 1962, Section 201 and Section 301 of the Trade Act of 1974, and the International Emergency Economic Powers Act. While legislation has previously been introduced to reassert greater congressional authority over trade policy, in our view, it is unlikely that Congress will meaningfully roll back presidential powers related to trade and tariffs. As a result, the next president is likely to have sweeping authority to implement significant trade and tariff policy priorities.

During then-President Donald Trump's term as president (20 January 2017 to 20 January 2021), trade policy and the use of tariffs became central to his administration's economic agenda, marking a significant shift in the US' approach to international trade. Trump's "America first" policy was characterized by what some observers consider a protectionist approach focused on strengthening domestic industries and reducing the trade deficit.

The trade disputes with China were a source of trade disruption during Trump's tenure, with both countries imposing tariffs on each other's goods amounting to billions of dollars. The Trump administration also imposed tariffs on steel and aluminum imports, which affected numerous countries and had significant repercussions on trade practices and global supply chains.

The revived use of tariffs during Trump's presidency has endured. The Biden administration has largely maintained Trump's trade tariffs and has also raised certain tariffs on specific Chinese goods, such as semiconductors and electric vehicles. Given this trend, it is expected that the US' existing tariff regime for China will continue, and possibly even expand, regardless of which party is in control of the White House and Congress.

Trump and Republican positions

The Republican party platform includes a focus on rebalancing trade by supporting baseline tariffs on foreign-made goods, passing the Trump Reciprocal Trade Act,¹ and addressing certain trading practices with the goal of reducing taxes on American workers, families and businesses as tariffs on foreign producers increase.² Moreover, the platform proposes reversing certain auto-industry-specific regulations, canceling electric vehicle mandates and blocking the importation of Chinese vehicles.³ As part of the Republican party platform, the Buy American Act⁴ would likely be strengthened.⁵

The most significant duty impact from the Republican side has been Trump's across-the-board tariff on all US imports. If re-elected, Trump has indicated he would implement a 60% tariff on Chinese goods and a 10% tariff on goods from other countries. This has caused many companies to start thinking now about the potential impact of these tariffs if Trump is elected.

Harris and Democratic positions

During her tenure as vice president (20 January 2021 to present), Kamala Harris has not prominently engaged with trade issues, but her past actions as a senator and public statements provide some insight into her stance on trade.

In a 2019 statement, Harris clarified that she does not align with the "protectionist Democrat" ideology and opposes widespread tariffs. Nonetheless, her voting record and public remarks indicate a cautious approach to free trade agreements. For example, Harris opposed the United States-Mexico-Canada Agreement (USMCA) as a senator due to environmental and labor concerns. She has also expressed opposition to other trade deals, such as the Trans-Pacific Partnership (TPP), citing a lack of robust environmental safeguards as a key concern. However, the Democratic platform states that there is a plan to continue working with trade allies and expanding partnerships globally.

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Both Harris and President Joe Biden have criticized Trump's extensive tariffs on Chinese imports, labeling them as a burden on American consumers due to increased prices. Despite this criticism, the Biden administration has largely retained the tariffs implemented during Trump's presidency, and Harris has indicated that she "will not tolerate unfair trade practices from China or any competitor that undermines American workers." The 2024 Democratic platform states that the targeted tariffs on China "promote US growth."

USMCA renegotiations

The forthcoming presidential term offers a chance to shape the future of the USMCA, which is set to expire in 2036 unless extended through a review process beginning in 2026. The USMCA's legislation

¹ The Trump Reciprocal Trade Act was a bill introduced during Trump's presidency aimed at authorizing the president to impose equivalent tariffs on imports from countries that levy higher tariffs on US goods..

2"2024 GOP Platform: Make America Great Again!" Republican National Committee, https://prod-static.gop.com/media/RNC2024-Platform.pdf?_gl=1*19d60il*_gcl_au*MTE4NjAxMTkwNC4xNzl0MTlzMzE2&_
ga=2.166740156.368061387.1724977028-550879236.1724123317

⁴ The Buy American Act requires that government agencies primarily procure domestic goods. To qualify as domestic, the goods must meet certain criteria established by the policy.

See footnote 2.

[&]quot;Kamala Harris's Positions," Council on Foreign Relations website, 19 August 2024, https://www.cfr.org/election2024/candidate-tracker/kamala-harris.

[&]quot;"24 Democratic Party Platform," Democratic National Committee, 2024, https://democrats.org/wp-content/uploads/2024/08/FINAL-MASTER-PLATFORM.pdf.

 $^{^{\}circ}$ A New Way Forward - Kamala Harris for President: Official Campaign Website, https://kamalaharris.com/issues/.

⁹ Ibid.

requires extensive consultation with Congress and stakeholders well in advance, making early strategizing essential for the countries involved.

The USMCA's sunset clause introduces a "doomsday clock" mechanism, mandating a review every six years to decide on an extension. If not extended, annual reviews follow until the expiration date. The approach to the USMCA review is likely to differ between administrations, with Republicans' trade policy, influenced by former US Trade Representative Robert Lighthizer, favoring tariff threats and "aggressive" negotiating tactics to address trade deficits and achieve other policy goals. In contrast, the Democratic platform is likely to focus on using multilateral negotiations to improve environmental and labor standards, including through tools like the USMCA's Rapid Response Mechanism.¹⁰

Ongoing disputes are likely to arise during the review process, including disagreements over automobile rules of origin, Mexico's energy policies and the treatment of genetically modified agricultural products. Moreover, the US will likely seek to raise concerns about indirect market access for Chinese goods flowing through Mexico and benefitting from the USMCA agreement.

Election's influence on non-tariff trade strategies

US administrations in the past decade have taken steps to address unfair trade and global issues without resorting to tariffs. Innovative strategies, such as the Uyghur Forced Labor Prevention Act, the Committee on Foreign Investment in the United States and extensive export controls policy, have proven effective in tackling issues without the detrimental side effects of tariffs.

A Harris administration will likely see continued restrictions on Chinese trade and investment, particularly in strategic sectors like technology and renewable energy. It will also likely increase the push for nearshoring or friendshoring with other allies. Moreover, a Democratic administration is likely to continue working with allies and partners to protect labor and climate standards.

A Republican administration, on the other hand, is likely to be focused on decreasing globalization, including a potential withdrawal from the World Trade Organization, and securing strategic independence from China by revoking its most-favored-nation status, phasing out imports of

essential goods and preventing Chinese investments in US real estate and industries.

Impact on companies

As companies look ahead to the potential impacts of the forthcoming election on global trade, it is becoming increasingly clear that regardless of who is elected to the presidency, the use of tariffs and non-tariff strategies as a tool in trade policy is likely to continue.

If Trump's proposed tariffs of 10% on all goods entering the US and 60% on Chinese goods are implemented, the impact on companies could be substantial. Domestic sourcing is expected to become a predominant strategy for US businesses seeking to mitigate the impact of these tariffs. In addition to domestic sourcing, country of origin planning (for China tariff mitigation) and customs valuation strategies will play a pivotal role.

One approach that many are considering is using the first-sale rule. This rule allows importers to base their customs duties on the transaction value of the first-sale in a series of transactions, potentially leading to a lower dutiable value if the first-sale occurs before the goods are subject to added value

¹⁰ United States-Mexico-Canada Agreement, Annex 31-A: Facility-Specific Rapid Response Labor Mechanism,1 July 2020.

through further manufacturing or transportation. This approach has long been a standard practice in sectors that typically face higher tariffs, such as apparel, but in recent years, it has gained traction for many other goods originating from China. However, leveraging the first-sale rule requires a high level of due diligence on the part of importers and collaboration with suppliers and manufacturers, which can be burdensome for some companies.

Another trade approach that is expected to gain popularity is the use of drawback. This method permits companies to receive 99% refunds for the tariffs and fees paid upon importation, provided that the goods are subsequently exported or destroyed. Drawback can provide significant financial relief for businesses engaged in international trade by reducing the total cost of tariffs.

Companies outside of the US may also face impacts after the election. For example, the election outcomes could prompt multinational corporations to consider whether restructuring operations to better align with new, or continued, trade policies fit with their overall business model. This restructuring could include re-evaluating distribution channels and sourcing locations, as

well as restructuring to allow US importers to use first-sale rule benefits and other customs valuation techniques, for example, bifurcating product- and non-product-related costs.

Companies must stay informed and adaptable, as trade policies and tariff rates can change with political shifts. It is essential to develop approaches to navigate the complexities of tariffs and to help manage their impact. Adopting a proactive strategy based on a thorough understanding of customs regulations will be key to maintaining a competitive edge in the global market, regardless of the election outcomes and the trade policies that follow.

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Global Trade - Tax Alerts

Argentina

- ► Argentina reduces Impuesto PAIS tax rate (03 September 2024)
- Argentina implements withholding-tax exemption for electronic payments (27 August 2024)
- Argentina implements the Regularization Regime for Tax, Customs and Social Security Obligations (24 July 2024)

Brazil

 Brazil moves major VAT reform bill to Senate for consideration (05 August 2024)

Canada

- Canada imposes surtaxes on imports of Chinese EVs, steel and aluminum products, considers surtaxes on critical manufacturing goods (19 September 2024)
- Canada Border Services Agency announces transition period and new process for certain customs adjustments (22 August 2024)
- Canada Department of Finance releases draft legislation for 2024 budget and other measures (21 August 2024)
- Canada imposes provisional duties on imports of high-protein content pea protein from China (30 July 2024)

China

 Reform decisions from Third Plenary Session seek to modernize China's tax system (07 August 2024)

Colombia

- ➤ Colombian 2024 Tax reform bill submitted to Congress, would affect corporate and capital gains rates, among others (13 September 2024)
- ► Colombia prohibits coal exports to Israel (26 August 2024)

Denmark

- ➤ Danish Government plans to introduce a new agriculture CO2 tax (06 August 2024)
- Danish Parliament introduces CO2 tax on fuels and CO2-emission tax on industry from 2025 (06 August 2024)

El Salvador

► Salvadoran Congress approves tax amnesty program (09 September 2024)

Global

- ► Trade Talking Points | Latest insights from EY's Trade Strategy team (September 2024) (23 September 2024)
- ► Trade Talking Points | Latest insights from EY's Trade Strategy team (August 2024) (13 August 2024)
- ► G20 Finance Ministers affirm commitment to BEPS 2.0 and enhanced global tax cooperation (02 August 2024)
- ➤ Trade Talking Points | Latest insights from EY's Trade Strategy team (July 2024) (26 July 2024)

Kenya

 Kenya Tax Appeals Tribunal rules on excise duty relief for packaging preforms (24 September 2024) Kenya publishes Climate Change (Carbon Markets) Regulations, 2024 (29 July 2024)

Peru

- ➤ Peru enacts 1% Excise Tax on online gaming and online sports betting (24 September 2024)
- Peru enacts Special Installment Payment regime for tax debts due by 31 December 2023 (20 September 2024)

Saudi Arabia

- ➤ Saudi Arabia announces 16th wave of Phase 2 e-invoicing integration (30 September 2024)
- ► Saudi Arabia announces new fee rules on customs services (10 September 2024)
- Saudi Arabia announces 15th wave of Phase 2 e-invoicing integration (03 September 2024)
- ➤ Saudi Arabia announces 14th wave of Phase 2 e-invoicing integration (05 August 2024)
- ➤ Saudi Arabia issues resolution amending customs duties on certain goods (25 July 2024)

Slovakia

 Slovakia introduces tax on sweetened nonalcoholic beverages (20 September 2024)

South Africa

 South Africa publishes amendments to customs duties on lead-acid batteries (13 August 2024)

Tanzania

➤ Tanzanian Finance Act, 2024 makes changes affecting businesses and individuals (30 July 2024)

Turkiye

➤ Turkiye reduces allowed value limits on and increases duties applicable to B2C e-commerce shipments (07 August 2024)

United Arab Emirates

▶ Dubai Customs publishes policy on voluntary disclosures (24 July 2024)

United Kingdom

► UK to launch a consultation on e-invoicing (23 September 2024)

Uganda

► Uganda issues Tax Amendment Acts for 2024 (18 September 2024)

United States

- ► US White House publishes Fact Sheet outlining proposed changes to de minimis shipments exemption (19 September 2024)
- USTR publishes final Notice of modification of actions on impacted Chinese origin products subject to increase in additional Section 301 tariffs and applicable exclusions (17 September 2024)

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