Coronavirus and Trade

US Perspective; What Comes Next?

March 2020

The coronavirus disease 2019 (COVID-19) outbreak has caused severe, but widely varying, disruptions across the US economy, including increased consumer demand of particular goods, reduced production due to lack of key inputs from abroad or quarantined employees, and dramatic US stock market drops responding to unprecedented levels of uncertainty. Global supply chain disruptions began earlier this year, as China imposed travel and other restrictions that shuttered manufacturing facilities in an effort to contain the virus, which in turn affected American companies operating in country or reliant on components shipped from China.

As companies deal with the immediate impact of COVID-19, they are also seeking to better manage risks associated with global supply chain disruptions. The Trump Administration has articulated clearly that US travel restrictions and now some border restrictions do not extend to goods, keeping America open to reciprocal trade. However, companies that rely on cargo shipments normally shipped in the body of passenger planes could face severe impacts as flights to Europe and other parts of the world halt in response to these and other countries' travel restrictions. Commercial trucks transiting across the US-Canada border could also face increased delays as the two countries announced new limits on non-essential travel; similar restrictions on passenger travel to Mexico are expected in the coming days.

2020 Trade Policy Agenda

The Office of the US Trade Representative (USTR) released its "2020 Trade Policy Agenda" at the end of February, setting forth the Administration's trade priorities for the remainder of this year. However, this document did not take into account COVID-19. The Administration spotlighted its plans to negotiate new trade agreements with the European Union (EU), the UK and Kenya. Current US travel restrictions on the European region will likely interrupt at least the ongoing trade talks with the EU and UK, though officials could shift negotiations to video teleconferencing for the time being. Efforts to resolve the lapse of the World Trade Organization's (WTO) Appellate Body, as desired by the business community, may not advance in the first half of 2020, as the world focuses on the pandemic instead of a WTO reform.

The Administration has also made clear it intends to enforce commitments in trade agreements with trading partners in 2020. Canada ratified the US-Mexico-Canada Agreement (USMCA) before ending its legislative session, making it likely the agreement could enter into force as early as June 1. The US business sector quickly pushed back, urging the Administration consider a later date of entry as they are focused on managing production during the outbreak and questions remain over USMCA implementation and the need for uniform regulations.

The US is also monitoring benchmarks established under the Phase One Agreement with China, and whether China is adhering to its commitments. Due to the outbreak, it is possible China may fail to meet certain purchasing and other commitments made under the Phase One deal, which could trigger increased or new tariffs on products from China. The White House has already signaled flexibility in this scenario; notably, the agreement contains a provision calling for consultations should there be a delay due to "a natural disaster or other unforeseeable event." Amid this uncertainty, the US business community continues to advocate for relief in Washington, be it via congressional economic stimulus efforts or additional steps that Congress or the Administration could take to further stabilize the US and global economies.

Potential Tariff Relief

One avenue of potential relief for US businesses may be through the US tariff schedule. As part of his "America First" trade policies, President Trump unilaterally imposed tariffs on hundreds of billions of dollars' worth of products from China and on imports of steel and aluminum from much of the world. While these actions have increased costs for many US businesses, the general feeling in Washington has been that the cost is worth the benefit of creating sustained pressure on Beijing to change perceived unfair trading practices and supporting the domestic production of certain unfinished and semi-finished steel and aluminum products. The pandemic may change that thinking. President Trump could unilaterally lift these tariffs and provide automatic cost savings to manufacturers across the US. Lawmakers – including Senate Republicans – have floated this option, suggesting it may be on the table for the expected third round of economic stimulus legislation. The President's hardline strategy against China has been a cornerstone of his first term, and he is unlikely to abandon or diminish the effort without first exploring all other stimulus options.

Congress could act on tariff relief without the President's support in several ways. It could mandate a permanent or temporary suspension or reduction of all the tariffs the Trump Administration has imposed as part of its efforts against China and in support of steel and aluminum production. Short of that, Congress could tailor tariff relief to target imports from China critical to fighting the disease – such as sterile gloves, breathing masks, and x-ray equipment – or products used by small- and medium-sized manufacturers, as they have done in a targeted fashion by granting limited exclusions to date. However, the advancing stimulus packages do not appear to be moving forward with these options. Congress could also tweak the Miscellaneous Tariff Bill process by raising the current US$500,000 cap per provision and/or allowing the reduced tariffs to apply to those imposed by the Trump Administration under Section 301 of the Trade Act of 1974, as amended.

Globalization - An Uncertain Future

The long-term impacts on globalization are not yet apparent, but experts believe they may be significant, as leaders consider shifting manufacturing capabilities long outsourced abroad back within domestic borders. To that end, Administration officials confirmed that they are currently working on a new Executive Order that would encourage pharmaceutical and medical supply chains shift back to the US. The effort, driven by Peter Navarro, would reportedly add new Buy American requirements on certain government agencies to buy US-made drugs and medical supplies; ease Food and Drug Administration (FDA) and Environmental Protection Agency (EPA) regulatory approvals aimed at bringing new plants online; and increase funding for advanced manufacturing, like continuous manufacturing and 3D printing. The global response to the pandemic continues to evolve, but these times are almost certain to have lasting effects on how we do business for many years to come.

Our team stands ready to answer any questions.

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