INTERNATIONAL TRADE

TRUMP ADMINISTRATION ORDERS REVIEW OF US TRADE DEFICIT: HOW CANADIAN AND AMERICAN COMPANIES MAY BE AFFECTED

by Brenda Swick, Daniel Ujczo, Bruce Thelen and Dylan Augruso

The first signs came via Donald Trump's twitter account on the evening of March 30, 2017: "…we can no longer have massive trade deficits and job losses. American companies must be prepared to look at other alternatives."

The Trump Administration issued two Executive Orders on March 31, 2017 relating to trade. In short, the Executive Orders commenced a 90 day review by the US Department of Commerce to identify the underlying causes of trade deficits in the US by examining various countries' trade practices. Canada is on the "list" of targeted countries, which also includes China and Mexico. The Trump Administration is attempting to quantify exactly how much of the US global trade deficit is due to supposedly unfair practices, and seek remedies to rectify the imbalance.

The US will also examine anti-dumping and countervailing (AD/CVD) collection procedures to ensure that all monies that are due and owing to the US are collected. Strengthening AD/CVD enforcement has been a key theme of the Trump Administration.

Early Signs of Targeted Industries

The review will consider matters such as non-tariff barriers, legal enforcement of trade practices, currency manipulation and other means that restrict the movement of American goods. Recent US reports on trade barriers have highlighted certain industries and issues that may be impacted such as Canadian dairy and poultry controls; aerospace support; telecommunications; duty-free limits on goods purchased online; softwood lumber; and limits on American companies' ability to supply services to some Crown corporations, such as Hydro-Quebec.

More Changes Are Coming

The Trump Administration's actions are consistent with its stated trade policies in the lead up to the upcoming US-China meetings, and NAFTA negotiations later this year. Notably, the Trump Administration has draft Executive Orders calling for similar 90 or 180 day reviews of immigration programs and trade financing, amongst other topics.

Early signs indicate that the US government is gathering data to support its likely re-energized trade enforcement plans, including the return of US Section 301 proceedings. Section 301 allows the Office of the US Trade Representative to unilaterally impose duties to correct trade imbalances.

Protect Your Interests

Dickinson Wright expects that the US government's 90 day review of its trade deficits, coupled with the stakeholder consultations that will accompany the NAFTA renegotiation, provide additional avenues to highlight cross-border issues affecting Canadian and American companies. These processes provide vehicles to bring your issues to the forefront and obtain the desired attention. Companies should being taking steps to protect their interests throughout the coming months as US officials undertake their review of Canada-US trade practices.

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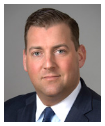

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