

Trump and Trade Updates – March 2017

International Trade Remarks by President Trump in Address to Congress

3/1/17 – In his address to a joint session of Congress on February 28, 2017, President Trump touched upon trade matters, including what his administration has done in the first month in office, and a broad outline of next steps to address a trade deficit and “unfair” trade. Without commentary, the following are direct quotes from President Trump’s speech.

Trade accomplishments mentioned in President Trump’s speech:

- “Since my election, Ford, Fiat-Chrysler, General Motors, Sprint, Softbank, Lockheed, Intel, Walmart and many others have announced that they will invest billions and billions of dollars in the United States, and will create tens of thousands of new American jobs.”
- “We have withdrawn the United States from the job-killing Trans-Pacific Partnership.”
- “I have also imposed new sanctions on entities and individuals who support Iran’s ballistic missile program ...”

Outline of “next steps” relating to trade:

- “We’ve lost more than one-fourth of our manufacturing jobs since NAFTA was approved, and we’ve lost 60,000 factories since China joined the World Trade Organization in 2001. Our trade deficit in goods with the world last year was nearly \$800 billion.”
- “We must create a level playing field for American companies and our workers. We have to do it. Currently, when we ship products out of America, many other countries make us pay very high tariffs and taxes. But when foreign companies ship their products into America, we charge them nothing, or almost nothing.”
- “I believe strongly in free trade but it also has to be fair trade. It’s been a long time since we had fair trade. The first Republican president, Abraham Lincoln, warned that the ‘abandonment of the protective policy by the American government ... will produce want and ruin among our people.’ Lincoln was right – and it’s time we heeded his advice and his words. I am not going to let America and its great companies and workers be taken advantage of us any longer. They have taken advantage of our country. No longer.”

[View the president’s remarks to Congress.](#)

Office of the U.S. Trade Representative Releases President Trump’s Trade Policy Agenda

3/3/17 – On March 1, 2017, the Office of the U.S. Trade Representative released the president’s trade policy agenda, stating that “[t]he overarching purpose of our trade policy – the guiding principle behind all of our actions in this key area – will be to expand trade in a way that is freer and fairer for all Americans.” The Trump administration’s [trade policy agenda](#) sets forth four major priorities: (1) defend U.S. national sovereignty over trade policy; (2) strictly enforce U.S. trade laws; (3) use all possible sources of leverage to encourage other countries to open their markets to U.S. exports of goods and services, and provide adequate and effective protection and enforcement of U.S. intellectual property rights; and (4) negotiate new and better trade deals with countries in key markets around the world.

1. Defending Our National Sovereignty Over Trade Policy – the agenda notes that a core provision under the World Trade Organization’s (WTO) dispute settlement mechanism is the express legal requirement that the WTO, through its dispute settlement findings and recommendations, could not “add to or diminish the rights or obligations” of the United States or other countries under the WTO

agreements. Further, the implementing U.S. law (the Uruguay Round Agreements Act) also specifically provides that “No provision of any of the Uruguay Round Agreements, nor the application of any such provision to any person or circumstance, that is inconsistent with any law of the United States shall have effect.” Consistent with these protections, the Trump administration “will aggressively defend American sovereignty over matters of trade policy.”

2. Strictly Enforcing U.S. Trade Laws – the trade agenda cites numerous U.S. laws designed to prevent the U.S. market from being distorted by unfair practices such as injuriously dumped or subsidized imports, or by harmful surges of imports, and notes that even under multilateral trade mechanisms such as the General Agreement on Tariffs and Trade (GATT) and the WTO agreement, dumping “is to be condemned.” In referencing various provisions of the Trade Act of 1974, the Trump administration indicated it has the right to self-initiate trade remedy cases, take action under Section 301 of the Trade Act, and otherwise “act aggressively as needed to discourage this type of behavior – and encourage true market competition.”

3. Using Leverage to Open Foreign Markets – the agenda states that U.S. exports face significant barriers in many markets (e.g., high tariffs, non-tariff barriers, foreign subsidies, theft of trade secrets), and that for decades, the U.S. government has engaged in efforts to break down such barriers and open foreign markets to U.S. competition. While acknowledging the difficulty of the task of opening foreign markets, the Trump administration cites two “fundamental challenges”: (1) WTO rules and some bilateral/multilateral trade agreements that are often written with the implicit understanding that countries implementing those rules are pursuing free-market principles when, in fact, they are not, and (2) that these rules and agreements are written with the implicit understanding that countries implementing those rules have functional legal and regulatory systems that are transparent when, in practice, they are not. The Trump administration will use all possible leverage to encourage other countries to give U.S. producers fair, reciprocal access to their markets.

4. Negotiating New and Better Trade Deals – this portion of the trade agenda cites trade data showing trade deficits, manufacturing and job losses, and decreased industrial production since the 1980s when the United States entered into trade deals such as the North American Free Trade Agreement, the Uruguay Round Agreements that created the WTO and China’s 2001 Protocol of Accession to the WTO, and asserts that the outcomes have not been what the American people expected from these agreements. The Trump administration states that it will seek to develop deeper trading relationships with international partners, but “going forward, we will tend to focus on bilateral negotiations, we will hold our trading partners to higher standards of fairness, and we will not hesitate to use all possible legal measures in response to trading partners that continue to engage in unfair activities.”

The second portion of the full report contains the “2016 Annual Report of the President of the United States on the Trade Agreements Program.” This section provides more in-depth details on actions taken by the U.S. government in 2106 before the WTO, under various bilateral and regional negotiations and trade agreements, and other trade activities. It also discuss trade enforcement actions from the past year and trade policy development under the prior administration.

The report does note that the U.S. Trade Representative (USTR), by statute, acts as the “principle spokesman of the President on international trade,” and that the Trump administration intends to submit a more detailed report on its trade policy agenda once the Senate has confirmed a USTR and the new USTR has had the opportunity to participate in the development of such a report.

[Read our full client update on this topic.](#)

ZTE Pleads Guilty to Illegal Exports to Iran and North Korea

3/9/17 – On March 7, 2017, Zhongxing Telecommunications Equipment Corporation and ZTE Kangxun Telecommunications Ltd., known collectively as “ZTE,” agreed to combined civil and criminal penalties of \$1.19 billion for the illegal shipment of telecommunications equipment to Iran and North Korea in violation of the Export Administration Regulations (EAR), the Iranian Transactions and Sanctions Regulations (ITSR) and the International Emergency Economic Powers Act (IEEPA). ZTE is one of the world’s largest manufacturers of telecommunications equipment, and relies heavily on U.S. companies and U.S.-origin goods for components. The civil penalty is the largest ever imposed by the Bureau of Industry and Security at the Department of Commerce (BIS) and the Office of Foreign Assets Control at the Department of the Treasury (OFAC), and the combined penalties are the largest fine and forfeiture ever levied by the U.S. government in an export control case.

This investigation and resulting penalties serve as important reminders to both U.S. and foreign companies that there is a steep price to pay for attempting to circumvent U.S. economic sanctions and export control laws and regulations. A robust compliance program with regular training and auditing is essential, as is a commitment from company officials in supporting compliance, in order to avoid this kind of outcome.

While this investigation was initiated prior to President Trump assuming office, the tone of administration officials in announcing this settlement echoes their campaign promise of more forceful trade enforcement. In announcing the settlement, Commerce Secretary Ross stated, “We are putting the world on notice: the games are over. Those who flout our economic sanctions and export control laws will not go unpunished – they will suffer the harshest of consequences. Under President Trump’s leadership, we will be aggressively enforcing strong trade policies with the dual purpose of protecting American national security and protecting American workers.”

[Read our full client update on this topic.](#)

Trump Administration’s Key Elements of a Model Trade Agreement

3/22/17 – In a recent meeting with members of Congress, White House National Trade Council Director Peter Navarro alluded to four trade goals and 13 different policy objectives that the Trump administration plans to pursue. For weeks, these goals and objectives remained vague and relatively unknown.

During the confirmation hearing of Robert Lighthizer, President Trump’s nominee for U.S. Trade Representative, however, Senator Pat Roberts noted that the administration’s list of trade goals and policy objectives has grown substantially and placed a list of 24 items identified as “[Key Elements of a Model Trade Agreement](#)” into the record. While the list is very sparse on details, meaning and intent, it appears to be a list of items that the administration feels must be addressed in any trade negotiations.

Iran Retaliates for Ballistic Missile Sanctions Implemented in February by President Trump

3/27/17 – In retaliation for restrictions that the Trump administration imposed on companies and people connected with Iran’s ballistic missile program (see [our previous update on this topic](#)), Iran has imposed sanctions on 15 U.S. companies for alleged human rights violations and cooperation with Israel. Iran’s foreign ministry stated that the companies had “flagrantly violated human rights” and cooperated with Israel in its “terrorism” against the Palestinians and the expansion of Jewish settlements. It is not immediately clear if any of these U.S. companies actually have any dealings with Iran or whether they would be affected in any way by this action, which includes seizure of their assets and a ban on contacts with them.