

Policy Note



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Trade War 2.0 Will Be Different

The White House has significant legal authority, without Congressional oversight, to rapidly AND substantively escalate US trade policy against allies and adversaries alike. As compared to the 2018-19 trade war, we believe this time will be bigger, faster and more universal in scope.

Expectations for Trade War 2.0

- More philosophical than tactical:** Not necessarily escalate to de-escalate. More pervasive. Episodic. Longer duration.
- Sooner this time:** Extensive "Day 1" agenda. Prior trade war took 3 years to peak (2019).
- Things can move quickly:** Architect (Lighthizer – role TBD) and architecture (US trade law) in place. Phase 1 remedies.
- Bigger this time:** Higher tariff rates. Larger scale and scope.
- More universal this time:** More countries. More product categories.
- More existential approach to China:** Even more hawkish. Appeal of phase 1 deal. Higher rates. More expansive.
- China ready this time:** Formidable policy toolkit and countermeasures "ready to go."
- Range of retaliatory measures:** Range of possibilities, not just tariffs (digital taxes, entity lists, critical minerals).
- Ambiguity as an incentive:** By maximizing policy uncertainty, seeking to incentivize domestic US investment by foreign and US companies alike.
- Risk mitigation strategies:** Mindset change. Understand the toolkit. "Trump majeure" clauses in supply contracts. Engage trade counsel.

Sequencing the Trade War

President-elect Trump has expansive legal authority to enact tariffs on allies and adversaries alike, without Congressional authorization. Compared to the 2018-19 trade wars, look for the new Administration to consider more efficient sections of US trade law to expedite tariffs on counterparties without the long investigation periods and implementation delays of the previously utilized Section 301 China tariffs. **By using Section 338 of the Tariff Act of 1930 and Section 203 of IEEPA, they can impose tariffs without much process (i.e., no investigation; only a Presidential finding or declaration).**

Potential timeline for Trump 2.0 tariffs

2025 Jan 20	301	Section 301 (Repeal) (Trade Act of 1974)	Trump would likely file a formal complaint against China that it is in violation of the Phase I trade deal on Jan 20 (inauguration day)
Jan	338	Section 338 (New Tariffs) (Tariff Act of 1930)	Could be announced as early as Jan 20 on all countries at the same time ; minimum process required (i.e., no investigation period required)
Q1	203	Section 203 International Economic Emergency Powers Act (IEEPA)	Minimum process required (i.e., no investigation period); could be invoked on China and Mexico in name of "fiscal" or "immigration" crisis
Q1	122	Section 122 (Invoke Balance of Payments Authority)	Trump would have 150 days to impose ad valorem import surcharges (on top of existing) of up to 15%
Apr 1	232	Section 232 (Trade Expansion Act of 1962)	Suspension period for steel & aluminum tariffs on Europe expires on March 31, 2025 (tariffs fully re-instated on April 1)
2026 Jul 1	USMCA	USMCA	On July 1, 2026, the US, Canada and Mexico will have to confirm in writing that they want to keep the agreement; discussion to renew will start in early 2025

Timeline to Appeal US-China Phase 1 Deal

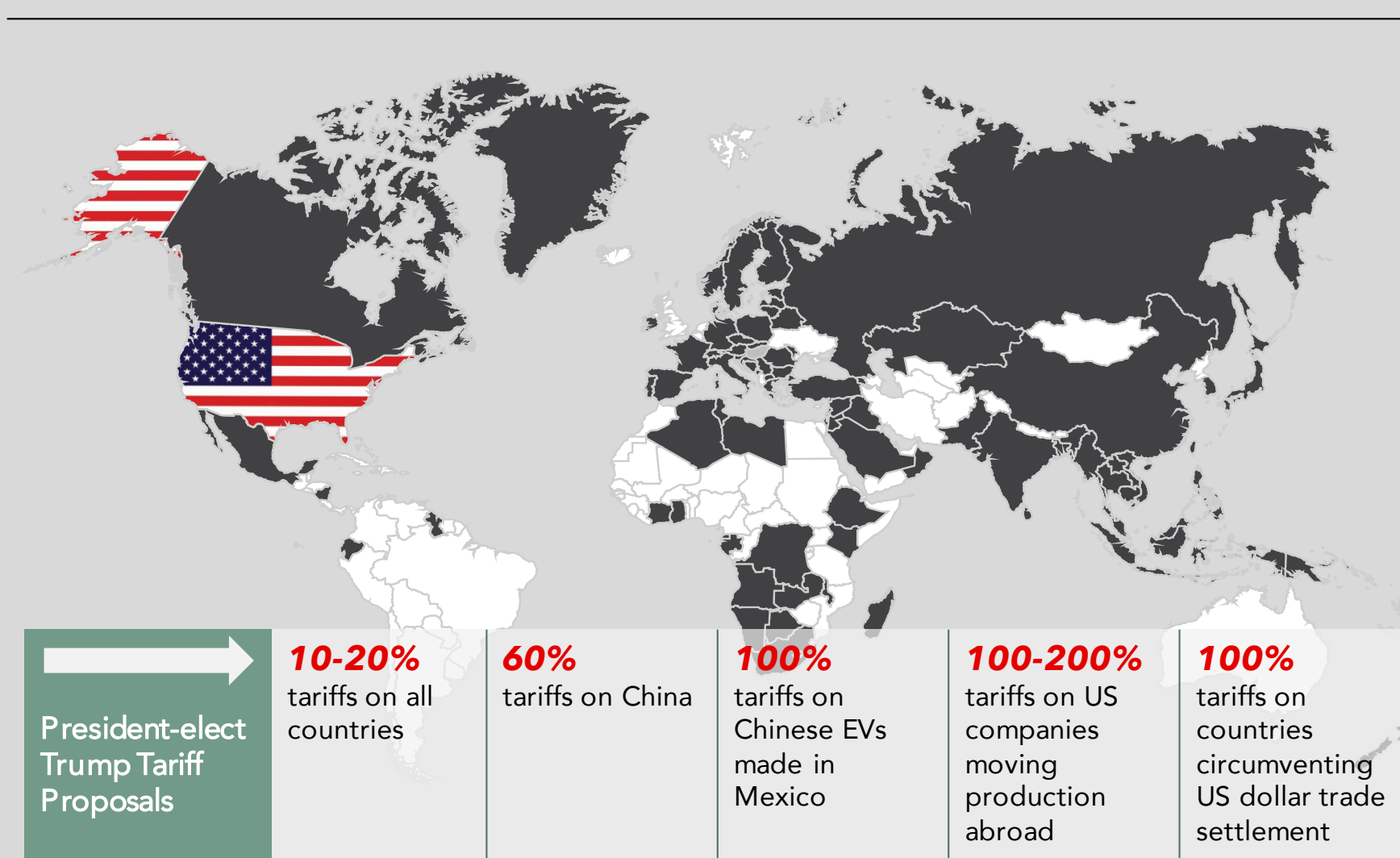
Enforcement mechanisms are key features of Lighthizer trade agreements. In light of China's non-compliance with the purchase obligations in the 2019 US-China Phase 1 deal, we expect the new Administration **to file an appeal of the agreement on Monday, January 20th (Inauguration Day)**. This, in turn, would trigger a formal process and timeline that was built into the agreement, leading to potential escalation and even termination of the agreement itself.

Timeline for Phase I appeal assuming President-elect Trump files formal complaint on Jan 20

- Jan 20:** The US would likely file a formal complaint against China, alleging that it is in violation of the Phase I trade deal.
- Feb 3:** China would have 10 working days from receipt of the Appeal to carry out and complete an assessment of the Appeal.
- Feb 10:** Officials have 21 calendar days from the date of the receipt of the Appeal to reach a resolution.
- Mar 6:** If the Appeal is not resolved by designated officials, the Deputy USTR and China's Vice Minister designate have 45 days from receipt of the appeal to reach a resolution.
- By Apr 6:** If no resolution, the USTR and China's Vice Premier would schedule a meeting within 30 calendar days of the Complaining Party requesting a meeting.
- Jun 2025:** Either party is permitted to terminate the Phase I Agreement. The termination would take effect 60 days after the date on which a Party has provided written notice to the other Party, or on such other date as the Parties may decide.

More "Universal" Approach This Time

The US had trade deficits with 106 countries in 2022, up from approximately 80 countries in 1990.



Source: (1-4) Sidley Austin LLP International Trade & Customs Practice. Veda Partners "On Tariffs" (Henrietta Treyz). Tax Foundation. Peterson Institute. World Integrate Trade Solution. Full year data as of 2022.

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"Macro stability isn't everything, but without it, you have nothing."