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Mitigating Adverse Impacts of Tariff Hikes: Effective Strategies for Businesses

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In today's global marketplace, companies are increasingly more vulnerable to the unpredictable impacts of tariffs and supply chain disruptions. As these external pressures threaten their financial stability, businesses must take a proactive, strategic approach to safeguard their future. Without swift and decisive action, even established companies may face significant financial strain. However, by implementing a multifaceted strategy – ranging from effective stakeholder communications to carefully navigating the complexities of restructuring – companies will not only survive the storm but emerge stronger and more resilient.

Overview of the Trump administration's tariff policy

On February 1, 2025, the **Trump administration announced significant tariff increases** on imports from Mexico, Canada and China. The **administration also has signaled** that tariffs would soon be imposed on imports from the European Union (EU) and the United Kingdom (UK), as well as for all steel and aluminum imports, which **is expected to significantly affect Canada, Mexico and Brazil**, the primary sources of US steel imports. These trade tariffs are a **cornerstone of the administration's new trade policy**, which it believes will help correct trade imbalances, protect American industries and address national security concerns.

The initial tariffs included a 10% levy on all imports from China, effective February 4, 2025. By March 4, 2025, all imports from Mexico and Canada were subjected to 25% tariffs, except for energy resources from Canada, which faced a reduced 10% tariff. Additionally, tariffs on Chinese imports were increased from 10% to 20% as of March 4, 2025. Within the same week of these tariffs taking effect, however, the administration has already had to significantly scale them back. By March 6, temporary tariff exemptions were issued until April 2 for certain imports from Canada and Mexico, including for a **wide range of goods** covered by the United States-Mexico-Canada Agreement, and for **automakers**. However, in response to Canada's imposition of 25% tariffs on electricity exports to the US, the **administration declared on March 11, 2025**, that it would raise tariffs on steel and aluminum to 50% (up from the previously stated 25%). These new tariffs took effect on March 12.

Potential impact on various industries

As the Trump administration's trade strategy unfolds, the potential for additional tariffs remains uncertain. However, the impact on global trade and domestic industries is expected to be significant and long-lasting. The tariffs have already heightened tensions with the US's historical trading partners and allies. For example, **Canada and China swiftly imposed retaliatory tariffs** on US imported goods, and **Mexico announced plans for its own countermeasures**. In response to tariffs on steel and aluminum, the **EU announced retaliatory countermeasures** on critical US industries, including US-made motorcycles, bourbon, peanut butter and jeans, as well as beef, poultry and wood. The tariffs are anticipated to disrupt market stability across multiple sectors, particularly affecting supply chains and production costs. Of the industries to be **most affected** are construction, manufacturing and agriculture. To the extent **tariff exemptions for automakers** are not extended beyond the current April 2 deadline, then the **automotive industry will likewise face significant challenges** due to the presence of manufacturing plants in Mexico, Canada and China. Downstream industries, such as construction, automotive and manufacturing, are expected to encounter increased costs for steel, aluminum and other raw materials. **Construction companies**, in particular, may struggle with rising material costs, leading to higher consumer prices and reduced profits. Similarly, the agricultural sector, which was adversely affected by the administration's trade wars with China during its first term, accounts for a significant portion of US exports and may see prices drop as importers from China and Mexico turn to countries like Brazil for agricultural alternatives.

Strategies to mitigate supply chain and related operational disruptions

As the tariff policy continues to develop and take shape, it will take time to fully understand its impact. However, companies impacted by tariffs should implement several immediate strategies to mitigate risks to their operations, stabilize cash flow and preserve their value since tariffs can severely disrupt supply chains, increase costs and diminish profitability. Therefore, swift and strategic action is crucial to avoid financial distress. Below are several key strategies that companies should consider immediately in parallel to conducting a comprehensive tariff impact assessment:

- **Plan effective stakeholder communications.** Clear and transparent communication with stakeholders – including employees, customers, suppliers, lenders and investors – is essential. Companies should proactively inform stakeholders about the challenges they are facing due to tariff increases and supply chain disruptions. Open dialogue helps manage expectations, fosters trust and ensures that stakeholders are aware of any necessary adjustments in pricing, product availability or delivery schedules. Regular updates also create an avenue for addressing concerns and providing solutions.
- **Review existing contracts for force majeure and similar provisions.** Companies should carefully examine their contracts with suppliers, vendors and customers to identify force majeure clauses or similar provisions. These clauses can allow a party to be excused from performance due to unforeseen events, such as tariff increases or supply chain disruptions. Understanding how these provisions can be invoked (or not) will help businesses navigate their legal responsibilities and decide whether to renegotiate or seek alternative solutions.
- **Understand how termination of contracts with vendors and suppliers affects lender reporting.** If a company must terminate contracts with vendors or suppliers due to the financial strain caused by increased tariffs or disruptions (or if such vendors or suppliers have terminated their contracts with the company), it's important to understand how such actions impact lender reporting. Lenders may have covenants or requirements that depend on maintaining stable supplier relationships or revenue projections. Early communication with lenders to inform them of the potential or actual contract terminations can help mitigate negative financial reporting and potentially prevent a default or violation of lending terms and open the dialogue to negotiate forbearance options.
- **Prepare for setoff or recoupment actions by customers.** In the event that a company faces delivery delays or quality issues caused by supply chain disruptions, customers may seek to set off or recoup amounts owed. Companies should prepare for this by carefully reviewing customer contracts to understand provisions related to remedies, penalties or credits. Having a clear understanding of customer expectations and legal rights allows the company to manage disputes effectively and potentially negotiate settlements before they escalate.
- **Ensure compliance with labor laws and regulations.** Supply chain disruptions and tariff increases can lead to workforce adjustments, such as layoffs, furloughs or changes in working hours. It is vital that companies comply with labor laws and regulations, such as the Worker Adjustment and Retraining Notification (WARN) Act, which requires advance notice for large-scale layoffs. Additionally, companies should ensure that they comply with all compensation, overtime and benefits regulations to avoid legal liability and reputational damage. Reviewing workforce management practices in light of potential disruptions ensures the company remains compliant with both federal and state labor laws. To the extent the company maintains international operations, it is likewise important to understand the labor and employment laws of those jurisdictions, as severance and other employee protections may vary significantly from those in the US.
- **Utilize tariff exclusions, reclassifications and trade remedies.** The US government offers tariff exclusion processes and potential for reclassification of certain goods that could mitigate the impact of tariffs. Companies should explore these options to reduce their tariff exposure.

Use of in-court restructuring tools to address supply chain and related disruptions

In times of financial distress, addressing liquidity concerns and attempts by suppliers to terminate agreements can be challenging, especially across borders. Many companies experienced these issues during the COVID-19 pandemic but were successful in mitigating against severe disruptions by utilizing in-court tools under the US Bankruptcy Code, as well as the restructuring regimes in other jurisdictions. Those restructuring tools allowed companies to adjust operations, renegotiate supplier agreements and protect their assets while addressing both short-term challenges and long-term sustainability.

Specific in-court restructuring tools in the US include:

- **Access to liquidity.** Companies can obtain debtor-in-possession (DIP) financing to continue operations during the restructuring process. This financing is often crucial for companies facing supply chain disruptions, as it provides the liquidity necessary to maintain day-to-day operations, pay suppliers and manage ongoing disruptions.
- **Automatic stay.** The automatic stay provisions under the US Bankruptcy Code halt all collection activities, lawsuits and creditor claims against the debtor once the petition for bankruptcy relief is filed. For companies dealing with supply chain disruptions, this tool can temporarily relieve pressure from creditors and allow the companies time to stabilize operations and work out a reorganization plan.
- **Assumption or rejection of executory contracts and unexpired leases.** Companies seeking relief under Chapter 11 of the US Bankruptcy Code can assume or reject executory contracts and unexpired leases. This tool is particularly helpful for distressed companies facing supply chain issues, as they can reject contracts with unreliable or financially strained suppliers, renegotiate unfavorable terms or assume critical contracts that are essential for continued operations. Companies also can reject unprofitable leases, especially warehouse space, equipment or office buildings that are not essential to their operations.
- **Critical vendor and trade creditor payments.** Under the US Bankruptcy Code, companies can pay certain suppliers on an administrative priority basis for goods received within 20 days before the bankruptcy filing. This helps companies in distress maintain vital supply chain relationships during their reorganization process.
- **Sale of assets.** Under section 363 of the US Bankruptcy Code, companies can sell assets “free and clear” of existing liens, claims and encumbrances, subject to court approval. This can help companies in distress by allowing them to raise capital, pay down their debts or pivot to a new business model that mitigates supply chain risks.
- **Plan of reorganization.** A Chapter 11 plan of reorganization allows debtor companies to propose a structured way forward, including how they will address liabilities, restructure obligations and potentially reorganize their supply chain. This can involve renegotiating contracts, closing nonessential operations and ensuring a more resilient supply chain – including through implementation of certain changes, such as adjustments of production schedules or shifting to new inventory models.

A number of the foregoing tools are available under the restructuring regimes of other countries, including Canada, Mexico, Brazil, Singapore and the EU member states. If a company seeks relief in a foreign jurisdiction but needs to protect its assets and interests in the US, it may commence a restructuring proceeding outside the US and a recognition proceeding in the US to ensure it receives certain protections under US law, including the automatic stay to protect its US assets.

Conclusion

For companies facing financial distress due to tariffs and supply chain disruptions, a strategic, multifaceted approach is necessary. These strategies, which include effective stakeholder communications, thorough review of essential contracts and agreements, and understanding of their provisions, are designed to stabilize operations, manage costs and preserve liquidity. In more extreme cases, companies should be prepared to engage in formal restructuring proceedings, such as Chapter 11 in the US or its equivalent in other jurisdictions where companies may maintain their operations, to reorganize their business and emerge financially viable. The key is to act swiftly, strategically and with a focus on preserving long-term value while mitigating short-term risks. By strategically leveraging these tools, companies can enhance their resilience against future disruptions.

Our dedicated Cooley team is ready to assist in formulating the appropriate plan tailored to each company’s unique situation, providing the guidance needed to navigate this complex landscape and secure long-term success.

Key Contacts

Cullen Drescher Speckhart Washington, DC	cspeckhart@cooley.com +1 202 776 2052
Daniel Shamah New York	dshamah@cooley.com +1 212 479 6254
Olya Antle Washington, DC	oantle@cooley.com +1 202 776 2056
Miriam Peguero Medrano New York	mpegueromedrano@cooley.com +1 212 479 6486