What Next?

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International trade took a beating in the campaign rhetoric leading up to the election this year. It was brutal. As a member of the trade community, it was disheartening to listen as politicians from both sides played loosely with the facts and perpetuated untruths about the role trade plays in our economy. NAFTA and the TPP in particular were scapegoated as job killers. The facts indicate otherwise.

According to a report from Ball State, (http://conexus.cberdata.org/files/MfgReality.pdf) during 000-2010 the U.S. economy shed about 5.6 million manufacturing jobs. The same report found that 88% of those jobs were displaced, not due to trade, but through increased productivity and other economic factors. Yet, the myth of trade sending jobs abroad persists. The myth would also have you believe that the U.S. manufacturing base is eroding when, according to the same report, from 2006 to 2013, manufacturing output grew by 17.6%.

But John, you're dealing with facts and figures! Aren't we in a post-factual society today?

Post-factual may be the phrase-of-the-moment in the headlines. I have faith that, over the coming months, reason and the facts will prevail. Before we get into our discussion, allow me to lay out a few more facts.

Imports and exports of goods and services were estimated at about $5 Trillion in 2015. Exports represented about $2.3 Trillion of that number. During that same year, the U.S. enjoyed a Gross National Product of just under $17 Trillion. According to the U.S. Commerce Department, the export portion of the trade figure above represents about 11,515,500 jobs. Roughly one in ten jobs in the United States is directly traceable to exporting.

When we pick apart the $5 Trillion trade figure above we find, in 2015, the U.S. had $604 Billion of trade in goods and services with Canada and $542 with Mexico for a total of about $1.1 Trillion. Canada at $281 Billion and Mexico at $236 Billion represent our number one and number two goods export markets. In other words, about 22% of U.S. global trade takes place with our North American neighbors representing about 2.5 million U.S. jobs.

With those numbers ringing in our ears, let's look at what the post-election future holds for trade and what companies should be considering as they review their trade strategies.

TPP is Dead...For Now

While the time for TPP ratification does not run out until February 2018, the incoming administration has stated it will not be moving forward on this free trade agreement. There is still strong support for the TTP within Congress but the likelihood of resurrecting the deal in the near term is slim.

NAFTA Will Survive

Unlike Brexit, the recent election was not a referendum on the NAFTA. Perhaps it is wishful thinking on my part, but it appears much of the political rhetoric surrounding the NAFTA appears to have been just that.

There is some question as to whether the president has the authority to exit the NAFTA unilaterally. The president, however, has no authority to change the myriad of laws and regulations that implemented the NAFTA. Only Congress can do that. It is generally believed that congressional representatives understand the importance of the economic relationships between the U.S., Canada and Mexico, previously outlined above, and will not put those jobs in jeopardy.

Former U.S. Trade Representative and now Senator Rob Portman of Ohio is one of those voices of reason. He has publicly stated that there is an opportunity to modernize the NAFTA to incorporate economic changes in the areas of e-commerce, services and intellectual property rights but that a total revocation might not be prudent. There is also some thought that this might be an opportunity to streamline some of the arcane elements of the NAFTA relating to the automotive industry and others. There may also be efforts to address the dispute resolution process.

If Congress and the Administration were to terminate the NAFTA, they would still have to address the U.S. Canadian FTA that predates the NAFTA and is still a valid agreement between our two countries.

Trade Enforcement Will Escalate

Well before the election, trade was subject to additional regulatory scrutiny.

In 2015 the U.S. passed the Trade Facilitation and Trade Enforcement Act that contained mechanisms for addressing currency manipulation. Already, under that act, the U.S. has placed China, Japan, Taiwan, S. Korea and Germany on a watch list that could escalate to enforcement action.

U.S. CBP was given additional authority in 2016 under the Customs Reauthorization, Facilitation and Enforcement Act. Under this act, CBP has been directed to rededicate itself to its compliance oversight and audit role. The agency was also given additional authority to investigate antidumping and countervailing duty evasion claims.

And, of course, the U.S. continues its trade remedies through antidumping and countervailing duty investigations and safeguard proceedings. There also seems to be a push to expand the use of Section 337 import exclusion orders beyond their normal application in intellectual property rights cases.

What does this mean for the trade?

Focus on compliance

While the post-election rhetoric would indicate a reduction in regulation, the opposite has been occurring in the area of trade. Companies should ensure they have competent compliance staff and strong controls in place to minimize the effects of regulatory intervention. Importers, in particular, should consider undertaking a compliance assessment to identify and address risks. Companies should also consider compliance awareness training for all staff.

Screen for AD/CVD

Companies should undertake a comprehensive review to understand if any of the sources in their inbound supply chains may fall within the scope of an existing antidumping or countervailing duty order. Goods and materials from China are at highest risk. Companies should be alert, however, to the possibility of in-scope goods and materials transshipping through other countries.

Understand the Importance of Trade to Your Company

Identify the importance of trade to your company. Simple metrics include identifying the volume of your imports and exports or the duty savings from trade agreements. Don't forget to include domestic sales that might actually be exports. Consider also domestic purchases that might be imports. Some domestic manufacturers claim that they don't export, but benefit greatly by ensuring their goods qualify for trade agreements. Ask yourself what would happen to your company if your international trade programs were to go away.

Communicate

Communicate the importance of trade to your state's congressional delegation. Support your industry organizations and support their trade promotion efforts.

Don't Panic

While it is concerning that protectionist trade sentiment appeared to gain ground in this election cycle, the wheels of public policy move slowly. Companies should not back away from their export and import programs nor should they shy away from participating in free trade agreements that provide them an economic benefit. The borders are still open, NAFTA is still the law of the land and trade is still a good thing.