



Trade Landscape, Trends, and Cost Mitigation Strategies

2022 ISM Presentation

KPMG Trade & Customs

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Professional Team Dedicated to Trade

Team laser focused on helping multinational companies manage their import/export costs and compliance obligations in the United States and around the world.



Cross-Sectional Skills

Teams comprise of qualified customs attorneys, auditors, licensed customs brokers, and industry specialists and trade technology experts



Former U.S. Customs and Border Protection (CBP) import specialists and field auditors



Former supply chain and logistics directors from industry



Fully integrated with KPMG's service network

Advisory, International Tax, Transfer pricing, value chain management
Forensics, Economic Valuation



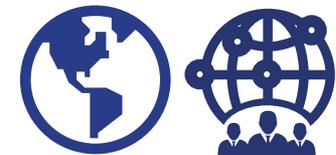
Commitment to Innovation

Leveraging and developing a vast array of technology solutions, tools and approaches to solve issues plaguing multinationals around the around; creating tailored solutions best suited to each client need without cookie-cutting



170+

U.S. Trade & Customs professionals make up the largest practice of the 'Big Four' and are supported by:



80+

Countries with vast Network of Member firms

Agenda



Global Trade: Why does it matter?



Hot Topics in Trade



Cost Mitigation Opportunities



What's Next for Trade?



Appendix: KPMG Team



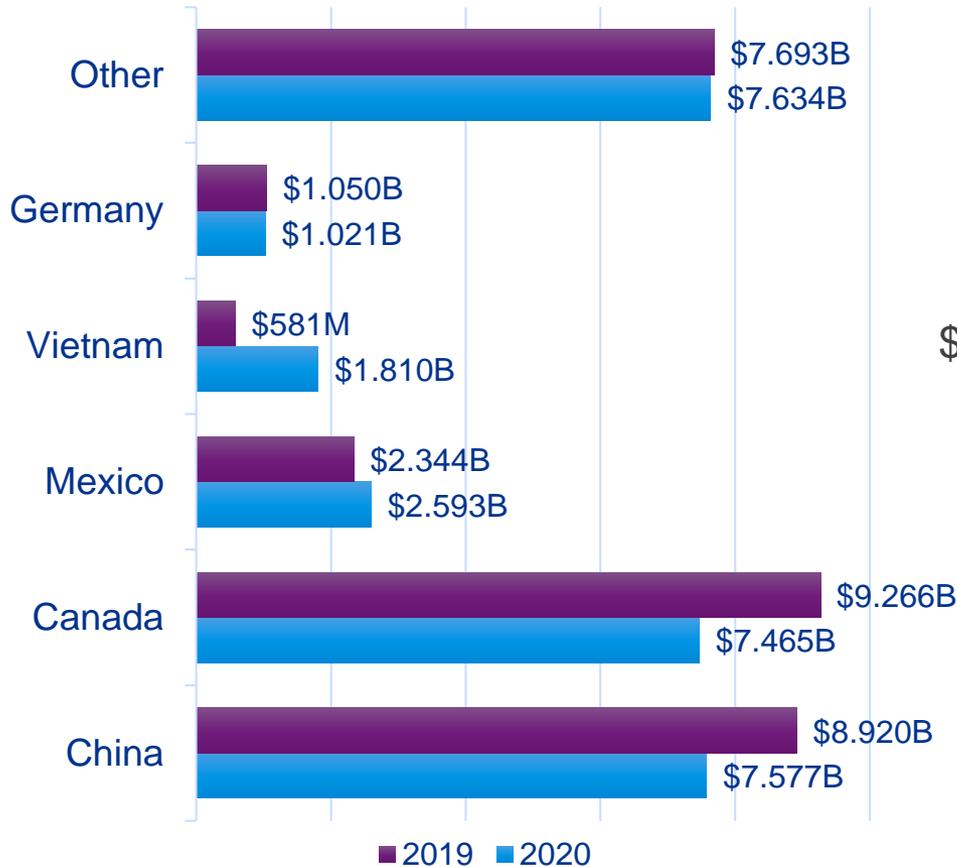
Global Trade: Why does it matter?

MN Import Data (2020)

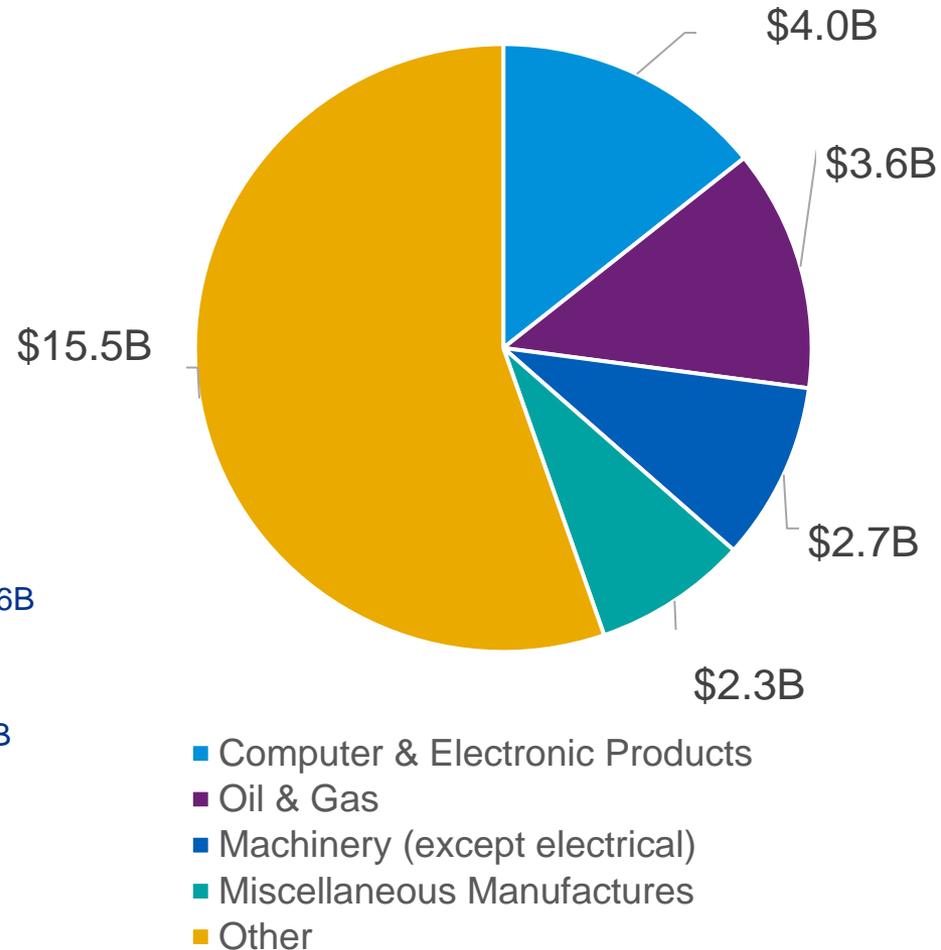
Total MN Imports (2020):

\$28.1B

Top Import Partners



By Industry



Source: Trade.gov [State Economy and Trade Factsheets](#)

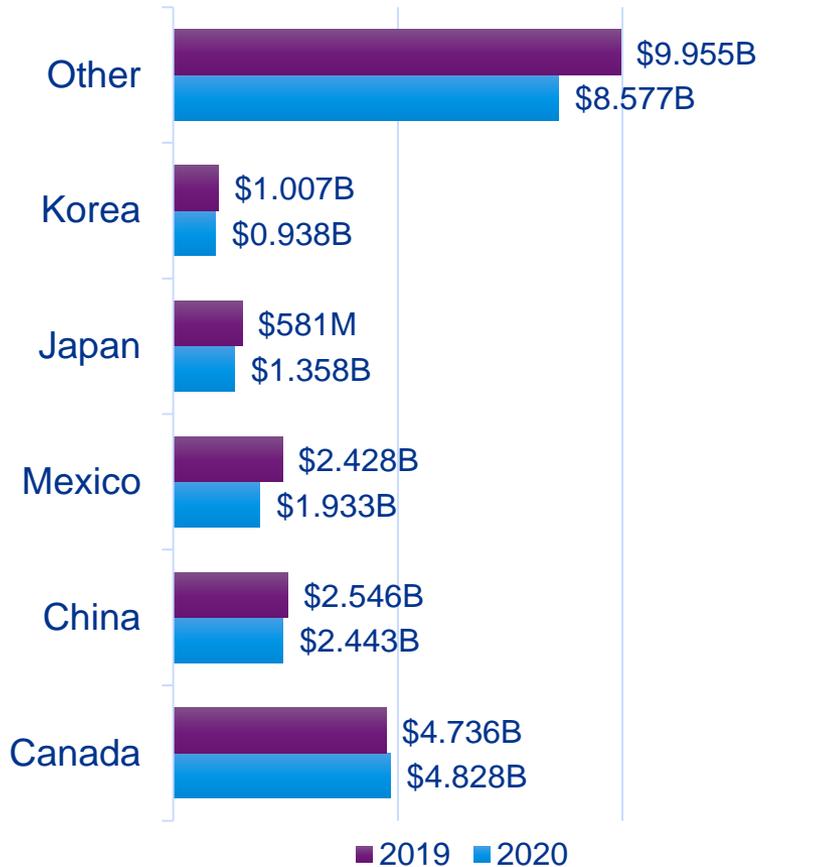


MN Export Data (2020)

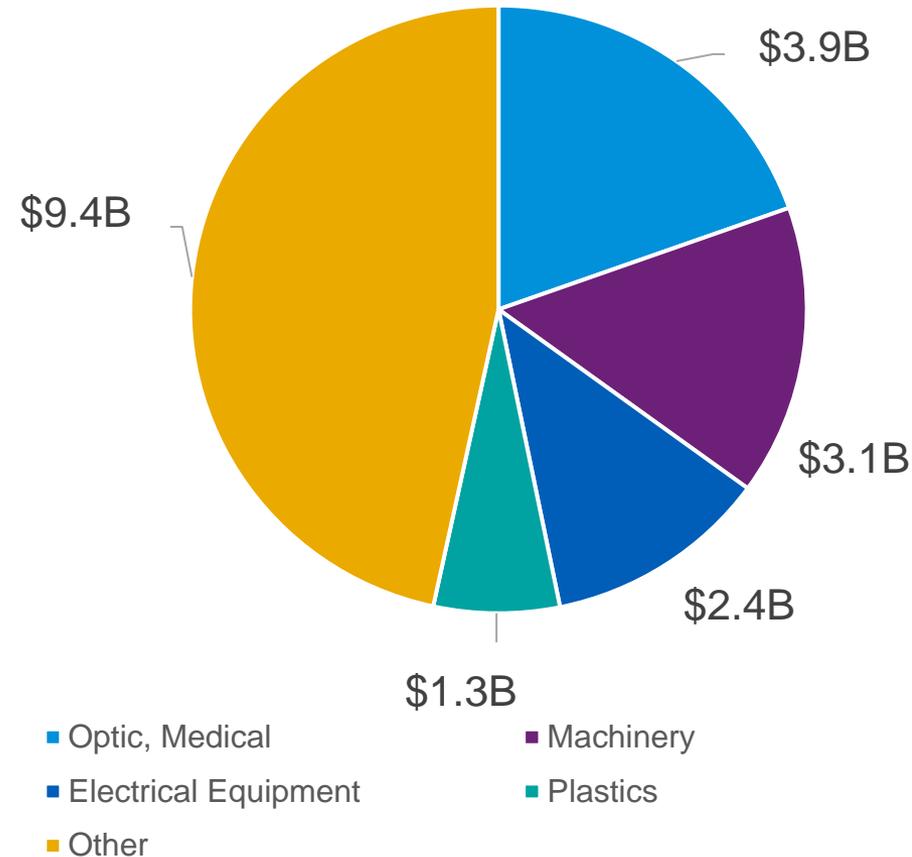
Total MN Exports (2020):

\$20.1B

Top Export Partners



By Industry



Source: [Current and Past Data / Minnesota Department of Employment and Economic Development \(mn.gov\)](https://mn.gov/economic-development/current-and-past-data/)



US Import Requirements & Considerations

There are certain requirements that all importers to the US must fulfill

Basic Considerations

- Importer of Record
- Right to make entry
- Reasonable Care
- Supply Chain Security/
C-TPAT
- Recordkeeping

Customs Entry Requirements

- Tariff classification
- Customs Valuation:
 - Transaction Value
 - Assists
- Country of Origin
- Preferential tariff treatment

What are Tariffs?





Hot Topics in Trade

Trade Developments



232/301 Tariffs



Retaliatory Tariffs



S. Border Issues



USMCA



Trade Enforcement



Drawback Changes



Brexit



New Sanctions



New Rulings



Operational Impact



Expansion



Customs Clearance



Company Financials



Trade Compliance



Logistics



Customers



Corporate Initiatives



Inventory Planning



Automation



Global Manufacturing

Biden Trade Agenda

Tackling COVID-19 & Restoring the Economy

Worker-centric trade policy

Sustainable environment and climate path

Advancing racial equity and supporting underserved communities

Addressing China's coercive and unfair trade practices

Partnering with Friends & Allies

Standing for American Farmers, Ranchers, Food Manufacturers, and Fishers

Promoting equitable economic growth around the world

Making the rules count

Potential Trade Impact

- Emphasis on international cooperation
- Worker-first policy: "Made in America"



[USTR.gov: 2021 Trade Report Fact Sheet.pdf \(ustr.gov\)](https://ustr.gov/2021/Trade-Report-Fact-Sheet.pdf)

Biden Trade Policy: China

Initial focus:

1. Resolving domestic issues
2. Addressing the concerns of U.S. importers and other stakeholders.

Four main strategic policy goals supporting China trade agenda:

1. Discuss with China its performance under the [Phase One Agreement](#).
2. Begin a targeted 301 exclusion process.
3. Address concerns with China's state-centered and non-market trade practices.
4. Coordinate with U.S. allies "to shape the rules for fair trade in the 21st century, and facilitate a race to the top for market economies and democracies."

[Ambassador Tai Outlines the Biden-Harris Administration's "New Approach to the U.S.-China Trade Relationship" - U.S. Mission to International Organizations in Geneva \(usmission.gov\)](#)

China: 301 Tariffs and the Phase One Agreement

Background

Section 301

Allows the United States Trade Representative (USTR) to suspend trade agreement concessions or impose import restrictions if it determines a U.S. trading partner is violating trade agreement commitments or engaging in discriminatory or unreasonable practices that burden or restrict U.S. commerce.



March 2018: the USTR published a section 301 investigation finding the China had engaged in unreasonable or discriminatory trade practices, resulting in the US imposing increased tariffs on about 2/3 of imports from China.

December 2021: The Phase One Agreement expires with China falling far short of commitments; Washington commits to stronger enforcement within the Phase One framework

January 15, 2021: “Phase One” trade agreement signed in an effort to resolve trade tensions between the US and China. Provisions include:

Intellectual Property

Technology Transfer

Agriculture

Currency

Financial Services

Expanding Trade

Dispute Resolution

Where are we on forced labor

Regulation

Prohibitions against importing goods produced with forced labor has long been a part of U.S. law. Specifically, **Section 307, Tariff Act of 1930 (19 U.S.C. § 1307)** provides that goods:

“All goods, wares, articles, and merchandise mined, produced, or manufactured wholly or in part in any foreign country by convict labor or/and forced labor or/and indentured labor under penal sanctions shall not be entitled to entry at any of the ports of the United States, and the importation thereof is hereby prohibited..”

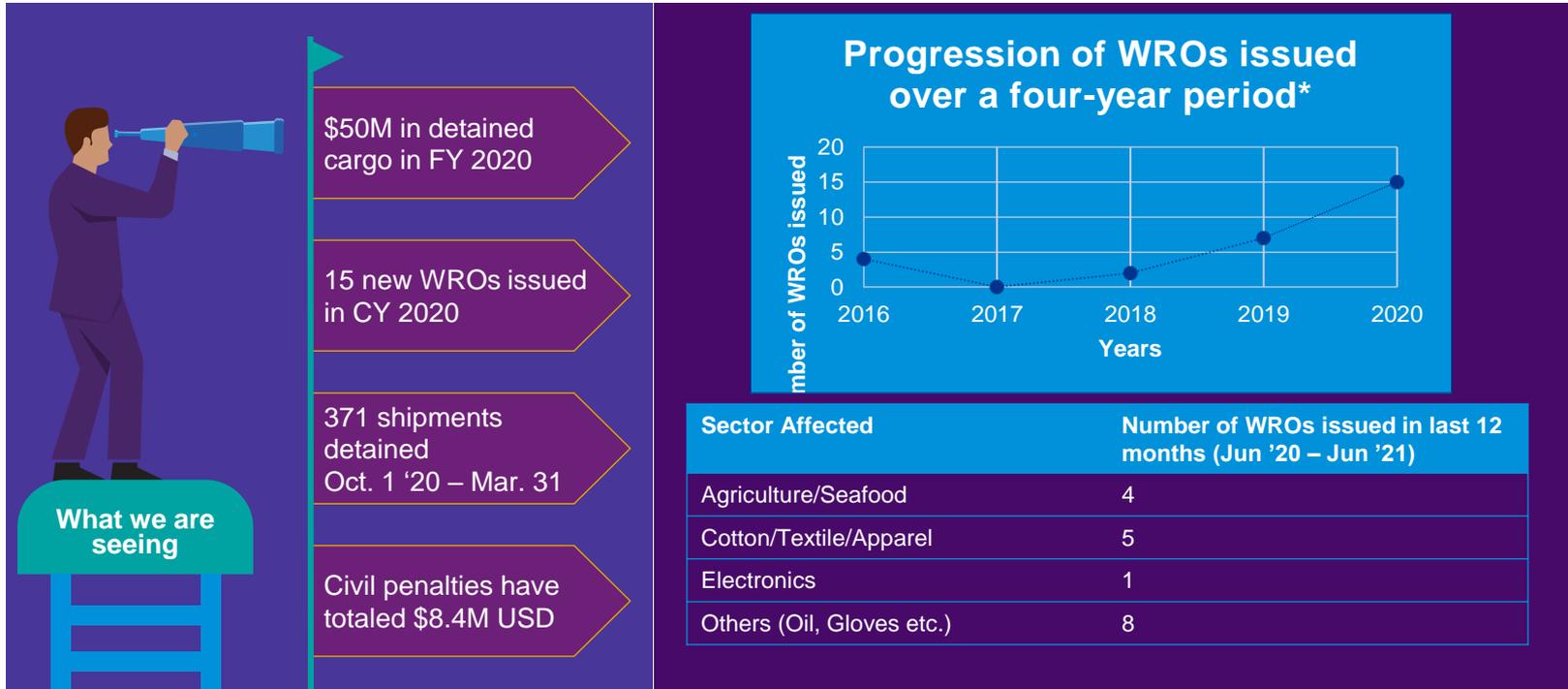


Policy & legislative developments

- In December 2021, President Biden signed into law the Uyghur Forced Labor Prevention Act. The legislation creates an assumption that all goods manufactured in Xinjiang are made with forced labor unless CBO certifies that the goods are known to not have been made with forced labor. This bill will also create a list of Chinese companies known to have relied on forced labor.
- The administration has publicly stated that preventing forced labor is a priority policy issue.
- Sanctions have been issued to Chinese officials engaging in forced labor (Freezing of assets located in US)
- Pending US Customs regulations to revise forced labor regulations



Why we should be paying more attention?



*As of June 27 2021, Source: <https://www.cbp.gov/newsroom/stats/trade> & Virtual Trade Week Forced Labor Frequently Asked Questions FAQs

What happens when goods are detained





Cost Mitigation Opportunities

Free Trade Agreements (FTA)

Goods can be claimed at a lower or free rate of duty if they fulfill the requirements of one of the USA's 14 Free Trade Agreements

FTA implementation considerations:

- HTS classification
- Documentation and Recordkeeping requirements
- Supplier management
- Different origination requirements for different FTAs

Common rules of origin:

- Partially or wholly manufactured
- Wholly from qualifying materials
- Substantial transformation / tariff shift
- De minimis rules

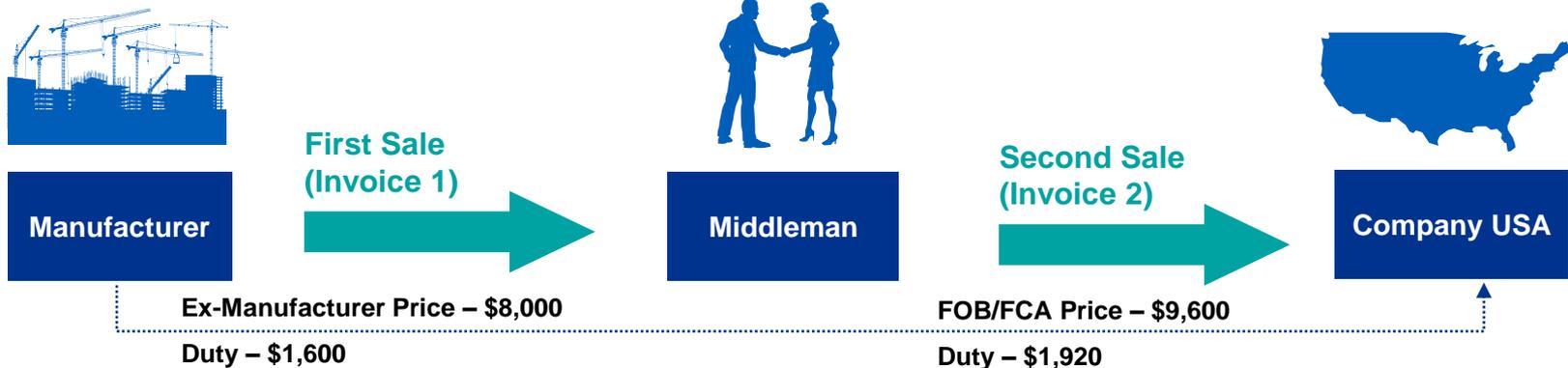
US Free Trade Agreements

- United States-Mexico-Canada Free Trade Agreement (USMCA)
- US-Korea Free Trade Agreement (KORUS)
- Japan Free Trade Agreement (implemented January 1, 2020)
- Central America-Dominican Republic Free Trade Agreement (CAFTA-DR)



First Sale for Export

First Sale Principle permits importers to pay customs duties on the lower “first sale” price paid by the middleman to the manufacturer



First Sale Value

Includes:

- Labor
- Manufacturer Overhead
- Manufacturer Margin
- Raw Materials

Assuming a 20% markup and 20% duty rate

Second Sale (Traditional Customs Value)

Includes:

- First Sale Value, plus –
- Middleman Mark-up
- Foreign Inland Freight
- Intellectual Property Rights
- Administration

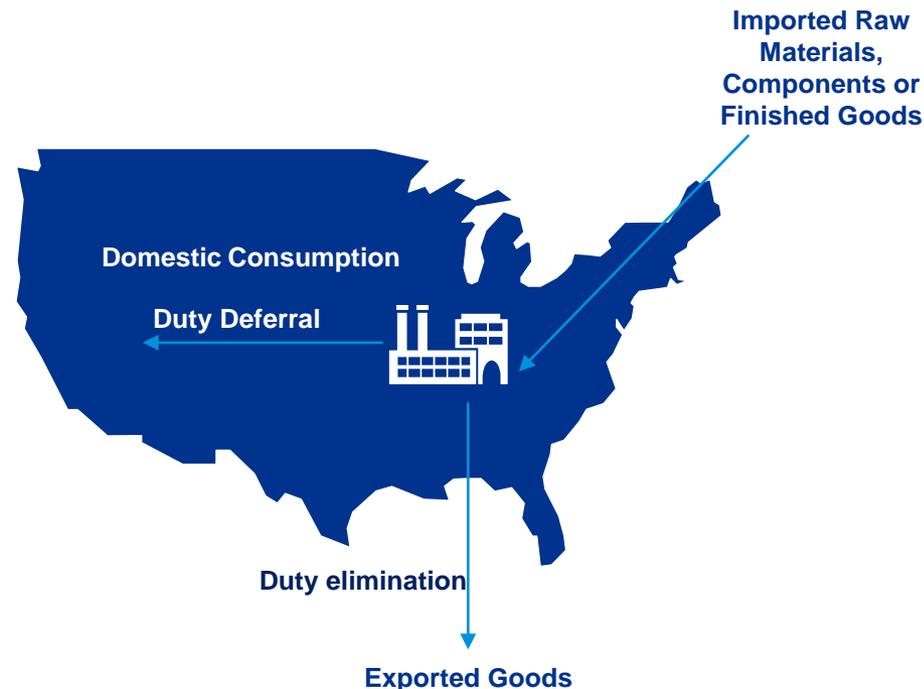
Merchandise Shipped Directly from Manufacturer to Company in the United States

What is a Foreign Trade Zone?

- Area that is physically located in the U.S. (i.e., warehouse/3PL/manufacturing site) but is considered outside of the US customs territory
- Encourages activity in the U.S. through use of local labor and increase in capital investment.

FTZ Benefits

- Enhance cash flow
- Avoid duties on certain imports
- Weekly entry
- Federal ad valorem tax exemption
- Enhance supply chain, inventory, and security control



Duty Drawback

What is duty drawback?



Drawback is a 99% refund of duties, fees and taxes paid on goods imported into the U.S. that are ultimately exported or destroyed.

- Types of duty drawback:
 - Unused merchandise drawback
 - Manufacturing drawback
 - Rejected merchandise drawback
- Direct identification vs substitution drawback

Types of Duty Drawback



Drawback requirements & Considerations



- Supply chain control & recordkeeping practices
- Can only be performed by the exporter of the goods except where the “Waiver of Rights to Claim Drawback” form is signed
- Not applicable for all duties and fees in all cases

Customs valuation: Unbundling Non-Dutiable Costs

Applicable Charges and Fees Can Include (but are not limited to):



Example of Payee and Charge Types for FOB* transactions

Payee	Charge Type
Supplier	Inland Freight
Supplier	Inland Fuel Surcharge
Supplier	Inland Security Charges
Supplier	Inland Handling
Supplier	terminal handling charges
Supplier	Freight forwarder commissions
Supplier	Documentation fee paid to shipping company preparation and delivery of a bill of lading or waybill

* In instances of FCA shipping terms the importer may be the payee.



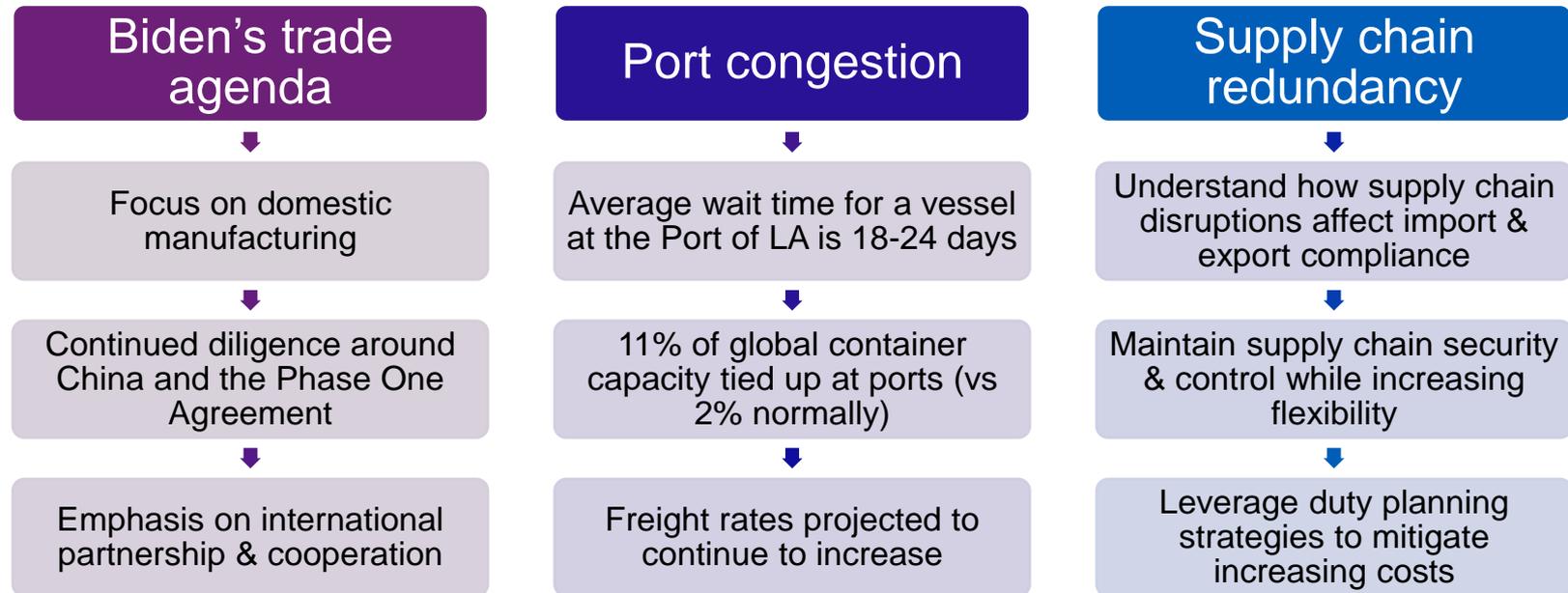
Customs and Border Protection Ruling – HQ H004683:

US Customs determined the amounts for freight, fuel surcharges, and security and handling fees may be excluded from the price actually paid or payable as international shipment or transportation costs, provided the appropriate documentary support exists in any particular case.



What's next for
trade?

What to expect in 2022 and beyond



Check KPMG's Trade and Customs [Website](#) for further information

Source: [Container port congestion worsening at start of 2022: Sea-Intel \(seatrade-maritime.com\)](#), [Twill | Long vessel waiting times and port congestions at US ports](#)



Appendix

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Countries with vast Network of Member firms

 We help our clients with a full range of services: assessments to automation to outsourcing to organization design

<p>Tariff Recovery and Mitigation </p> <p><i>Helping our Clients Manage Duty Spend</i></p> <ul style="list-style-type: none"> — 301 Exclusion Monitoring — First Sale for Export — Duty Drawback — Country of Origin Determinations — Tariff Reengineering — Valuation — Foreign Trade Zones — Free Trade Agreements — Temporary Imports under Bond — Non-US Tariff Mitigation 	<p>Export Controls & Sanctions </p> <p><i>Optimizing Export Compliance</i></p> <ul style="list-style-type: none"> — Directed Audits — Consent Agreements — Voluntary Disclosures — Compliance Assessments — Investigations — Restricted Party Screening — Interim Staffing Support — Corporate Function Assessment — Global Regulatory Development Monitoring 	<p>Trade Consulting </p> <p><i>Assessing and Recommending Trade Compliance Processes</i></p> <ul style="list-style-type: none"> — Product Classification Determinations — Valuation assistance — Prior Disclosure Assistance — Audit Support — Protests/ Customs Rulings — Free Trade Agreement Validation — Target Operating Model/Organization Design — Global Compliance Reviews — Global Tariff Mitigation 															
<p>Trade Automation </p> <p><i>Implementing Global Trade Management Systems</i></p> <ul style="list-style-type: none"> — Identifying GTM System — Roadmap Development — Implementation — Testing — Post Implementation Support 	<p>Managed Services/Trade Compliance Outsourcing </p> <p><i>Outsourcing Large Scale Trade Activities</i></p> <table border="0"> <tr> <td>— Free Trade Agreement Solicitations, Qualifications, Determinations</td> <td>— Post-Entry Review</td> <td>— Duty Drawback</td> </tr> <tr> <td>— FTZ Management</td> <td>— Restricted Party Screening</td> <td>— Audit or Importer Self-Assessment</td> </tr> <tr> <td>— Reconciliation</td> <td>— Export Classification Determination</td> <td>— Transactional Management</td> </tr> <tr> <td>— Self Entry Filing</td> <td>— Export License Application, Filing & Tracking</td> <td>— Customs Value Declaration</td> </tr> <tr> <td>— Import Classification Determination</td> <td></td> <td></td> </tr> </table>		— Free Trade Agreement Solicitations, Qualifications, Determinations	— Post-Entry Review	— Duty Drawback	— FTZ Management	— Restricted Party Screening	— Audit or Importer Self-Assessment	— Reconciliation	— Export Classification Determination	— Transactional Management	— Self Entry Filing	— Export License Application, Filing & Tracking	— Customs Value Declaration	— Import Classification Determination		
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Thank you

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