



# Tariffs and Trade

Navigating Potential Policy Changes in 2025

JANUARY 30, 2025

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# With You Today



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# Learning Objectives

## 01

Examine the current trends in international trade and the implications of recent policy shifts.



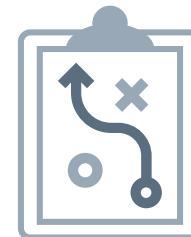
## 02

Discuss potential tariff changes and their impact on various industries.



## 03

Identify strategies for businesses to adapt to new trade regulations and mitigate risks.



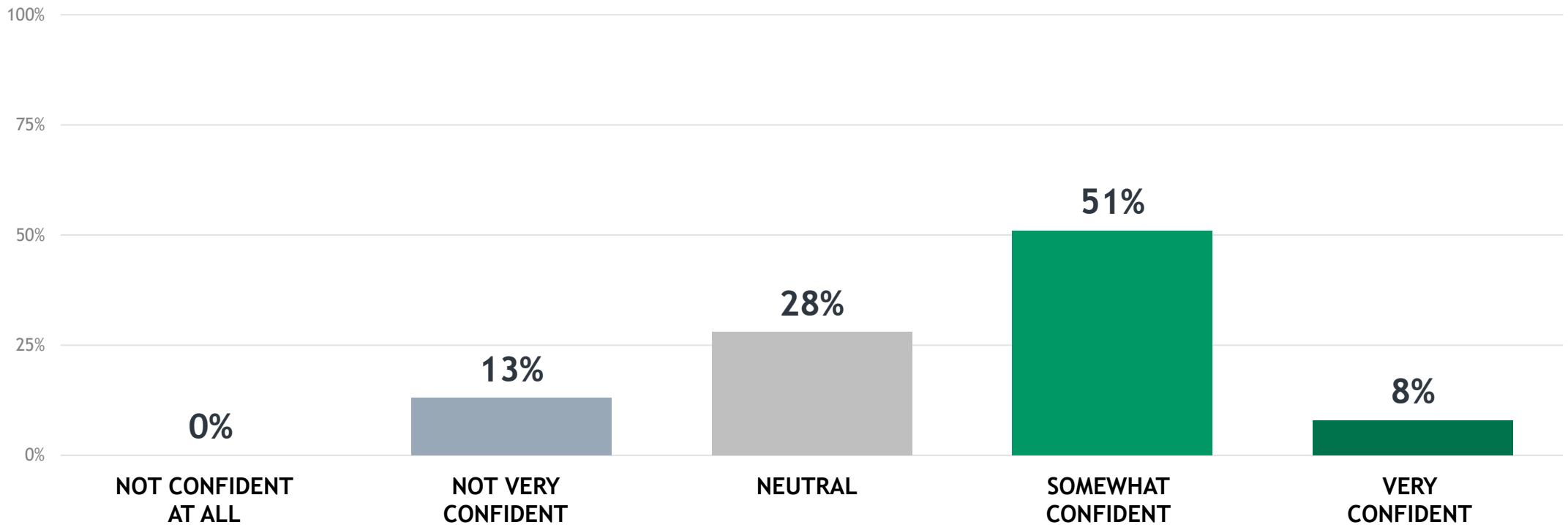
## 04

Assess geopolitical factors influencing trade policies in key markets.



**BDO INSIGHTS:**

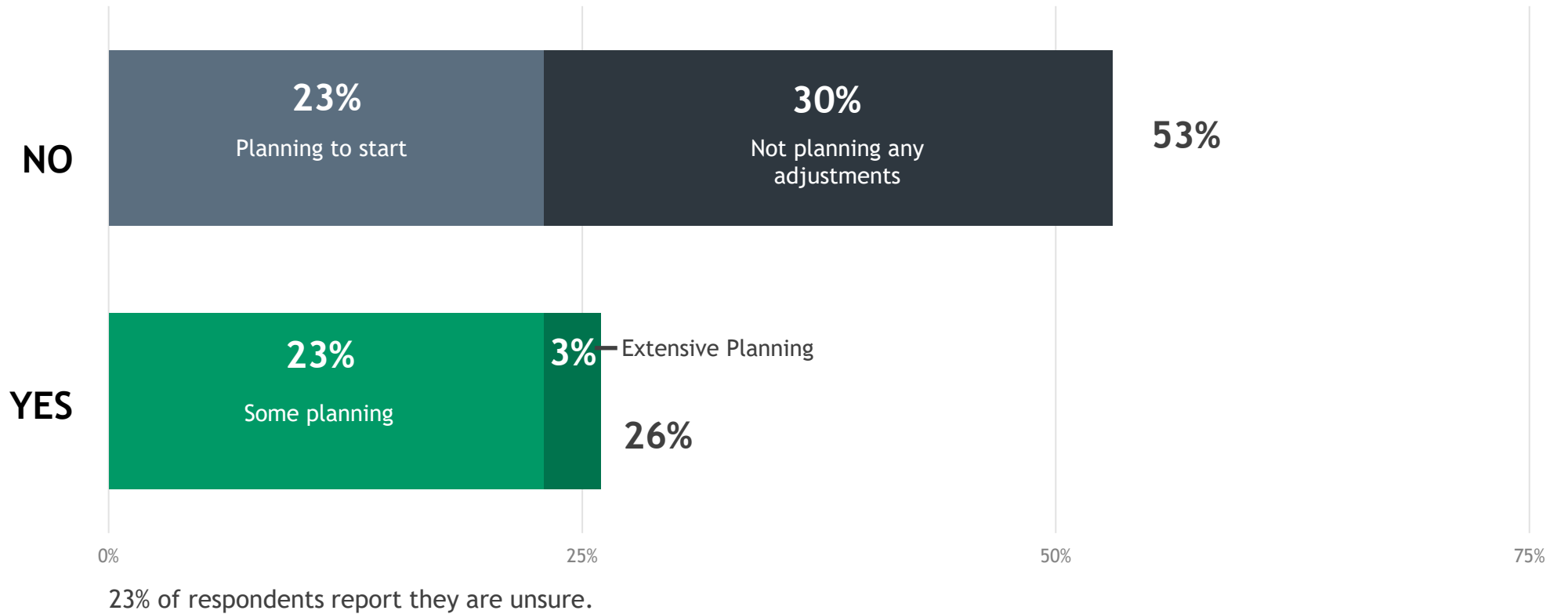
## How confident are you in your organization's ability to adapt to the potential tariff changes?



Source: BDO survey; January 2025

**BDO INSIGHTS:**

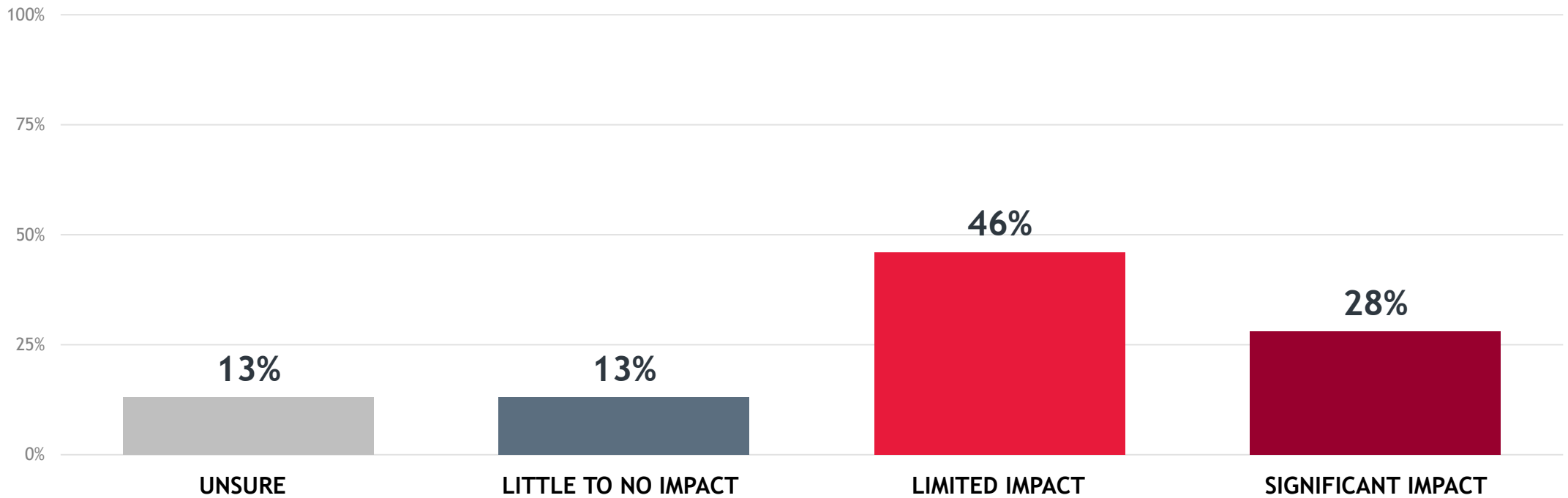
# Have you started to implement any duty mitigation strategies in anticipation of the potential tariff increases?



Source: BDO survey; January 2025

**BDO INSIGHTS:**

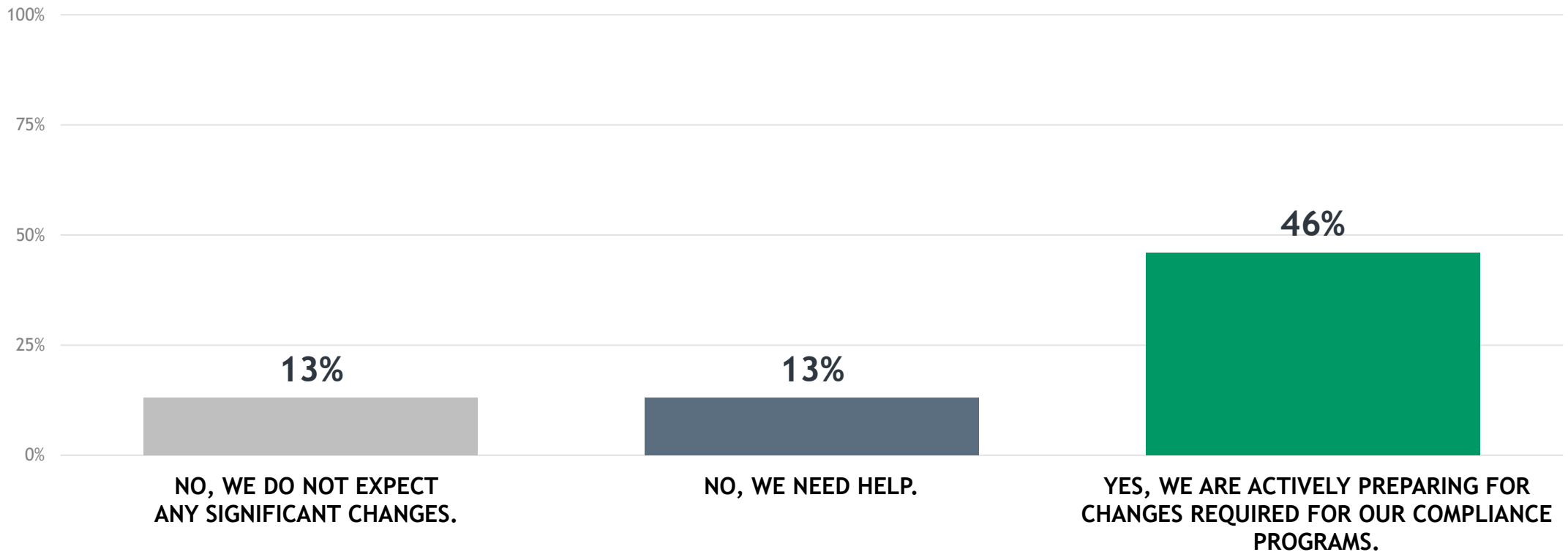
**To what extent do you believe changes to export control regulations and sanctions could impact your company in 2025?**



Source: BDO survey; January 2025

**BDO INSIGHTS:**

## Is your organization ready to address and comply with developments in export control regulations and sanctions?



Source: BDO survey; January 2025

# Exploring the Proposed Changes





# U.S. Tariff Proposals

Scope	Proposed Tariffs
All U.S. Imports	10 to 20% duty rate
Imports from Mexico/Canada	25% duty rate - possibly February 1
EVs made in Mexico by Chinese-owned companies	100% duty rate
Merchandise produced in Mexico by U.S. companies that have shuttered factories in the U.S. and relocated to Mexico	100%+ duty rate
Imports from China	10% duty rate - possibly February 1; 60 to 100% duty rate
Imports from BRICS	100% duty rate
Section 232	TBD; Scope of products likely to be increased
Section 338	TBD
AD/CVD	Scope of products likely to be increased

# America First Trade Policy

SIGNED JANUARY 20, 2025

- ▶ In his first day in office, President Trump issued a slew of Executive Orders (“EO”) including one that postponed the imposition of any immediate new tariffs that most were expecting on “Day One.”
- ▶ The “America First Trade Policy” EO instead postponed until at least Feb. 1st the proposed 25% tariffs on goods imported from Canada and Mexico - and postponed any other tariffs indefinitely pending multiple reviews of various trade-related issues by many departments, agencies, and officials of his new administration.
- ▶ All of these reviews generally have a deadline of April 1st, with that date now marking a “bright line” for the assessment of new tariffs under various trade remedy and other statutes.

# America First Trade Policy - Key Takeaways

1. **Addressing Trade Deficits:** Commerce to investigate the causes and implications of U.S. trade deficits and recommend measures such as tariffs to address them.
2. **Creation of External Revenue Service (ERS):** Treasury, Commerce, and Homeland Security are to assess the feasibility of establishing an ERS to manage tariff collection.
3. **Review of Unfair Trade Practices:** The U.S. Trade Representative (USTR) will examine unfair trade practices globally and suggest actions to address them.
4. **USMCA & Trade Agreements Review:** (a) A public consultation process for the USMCA is set to begin in preparation for review by Congress in 2026, focusing on its impact on US stakeholders; (b) USTR will review existing trade agreements for necessary adjustments to ensure mutual benefits; and (c) Efforts will also be made to identify opportunities for new bilateral or sector-specific trade deals to enhance U.S. export markets.
5. **Currency Manipulation:** Treasury will investigate currency practices of major trading partners, potentially recommending measures to combat manipulation.
6. **Antidumping and Countervailing Duties:** Commerce will review and potentially modify AD/CVD laws and procedures to better enforce trade rules.
7. **Export Controls Review:** State and Commerce will review export controls to maintain the U.S.' technological edge and address loopholes.
8. **Economic Security Reviews:** Various departments will conduct reviews on industrial base security, steel and aluminum import measures, and the impact of foreign subsidies on federal procurement.
9. **De Minimis Exemption:** A review of the \$800 duty-free de minimis threshold is planned to address revenue loss and public health issues like counterfeit goods and drugs.
10. **Focus on China Trade:** Specific actions are mandated regarding trade with China to cover compliance with existing agreements, assessing technology transfer issues, and potentially adjusting tariffs.

A person wearing a dark suit is holding a tablet computer. The background is a blurred industrial factory setting with orange machinery and equipment. A white diagonal bar runs across the top left of the image.

# Exploring the Impact

## U.S. MANUFACTURERS

# Establishing Visibility to Assess Impact



# Leveraging Data to Drive Business

## ACE DATA

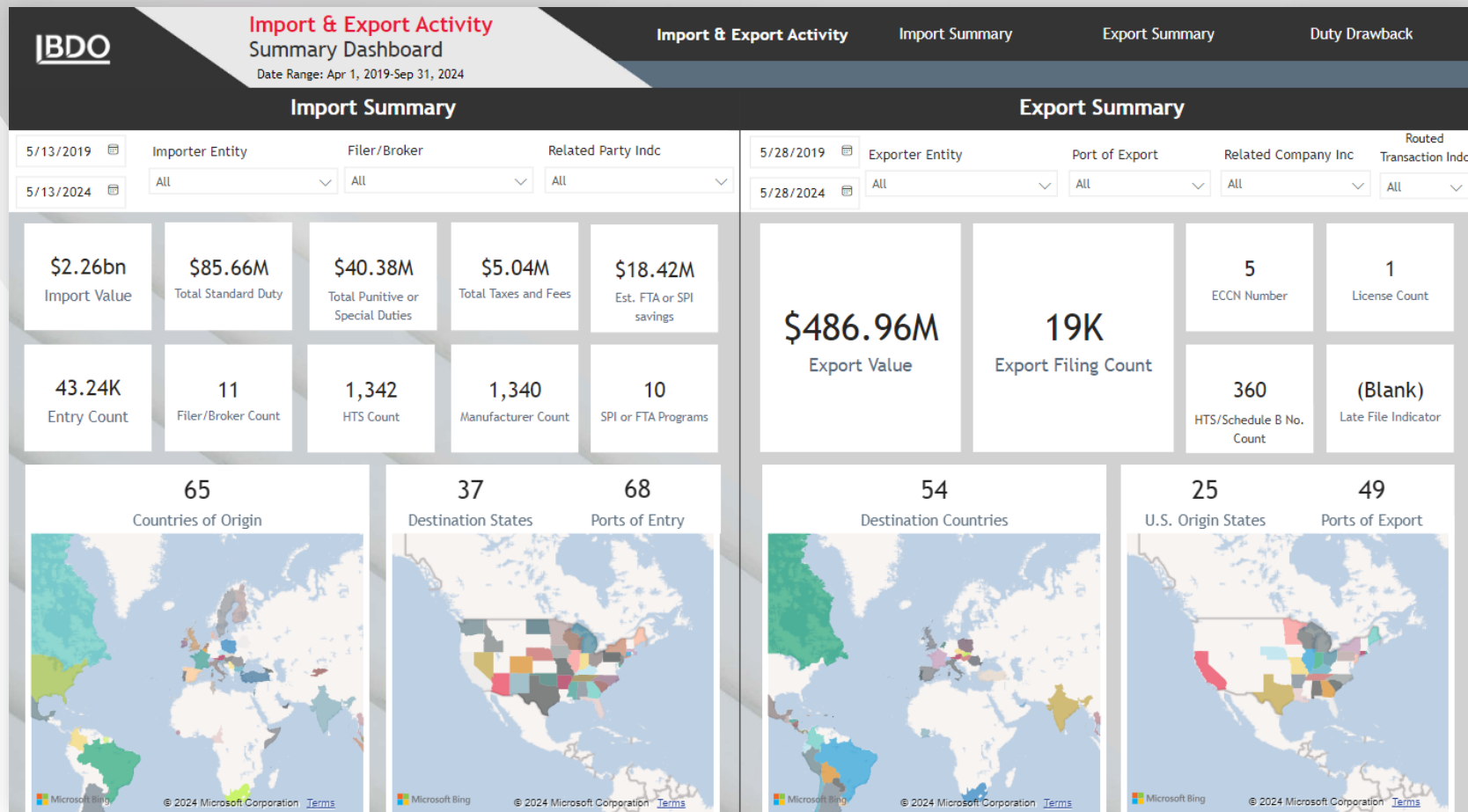
### What does ACE data offer?

ACE contains at least **5 years** of import and export data that is clean, standard, and reveals key elements of the company's import and export shipments.

- ▶ Legal entities, domestic and foreign consignees, manufacturers, and shippers/brokers
- ▶ Indication of related party transactions
- ▶ Shipment origin and destination states and countries
- ▶ Shipment and declaration level values, duties, taxes, and fees
- ▶ Product types and quantities
- ▶ Indication of the use of special trade programs such as Foreign Trade Zones, Duty Drawback, Free Trade Agreements, etc.

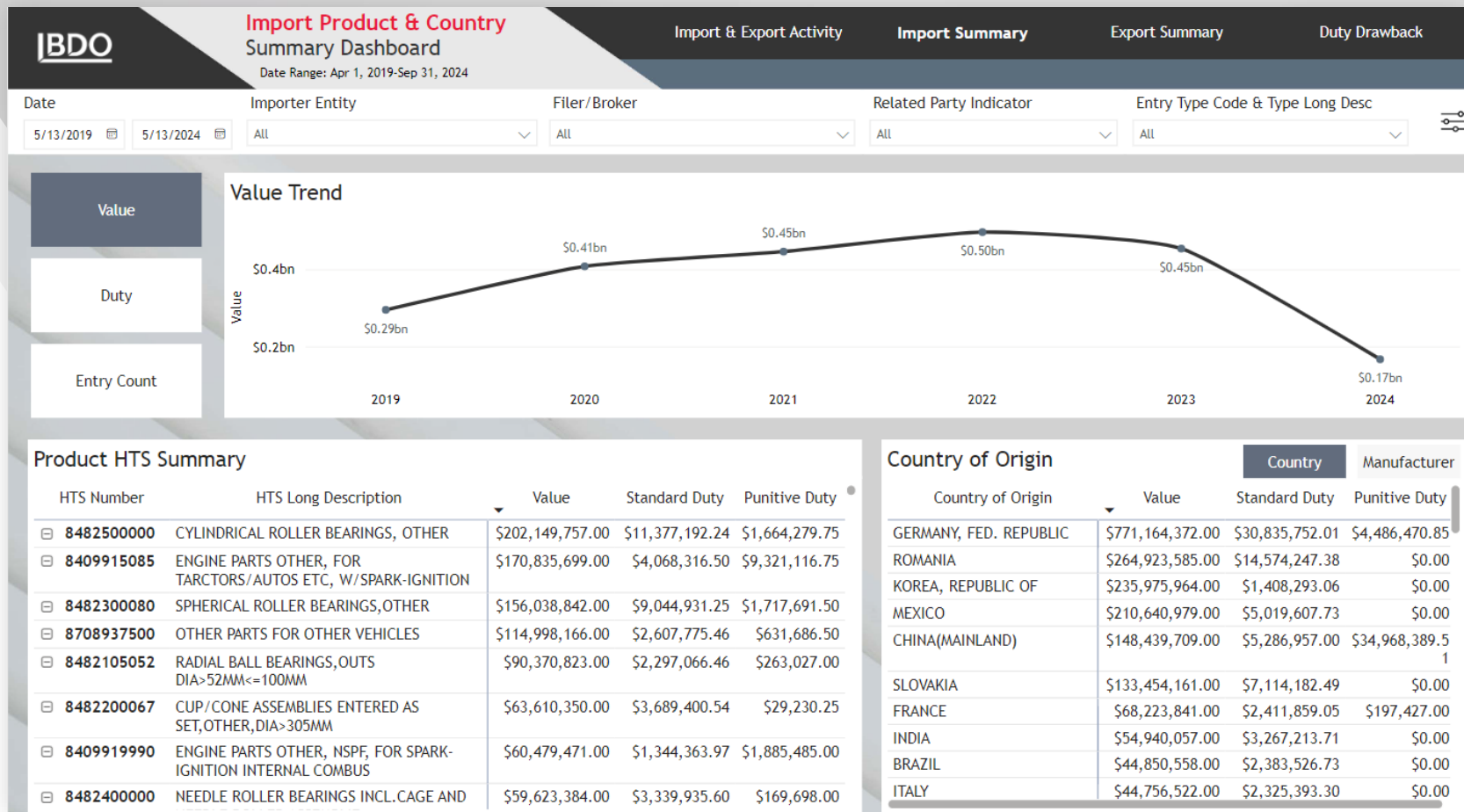


# BDO's Import and Export Data Analytics



Unlock visibility to historic U.S. import and export flows using ACE data. Identify opportunities and compliance gaps collaboratively with business stakeholders.

# BDO's Import and Export Data Analytics



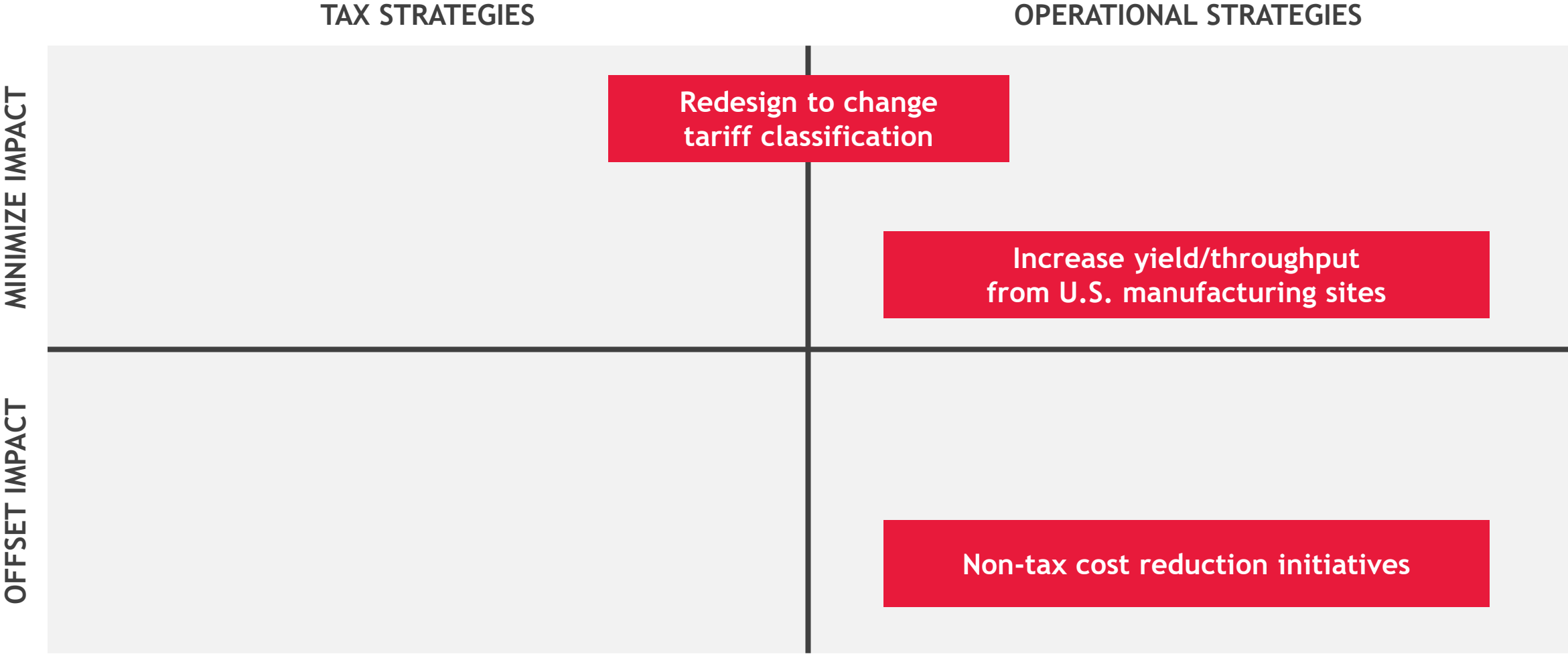
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# Strategies to Reduce Impact

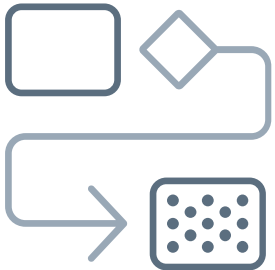


# Navigating Trade Policy Changes



# Strategies to Minimize Impact

1



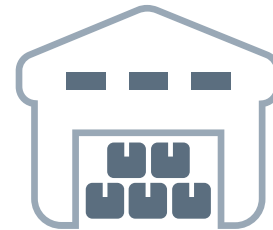
Supply chain  
diversification

2



Reengineering for  
more favorable  
tariff treatment

3



Specially  
designated  
facilities

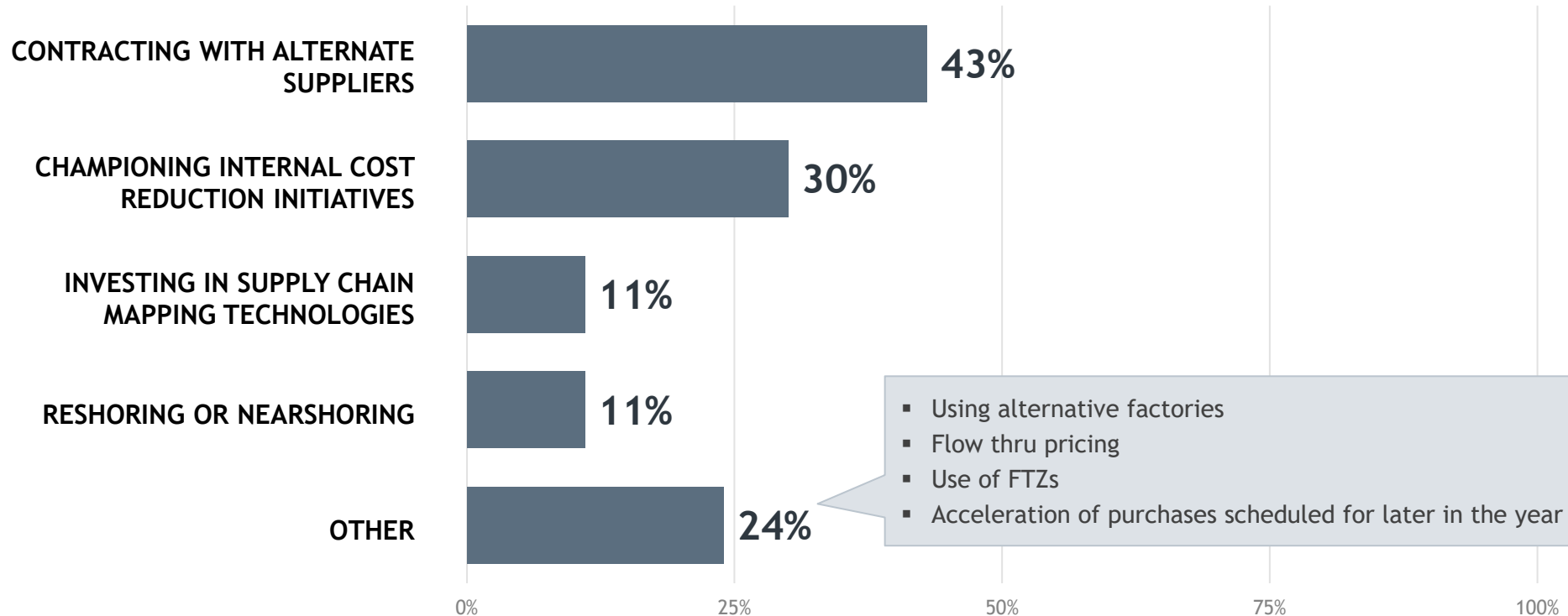
4



Transfer pricing  
for customs value

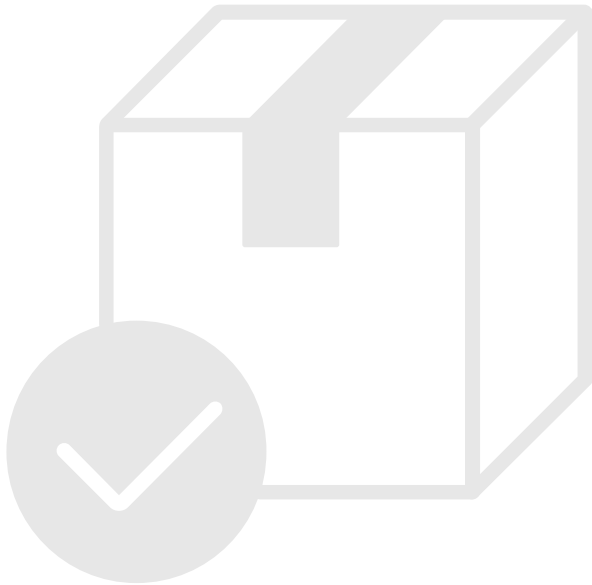
**BDO INSIGHTS:**

Which of the following strategies is your company deploying, or considering, to reduce risk and mitigate the impact of tariffs?



Source: BDO survey; January 2025

# Supply Chain Diversification and Reengineering Strategies



## Tariff Classification and Country of Origin Analysis

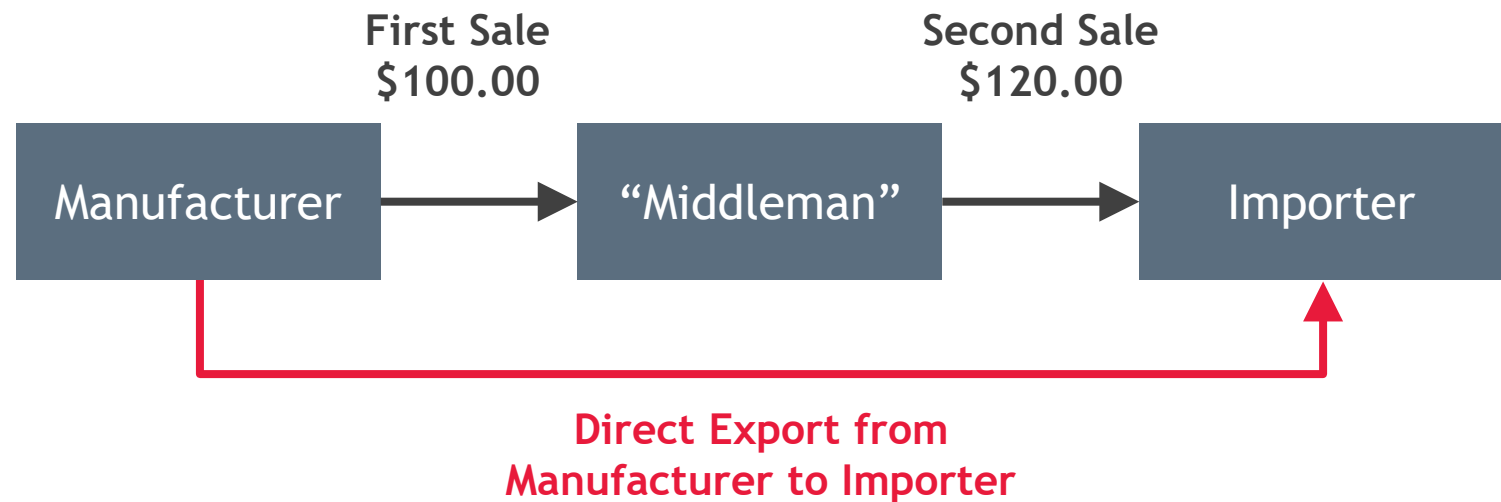
- ▶ Conduct thorough analyses to ascertain accurate tariff classifications and verify the true country of origin for goods to assess if more favorable tariffs can result from shifting the country of origin, or even re-engineering the item to take advantage of a more favorable tariff code description and duty rate.

## Cost Analysis

- ▶ Calculate potential financial impacts of tariffs and adjust purchasing and pricing strategies accordingly.
  - Key to this calculation is obtaining the business' import data from CBP; every importer can sign up for a free account with the agency's Automated Commercial Environment ("ACE").
  - Various reports offer voluminous import and export data by shipment and provide the granularity needed to accurately measure the potential impact of tariff increases by, e.g., tariff code or country of origin.

## “First Sale” for Export

Where multi-tier transactions exist for imported merchandise, the importer may be able to declare an earlier price (as “transaction value”), so long as certain rules are met. The example scenario illustrated below unlocks a 16% reduction in the duties owed to U.S. Customs. **Retroactive claim options available.**

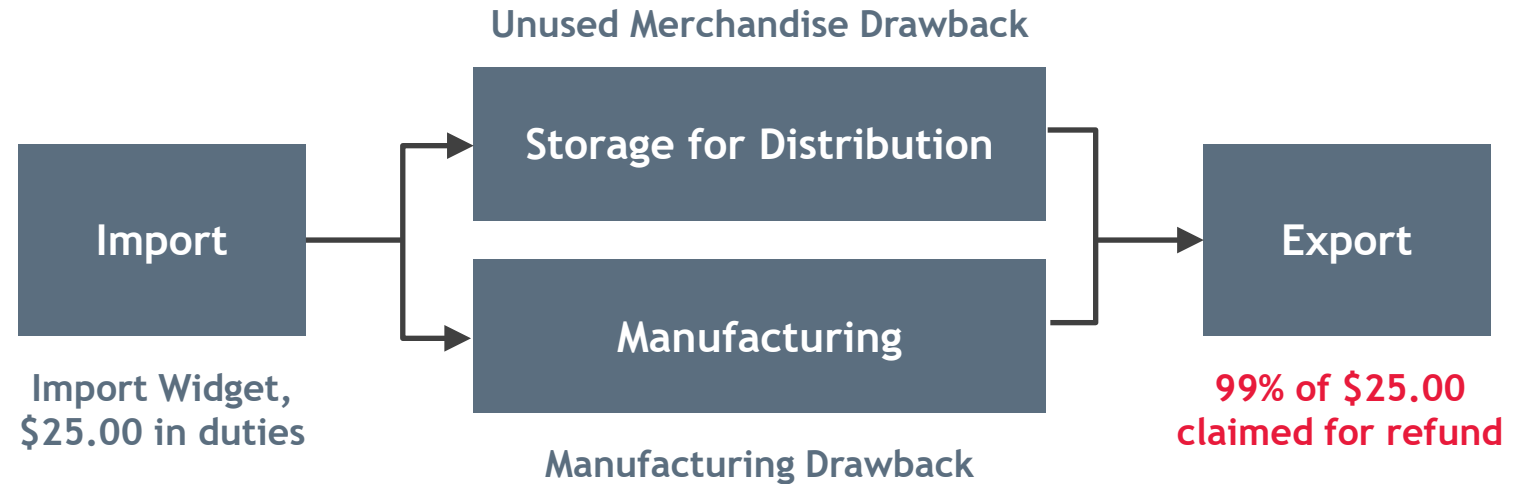


Instead of \$120.00, the new basis  
for customs duties is \$100.00.

Cost  
Reduction:  
“First Sale”

# Customs Refunds: Duty Drawback

Duty Drawback is a refund on duties, taxes, and fees paid on imported merchandise that is subsequently exported unused **OR** on imported merchandise used to manufacture a product that is later exported.



## CLAIM BASES:

- ▶ Direct Identification (Product to Product)
- ▶ Substitution (HTS to HTS)

- ▶ **Who has the right to Drawback?** The exporter. The right to Drawback can be assigned.
- ▶ **Claim Timeframe:** 5 years from date of import, retroactive.
- ▶ **Payment Timeframe:** 30-45 days or 314+ days from filing, depending on “privileges.”

# Cost Reduction: Specially Designated Facilities

## FOREIGN TRADE ZONES

Foreign-Trade Zones (FTZs) consist of specially designated secured access areas that are deemed outside the customs territory of the U.S. for purposes of customs duty, as well as certain excise and *ad valorem* tax assessments.

### **BENEFITS:**

- ▶ Lower Entry Processing Costs
- ▶ Duty Deferral
- ▶ Duty Reduction/Avoidance on Exports
- ▶ Property Tax Benefits

## BONDED WAREHOUSES

A bonded warehouse is a secured area in which imported merchandise may be stored, manipulated, or undergo manufacturing operations without payment of duty for up to 5 years from the date of importation.

### **BENEFITS:**

- ▶ Duty Deferral
- ▶ Duty Avoidance on Exports
- ▶ Typically, easier to locate a Bonded Facility or apply to be a Bonded Facility as compared to FTZs



# Transfer Pricing for Customs Values



Be aware that traditional function/risk analyses to benchmark arm's length pricing between related parties could be affected by any significant tariff increases on tangible goods transactions.

Closely coordinate new transfer pricing studies (or update existing ones) with customs valuation rules for related party pricing to achieve the lowest possible value for customs without running afoul of income tax rules which could lead to “double taxation” (paying indirect tax, i.e., duties, and income tax) on incorrect values.

Include a cost-unbundling review to carve out any elements of a product's unit price which could be characterized as non-dutiable or create new services/intangibles that could escape inclusion in the duty basis.

# Product Exclusions

## SECTION 301 AND 232

### Section 301 Product Exclusions

- ▶ Anticipate a new process for product exclusions if any Section 301 tariffs on goods of Chinese origin are put in place.
  - Although no exclusion process exists for the current Section 301 tariffs, many expect that a second Trump administration will quickly move to create one, especially if the anticipated tariffs hike to 60% or more.
  - This requires confirmation of the tariff code and country of origin and strict adherence to any newly- created criteria needed to avoid paying these trade remedy tariffs.

### Section 232 Product Exclusions

- ▶ Although a process currently exists at the Commerce Department for petitioners to seek relief from the 25% tariffs on steel and 10% on aluminum raw materials, new “downstream” products made of steel and aluminum may be added to the current list of items covered by the Section 232 “national security” tariffs.
  - Get ahead by verifying the correctness of the tariff code(s) of any new items potentially subject to the trade remedy tariffs.

# Shifting Trade Compliance Landscape



# Recent Developments

- ▶ America First Trade Policy
  - Recommendations on “how to maintain, obtain, and enhance our Nation’s technological edge and how to identify and eliminate loopholes in existing export controls”
  - Recommendations regarding “export control enforcement policies and practices, and enforcement mechanisms to incentivize compliance by foreign countries”
- ▶ Continuation of cross-agency and inter-country collaboration, which frequently leads to enforcement actions under multiple regulations
- ▶ Recommendations by the Permanent Subcommittee on Investigations (December 18, 2024)
- ▶ AI Chip Rule (January 2025)
- ▶ Use of export controls legislation by other countries



# Enforcement Actions



## Against Companies

- ▶ \$3.3 million civil penalty on a company for exporting transistors and related products to Russia
- ▶ \$2.5 million fine in action brought by BIS and OFAC against a company for the alleged illicit sales of spare parts for computer numerical control machines to Russia and China

## Against Individuals

- ▶ More than 20 individuals pled guilty or were indicted for export controls violations, comprising both U.S. and foreign nationals
- ▶ General observations in comparison to enforcement actions against individuals under other regulations, e.g., FCPA

# Compliance Implications

## Sector Focus

Companies that are not in the technology or defense sectors; should they invest in export controls compliance?

- ▶ Financial services
- ▶ Life sciences
- ▶ Manufacturing/Apparel

## Potential Blind Spots

- ▶ Use of third parties and shell companies
- ▶ Use of outdated or inaccurate information for due diligence
- ▶ Dismissing red flags prematurely or resolving red flags without rigorous follow-up
- ▶ Deemed exports
- ▶ Adopting a narrow view of exports; not limited to direct sales or for-sale goods

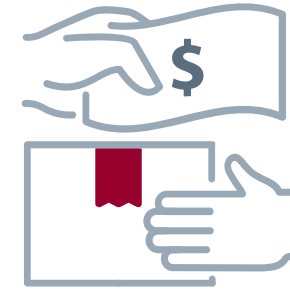


# Addressing Export Controls Risk

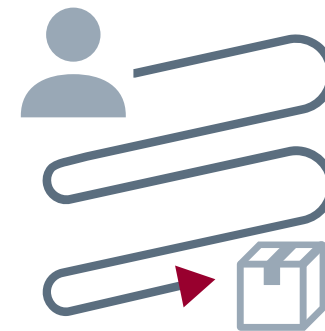
- ▶ Implement and maintain a compliance program aligned with business processes that addresses corruption, export controls, sanctions and fraud concerns
- ▶ Revisit policies, procedures and internal controls as business and product/service mix evolve, not only when regulations change
- ▶ Leverage resources: employees, customers, vendors
  - Regulators as a resource (e.g., red-flag letters)
  - Deploy multi-disciplinary teams that include personnel closest to the action
  - Use of technology to enhance compliance

## IMPLEMENT ROBUST DUE DILIGENCE PROCEDURES

Know Your Customer ...



... and Your Supplier



**Thank You!**







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