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# Trump's Victory Puts Trade Liberalization Into Deep Freeze

By Alex Lawson

Law360, New York (November 9, 2016, 2:39 AM EST) -- Donald Trump's unlikely bid for the White House came to fruition Tuesday night, **ushering in a new era for U.S. trade policy that experts say will shift focus from sprawling trade agreements to a hyper-aggressive enforcement plan that will agitate the nation's allies and trading partners.**

The real estate tycoon's rise to the presidency was buttressed by a staunch and at times caustic protectionist agenda, butting up against decades of Republican Party conventional wisdom on trade. While he took advantage of global supply chains and open markets in the private sector, most of the trade bar expects his campaign messaging to stick.

"He's been very stubborn in his ideas, even when it has cost him politically, so I don't see him all of a sudden doing a 180 on his campaign promises on trade," Hogan Lovells partner and former U.S. trade official Warren Maruyama told Law360.

Trump has vowed to the **pull plug on the Trans-Pacific Partnership, a 12-nation trade deal that wraps together 40 percent of the global economy under one set of trade rules.** The deal is unlikely to even be in place by the time he takes office, as it still requires a longshot congressional vote in order to take effect.

But even if the TPP is ratified before Trump is sworn in, U.S. trade law gives the president enormous power to pull out of trade deals. Trump would be obligated to only give six months' notice of his intent, but the process would not require any action from Congress or any other executive agency.

Miller & Chevalier Chtd. senior international trade adviser Welles Orr went so far as to say the U.S. would basically stop pursuing new trade deals with anybody in the near term.

"I think it puts a full stop on the trade agenda," Orr said. "I would venture to guess he will ignore USTR and have standing orders to his people to not get on a plane to continue

negotiations on anything until they do a full top-to-bottom re-evaluation, whatever that might mean.”

Throughout the campaign, Trump has pilloried not only the TPP, but also the North American Free Trade Agreement, vowing to renegotiate the latter pact with Canada and Mexico.

He’s offered little to no specifics on exactly what issues he has with NAFTA outside the broad criticism of countries moving jobs offshore. But the hard line that Trump has taken on trade issues and the abrasive manner in which he articulates it would likely kill any renegotiation effort on the vine, according to Orr.

“There would be no negotiating harmony, nothing would move forward,” he said.

Maruyama noted that Trump’s approach would not put the U.S. in a very advantageous position at the negotiating table and that the president-elect’s well-known stubbornness would likely make the problem even worse.

“He’d get a very rapid education in the reality of trade negotiations, but I still don’t think he’ll change course just because it becomes clear he was wrong,” Maruyama said. “I don’t think that foreigners are going to be particularly impressed or particularly interested in helping [us] out of this box.”

With serious trade negotiations unlikely to materialize, Trump’s trade policy will likely focus on enforcement. In the past, this has meant vigorous dispute settlement activity at the World Trade Organization, which has been a hallmark of President Barack Obama's administration.

But Wiley Rein LLP partner Timothy C. Brightbill said he expects the Trump administration to go even further by making good on the candidate’s threat to impose tariffs, particularly on Chinese goods, using a number of different tools.

“There is a greater possibility of a Trump administration to self-initiate trade remedy cases and not wait for companies to come forward,” Brightbill told Law360.

Presidents of both parties have prioritized trade enforcement in the past, but there is a delicate balance to strike, as an overly aggressive approach can lead to retaliatory tariffs from China or other partners.

“Some U.S. companies would agree, but I think many would disagree and become concerned about the prospect of retaliation by our trading partners and increased barriers to U.S. exports,” Brightbill said.

Maruyama put it even more bluntly, saying Trump's aggressive moves would only end in one way, especially with China: in an "enormous trade war."