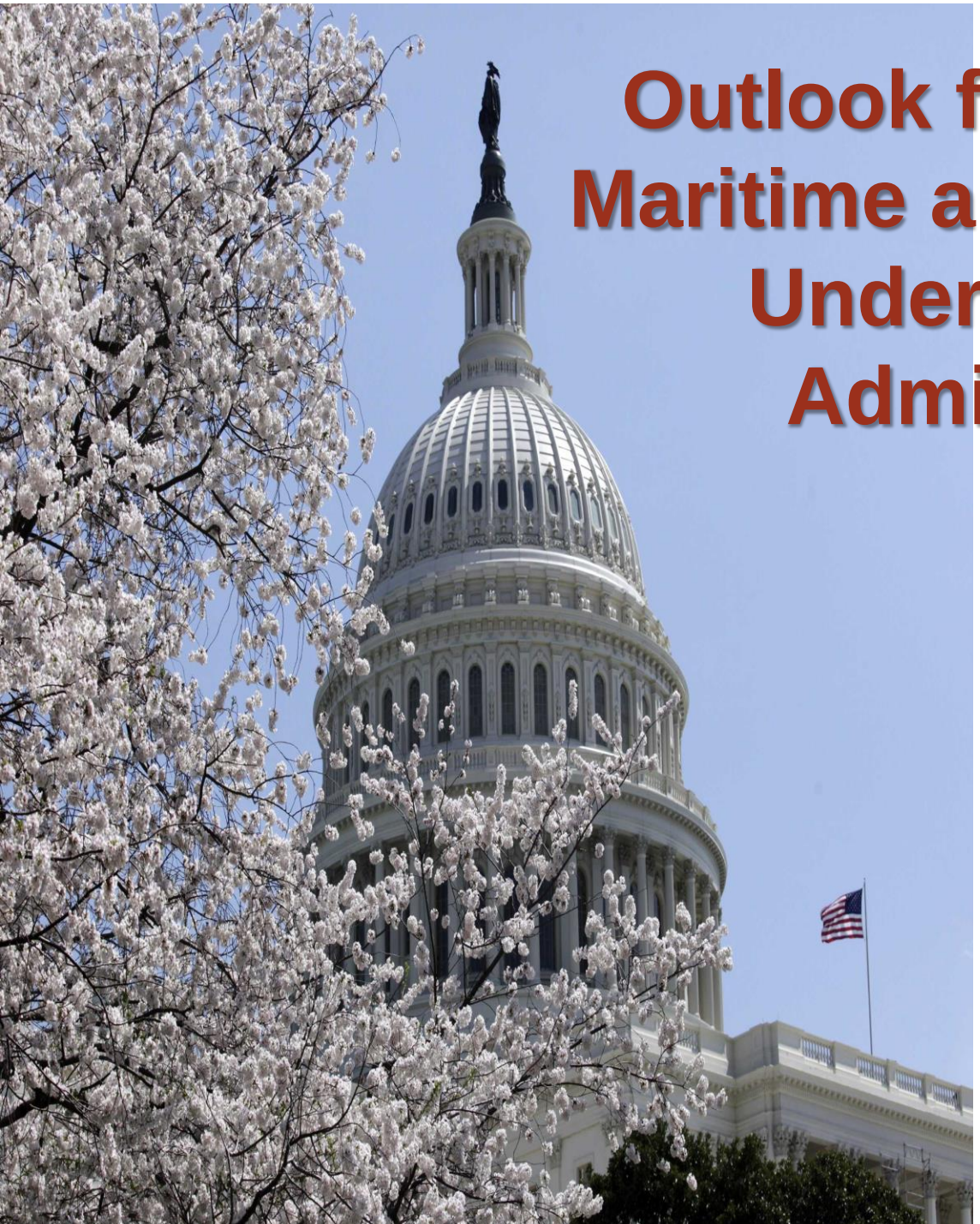

Outlook for Changes in Maritime and Trade Policy Under the Trump Administration

CMA Shipping 2017

Matthew J. Thomas

The information contained herein is abridged and summarized from numerous sources, the accuracy and completeness of which cannot be assured. This should not be construed as legal advice or opinion and is not a substitute for the advice of counsel.

BLANK ROME LLP
COUNSELORS AT LAW

2016 Presidential Campaign – Key Themes for Shipping

- Infrastructure investment
- Tax reform
- Deregulation
- Aggressive trade policies

BLANK ROME LLP
COUNSELORS AT LAW

Maritime Policy: Budget Signals and Other First Steps

- Agency leadership: more shipping expertise at cabinet level, but leadership vacuum at sub-cabinet tiers.
- Coast Guard budget scare – importance of awareness and political engagement
- DOT funding cuts – 13% reduction, elimination of TIGER grants
- Offshore Jones Act issues under review
- Core maritime program priorities remain to be seen (MSP, shipyard grants, cargo preference programs, Title XI, etc.) Look for updates in Mainbrace!

Infrastructure Outlook

- $1 trillion infrastructure package discussed, but lags behind other priorities
- Funding unclear. P3 components? Repatriation of offshore profits?
- House T&I Chair suggested attaching it to FAA reauthorization
- 2018 far more likely
- What is “infrastructure” anyway?
- Pipeline outlook

BLANK ROME LLP
COUNSELORS AT LAW

New 2017 Trade Policy Agenda

White House is required to present an annual trade policy agenda to Congress. New plan requires that all actions be based on four core objectives:

- Increase economic growth
- Promote job creation in the United States
- Promote reciprocity with our trading partners
- Strengthen U.S. manufacturing base and national defense
- Expand our agricultural and services industry exports

New 2017 Trade Policy Agenda (cont'd)

Four Top Priorities:

- "Defending national sovereignty" – WTO decisions will not be treated as binding domestic law inside the U.S. Instead the government will decide whether and how to enforce WTO decisions
- More aggressive use of trade remedies – antidumping, countervailing duties, safeguard measures, other investigations
- Using "leverage" to open foreign markets
- Renegotiating trade agreements

New Restrictions on Imports?

New Administration likely to make more aggressive use of trade remedies, including antidumping and countervailing duties

- Industry flashpoints have included steel, aluminum, auto parts, textiles, electronics.
- Proposals to make currency manipulation a factor in countervailing duties cases.
- More "self-initiation," where the government, not private companies, move cases ahead.
- This approach could have major unintended risks for the US side, however, including retaliation and unintended harm to US technology exporters.

Possible Changes in Restrictions on Inbound Foreign Direct Investment

- Process for reviewing inbound investment on national security grounds is administered by the Committee on Foreign Investment in the United States ("CFIUS")
- CFIUS looks at whether the transaction involves national security risk factors, like sensitive facilities, export-controlled information, U.S. government contracts, critical infrastructure, the opportunity for foreign surveillance, the acquirer's prior dealings with governments or entities unfriendly to the United States, and the post-acquisition plans for the acquired business
- CFIUS became more active in Obama administration, recently blocking key acquisitions of foreign companies with US facilities, including in lighting and semiconductors

Debates over Tax and Trade

- House Republican Tax plan that would convert the corporate income tax into a destination-based cash flow tax (similar to a modified VAT).
- A key component of this new tax would be "border adjustment" which would eliminate businesses' ability to deduct the cost of goods imported into the US, and eliminate taxes on US exports sold abroad.
- Effects on trade are hotly debated. Initially likely to stimulate exports, restrict imports, but in theory the tax benefits for exports and higher taxes on imports would be offset by an increase in the value of the dollar. In the energy sector, domestic refiners are objecting that the new tax scheme would penalizing them for utilizing foreign oil, and would even put them at a disadvantage versus their foreign competitors for the purchase of domestically produced oil (which could be shipped overseas tax free).

Increased Focus on Export Controls and Trade Sanctions

- The US has an aggressive and complex system of economic sanctions against countries like Iran, Syria and North Korea, disputed regions like Crimea, and terrorist groups, narcotics traffickers and other targets.
- The US also has a strong system of export controls that prohibit export of a wide range of goods and technologies.
- Recent cases, including last week, have shown the US efforts to pursue Chinese companies for violations
- Understanding these issues and doing due diligence is critical in mergers and acquisitions, and in sourcing technology from the US.

QUESTIONS?

Contact

Matthew J. Thomas
Blank Rome LLP
1825 Eye Street, NW
Washington, DC 20006
Tel. (202) 772-5971
MThomas@blankrome.com

BLANK ROME LLP
COUNSELORS AT LAW