



Insight

Can Trump Follow Through on His Trade Promises?

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President Donald Trump made headlines after both [Ford and GM](#) canceled their plans to build manufacturing plants in Mexico weeks before his inauguration. This comes after Trump negotiated a deal with Carrier to keep around [700 manufacturing jobs](#) in the United States. While Ford and GM's announcements were not a result of negotiations with the president, they do signal confidence in his administration's ability to create a business-friendly environment. These decisions were also influenced by Trump's hostility toward offshoring.

Trump has taken a carrot and stick approach to strengthen U.S. manufacturing. He promised to promote pro-growth policies such as lowering the corporate tax rate and reducing the regulatory burden on business, but also pledged to impose a [35 percent tariff](#) on any U.S. [manufacturer](#) that relocates production abroad and exports back to the United States. He additionally [vowed](#) to swiftly withdraw from the [Trans-Pacific Partnership](#) and renegotiate the [North American Free Trade Agreement](#). Since Trump centered his campaign around trade policy, it is useful to determine whether he will be able to legally fulfill these promises.

The Trump administration has [significant power](#) over trade. The president has the authority to unilaterally withdraw from trade agreements, raise tariffs on trade agreement partners (including any member of the World Trade Organization), and re-initiate trade agreement negotiations. The International Trade Commission, under the [Trade Act of 1974](#), can further instruct the president to impose tariffs on imports that threaten domestic producers. The same law authorizes the United States Trade Representative to impose retaliatory tariffs on nations which engage in currency manipulation, restrict market access for U.S. exporters, or participate in other unfair trade practices. These actions can all be taken without congressional approval.

While U.S. law clearly permits the government to impose tariffs on individual nations and specific imports, it is less clear whether tariffs can be legally imposed on individual companies. The law would be ruled unconstitutional if determined to be a [bill of attainder](#): legislation which names a party to be punished and imposes a punishment, but does not provide the opportunity for a judicial trial. It may also be difficult to distinguish offshoring, i.e. investment in operations outside of the United States, from other types of investment abroad. Because this is an unprecedented policy that is legally questionable, it would likely be challenged in court.

Incentivizing job creation is good policy. Trump's plan to reduce taxes and regulation will attract business to the United States and boost economic growth. However, penalizing U.S. companies that take advantage of lower production costs abroad may be illegal. Instead of punishing businesses for acting competitively, Trump should focus on improving the economic environment in the United States.