

US policy update: Sanders surges and Trump threatens GPA withdrawal

26 February 2020

This US election cycle, GC team members in the Washington, DC and London offices are holding a series of conversations on the elections and wider US policy issues, and how each might impact investors and companies on both sides of the Atlantic. Below is a brief extract from the second conversation in the series, which begins by looking at the recent Sanders surge in the Democratic primaries before moving on to the US threats to withdraw from the World Trade Organisation's Government Procurement Agreement (GPA) - a plurilateral agreement that provides a baseline insurance policy for members with respect to public procurement market access. The speakers are [Erin Caddell](#) (Director, GC US), [Joe Palombo](#) (Practice Lead, Global Investor Services) and [Stephen Adams](#) (Senior Director). To access the full recording, email m.milne@global-counsel.co.uk

US Democratic primaries

JP: From London, it looks like the Democratic establishment are not happy about Bernie Sanders's surge in the polls. What is the view from Washington, DC?

EC: Interestingly, there is consternation among both parties. The Republicans are asking how the Democrats could nominate an avowed socialist, digging up all the old attacks on Sanders. The Democrats worry that nominating Sanders would give the election to Trump.

We at GC would take a step back. Our job is to prepare clients for reasonable outcomes rather than just predicting. This time reminds us of four years ago when the same kinds of conversations were happening about Trump. Trump finished second in Iowa, first in New Hampshire, and gained a lot of momentum which surprised a lot of people. He had the nomination sewn-up before anyone realised what was happening. During that time, people were saying that he either wouldn't win the nomination or that he wouldn't win the general election.

We're currently having those same types of conversation about Sanders. People do not want to really think about him as a possibility as he would be an extreme shift from the world we're in right now, which we've got used to three-plus years in. But there are lots of positive implications to a Sanders presidency as well as risks.

And it is important for companies and investors to start thinking about it, because it would be naïve to say that he doesn't have a chance. He's definitely got a chance. He has a strong organisation, is well-funded and has a passionate base. There is also still a lot of anti-Trump sentiment which will come into play in the battleground states in November.

US threatens to pull out of the Government Procurement Agreement (GPA)

JP: What's the strategy behind Trump's recent threat to withdraw from the WTO GPA, what's its significance, and how might London and Brussels interpret it?

SA: The US could be contemplating doing two things. Firstly, removing the insurance policy of the GPA so that trading partners would have to pay to put it back in place in a bilateral negotiation. Secondly, it could augur a more fundamental shift in how public procurement is managed in the US - by removing the insurance policy this would give greater flexibility in revising federal and sub-federal procurement frameworks. This would, in theory, give the US more scope to reduce the available access for trading partners to public procurement markets.

The bottom line is that these are part of a consistent Trump playbook about rebuilding leverage. The Trump administration takes the view that the WTO framework represents unilateral disarmament for the US. It sees unbinding at these levels as the best strategy to force trading partners to pay more to bind in a bilateral context.

Interestingly, the EU has become anxious about asymmetry in levels of access to public procurement markets. This has been largely targeted at non-GPA signatories, particularly China. The EU has tried to design an instrument to address this, most recently the International Procurement Instrument (IPI). If ever implemented, this would impose a premium on Chinese public procurement bids in the EU market.

In relation to the EU, what Trump's threats on GPA withdrawal potentially signal is the possibility of the IPI being used against the US. If the US fundamentally revisits the terms on which EU firms are treated in federal and sub-federal procurement markets, and if that treatment is discriminatory, the EU might be forced to follow the logic of the IPI and consider sanctioning incoming US imports of public procurement for goods or services. So, we need to think about how this might play out practically for suppliers in the US domestic market, but also about how there might be an international - and particularly European - response. Trump's strategy ratchets up trade tensions, extending them from primarily goods trade to the very sensitive area of public procurement.

If you would like to be added to our invite list for the bi-weekly call, please email Matilda at m.milne@global-counsel.co.uk