

# US & Multilateral Trade and Policy Developments

---

**Japan External Trade Organization**

January 2025

---

# Contents

<b>Trade Policy Developments.....</b>	<b>1</b>
Biden Administration Issues New Trade and China Regulations in Last Days of Term.....	1
Federal Highway Administration Revokes Domestic Content Waiver for Manufactured Products.....	5
President Trump Orders “America First Trade Policy” Without Immediate Tariffs .....	6
Bureau of Industry and Security Finalizes Prohibition on Connected Vehicles Linked to China and Russia.....	11
<b>Trade Actions .....</b>	<b>16</b>
Lessons from the First Tariff Action of the Trump Administration.....	16
United States Imposes 10% Tariffs on All Imports from China, Delays Tariffs on Canada and Mexico .....	18
<b>Trade Agreements .....</b>	<b>23</b>
USTR Issues Forced Labor Trade Strategy and Model Negotiating Texts .....	23
<b>Petitions &amp; Investigations.....</b>	<b>28</b>
US Department of Commerce Amends Antidumping and Countervailing Duty Regulations .....	28
Commerce Issues Final ADD Order on Melamine from Japan and Final ADD and CVD Orders on Melamine from Germany, Qatar, and Trinidad and Tobago .....	30
Commerce Maintains ADD and CVD Orders Following Sunset Reviews of Glycine from Japan, India, China, and Thailand.....	31
Commerce Issues Final Results of Five-Year Sunset Review of ADD Order on Diffusion- Annealed, Nickel-Plated Flat-Rolled Steel Products from Japan; ITC Conducting Expedited Review .....	32
Commerce Issues Final Results of Five-Year Sunset Review of ADD Order on Welded Large Diameter Line Pipe from Japan; ITC Conducting Full Review .....	33

---

## Trade Policy Developments

### Biden Administration Issues New Trade and China Regulations in Last Days of Term

In its final weeks in office, the Biden administration has been working to complete ongoing regulatory activities, likely anticipating that the incoming Trump administration may change or delay these rulemaking efforts. Since early-December, the administration has (i) issued final regulations for implementing the Executive Order on Personal Data Protection's data transfer rules; (ii) finalized the electronic filing system for Consumer Products Safety Commission (CPSC) certificates of compliance; (iii) finalized a regulation prohibiting certain Chinese content in railroad cars, (iv) imposed new export controls on China; (v) and increased Section 301 tariffs on China.

The Biden administration has also proposed several new regulations that would need to be finalized by the incoming Trump administration. Among those proposals are a potential prohibition on Chinese drones and the Section 301 investigation targeting Chinese mature node semiconductors. The completion of other proposed regulations appears likely to extend into the Trump administration, opening those proposed rules to significant revisions and delays. Incomplete proposed rules include (i) the newly reported global AI development export controls; (ii) US Customs and Border Protection's (CBP) new customs *de minimis* regulations; (iii) the final rule prohibiting Chinese connected vehicles and components; and (iv) and the final rule on know-your-customer requirements for cloud services.

This alert summarizes several recent developments and outlines what may happen to them under the incoming Trump administration.

### Executive Order on Personal Data Protection

On December 27, 2024, the Department of Justice (DOJ) unveiled the final rule implementing the Biden administration's restrictions on certain international transactions of bulk sensitive personal data and US government-related data.<sup>1</sup> In a coinciding action, the Cybersecurity and Infrastructure Security Agency (CISA) issued the security requirements that entities engaging in restricted transactions must adopt.<sup>2</sup> The rule implements President Biden's Executive Order 14117 on "Preventing Access to Americans' Bulk Sensitive Data and United States Government-Related Data by Countries of Concern."<sup>3</sup> EO 14117 called for the DOJ to promulgate regulations to prevent the large-scale transfer of sensitive personal data and US Government-related data to "countries of concern" (*i.e.*, China, Russia, Iran, North Korea, Cuba, and Venezuela) and to impose security requirements on vendor agreements.

The DOJ largely maintained the language of the October 2024 proposed rule in the final rule, with several modifications. In the final rule, the DOJ provided more time for companies to comply with the due diligence requirements, slightly expanded the scope of exemptions for financial services, broadened the definition of telecommunications for the exemptions, and permitted internal audits (rather than only external audits). The final rule's prohibitions enter into effect 90 days after the rule is published to the *Federal Register*, which is expected on January 8, 2025. The affirmative due diligence, reporting, and auditing requirements for covered entities will take effect 270 days after publication. The DOJ plans to publish additional guidance on compliance, enforcement processes, advisory opinions, and prohibited transaction licenses to its website.<sup>4</sup>

---

<sup>1</sup> "Preventing Access to U.S. Sensitive Personal Data and Government-Related Data by Countries of Concern or Covered Persons," unpublished copy of the Federal Register notice, accessible here: <https://federalregister.gov/d/2024-31486>.

<sup>2</sup> "Notice of Availability of Security Requirements for Restricted Transactions Under Executive Order 14117," unpublished copy of the Federal Register notice, accessible here: <https://federalregister.gov/d/2024-31479>.

<sup>3</sup> "National Security Division; Provisions Regarding Access to Americans' Bulk Sensitive Personal Data and Government-Related Data by Countries of Concern," 89 FR 15780 (March 5, 2024), accessible here: <https://www.federalregister.gov/documents/2024/03/05/2024-04594/national-security-division-provisions-regarding-access-to-americans-bulk-sensitive-personal-data-and>; and Executive Order 14117 of February 28, 2024 "Preventing Access to Americans' Bulk Sensitive Personal Data and United States Government-Related Data by Countries of Concern," 89 FR 15421 (March 1, 2024), accessible here: <https://www.federalregister.gov/documents/2024/03/01/2024-04573/preventing-access-to-americans-bulk-sensitive-personal-data-and-united-states-government-related>.

<sup>4</sup> More information can be found on the "Data Security" page of the DOJ website, accessible here: <https://www.justice.gov/nsd/data-security>.

---

Along with the Biden administration's executive actions, Congress enacted a law in 2024 that restricts data brokers, which are entities that sell or trade data they did not collect from an individual, from providing a broad range of sensitive personal data to China or other foreign adversaries.<sup>5</sup> The Federal Trade Commission (FTC) is responsible for implementing the law, but to date has issued no rules or individual case decisions using the law. The DOJ states in the final rule that it will coordinate enforcement activities with the FTC, but neither agency has offered any details on the plans.

### Expanded semiconductor export controls

In early December 2024, BIS issued the third major expansion of the Biden administration's advanced semiconductor export controls.<sup>6</sup> The action adds new controls for high bandwidth memory (HBM), expands the reach of the foreign direct product rules, changes *de minimis* limits for the foreign direct product rules, adds new companies to the Entity List, and introduces new license exceptions. According to BIS, the objectives of the new controls are to (i) slow China's "development of advanced AI that has the potential to change the future of warfare" and (ii) impair China's "development of an indigenous semiconductor ecosystem – an ecosystem built at the expense of U.S. and allied national security."

Though these were significant expansions, Republicans advocating for tougher export controls have called the Biden administration's actions insufficient.<sup>7</sup> The incoming Trump administration will have to decide how it wants to proceed with Biden's export controls. Trump may broaden the controls further, intensify enforcement, or take policy in a different direction. Republicans have advocated for further controls on AI, quantum technologies, biotechnology, advanced materials, optics and sensing technologies, advanced energy technologies, and space-based technologies, as well as improving the enforcement capacity of BIS.

Recent media reports indicate the Biden administration is also considering issuing a new global export control rule targeting semiconductors used in developing advanced AI models, which BIS could issue in the Biden administration's final week. According to the reports, the new program would allocate exports of semiconductors according to countries' relations with the United States. US adversaries like China and Russia would be blocked from accessing chips, allies would have full access, and other countries would face quotas. BIS has issued no official statements on the matter.

### ICTS rule proposal to restrict drones

BIS published an advance notice of proposed rulemaking (ANPRM) on January 3, 2025 that proposes to restrict certain information and communications technology and services (ICTS) components of unmanned aircraft systems that are designed, developed, manufactured, or supplied by persons owned by, controlled by, or subject to the jurisdiction or direction of foreign adversaries.<sup>8</sup> The ANPRM is seeking to gather information to aid BIS in the

---

<sup>5</sup> 15 U.S.C. 9901, accessible here: <https://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-title15-section9901&num=0&edition=prelim>.

<sup>6</sup> "Commerce Strengthens Export Controls to Restrict China's Capability to Produce Advanced Semiconductors for Military Applications," BIS, December 2, 2024, accessible here: <https://www.bis.gov/press-release/commerce-strengthens-export-controls-restrict-chinas-capability-produce-advanced>; "Foreign-Produced Direct Product Rule Additions, and Refinements to Controls for Advanced Computing and Semiconductor Manufacturing Items," 89 FR 96790 (December 5, 2024), accessible here: <https://www.federalregister.gov/documents/2024/12/05/2024-28270/foreign-produced-direct-product-rule-additions-and-refinements-to-controls-for-advanced-computing>; and "Additions and Modifications to the Entity List; Removals From the Validated End-User (VEU) Program," 89 FR 96830 (December 5, 2024), accessible here: <https://www.federalregister.gov/documents/2024/12/05/2024-28267/additions-and-modifications-to-the-entity-list-removals-from-the-validated-end-user-veu-program>.

<sup>7</sup> See, e.g., "Moolenaar Urges Raimondo to Close Dangerous Loopholes in New Export Control Rules," Select Committee on the CCP, December 5, 2024, accessible here: <https://selectcommitteeontheccp.house.gov/media/press-releases/moolenaar-urges-raimondo-close-dangerous-loopholes-new-export-control-rules>.

<sup>8</sup> "Securing the Information and Communications Technology and Services Supply Chain: Unmanned Aircraft Systems," 90 FR 271 (January 3, 2025), accessible here: <https://www.federalregister.gov/documents/2025/01/03/2024-30209/securing-the-information-and-communications-technology-and-services-supply-chain-unmanned-aircraft>.

---

development of potential restrictions in the sector. BIS will also consider developing security mitigation measures that could allow certain restricted ICTS-related transactions to continue in the sector.

The ANPRM is based on national security regulations that empower BIS to restrict ICTS transactions that pose certain security risks, known as the “ICTS rule.”<sup>9</sup> The ICTS rule authorizes BIS to prohibit transactions or impose mitigation measures for ICTS that have been designed, developed, manufactured, or supplied by persons owned by, controlled by, or subject to the jurisdiction of a foreign adversary if the Secretary determines that the ICTS pose an undue or unacceptable risk to US national security or the safety of US persons. China (including Hong Kong), Cuba, Iran, North Korea, Russia, and the Maduro Regime in Venezuela are the designated adversary countries. To implement a specific ICTS prohibition, BIS may issue rules that establish criteria for particular classes of technology or for specific market participants, to which the ICTS rule’s restrictions would automatically apply. Following this framework, the main focus of the new ANPRM is to define “the technologies and market participants that may be appropriate for regulation in order to address undue or unacceptable risks to U.S. national security” from foreign drones. This is the second class restriction BIS has proposed under the ICTS rule, following the proposed connected vehicle prohibition in late 2024.

The ANPRM is open to public comments until March 4, 2025. After reviewing these comments, BIS will issue a full notice of proposed rulemaking (NPRM) and call for public comments before finalizing the rule. The entire rulemaking process will take place under the incoming Trump administration and may be subject to changes or delays. Although Trump’s team has expressed broad support for ICTS rule actions against China and Republicans in Congress have specifically endorsed restricting Chinese drones, their position on this specific investigation remains unclear.

### **Consumer products certification eFiling and customs *de minimis* entry**

On December 18, 2024, the Consumer Products Safety Commission (CPSC) approved the final rule to implement electronic filing (eFiling) of certificate of compliance information for imports of regulated consumer products.<sup>10</sup> The rule will enter into effect for general imports and domestic products on July 8, 2026 and on January 8, 2027 for imports from Foreign Trade Zones (FTZs). The original proposal had set a significantly faster 120-day deadline for entry into force. The deadline extension (which was requested by importers who said they needed more time to prepare) is the final rule’s most notable change from the December 2023 proposed rule. The CPSC is also inviting importers that want to begin adopting the new system early to join the eFiling voluntary stage, which is already active.

The Biden administration has branded the new eFiling program as part of an effort to tighten enforcement and curtail the use of customs *de minimis* entry, though the CPSC has been developing the eFiling system since 2013. Alongside the final eFiling rule, the Biden administration has also said CBP would issue two new *de minimis* regulations: (i) one to tighten rules enforcement and (ii) one to prohibit products covered by Section 232 and Section 301 tariffs from using *de minimis* entry.<sup>11</sup> A notice of proposed rulemaking for CBP’s enforcement regulation was anticipated in the latter half of 2024, while the prohibition regulation was expected to take longer to develop. As of the first week of January 2025, neither has been issued. The incoming Trump administration and Congressional Republicans are also interested in limiting the use of *de minimis* entry (especially for e-commerce imports from

---

<sup>9</sup> The implementing regulations can be found at 15 CFR 791, accessible here: <https://www.ecfr.gov/current/title-15/subtitle-B/chapter-VII/subchapter-E/part-791?toc=1>.

<sup>10</sup> “CPSC Approves Final Rule to Implement eFiling for Certificates of Compliance,” CPSC, December 18, 2024, accessible here: <https://www.cpsc.gov/Newsroom/News-Releases/2025/CPSC-Approves-Final-Rule-to-Implement-eFiling-for-Certificates-of-Compliance>; “Certificates of Compliance,” (January 8, 2025), accessible here: <https://federalregister.gov/d/2024-30826>; and see further information on the eFiling system on the CPSC website, accessible here: <https://www.cpsc.gov/eFiling>.

<sup>11</sup> “Biden-Harris Administration Announces New Actions to Protect American Consumers, Workers, and Businesses by Cracking Down on *De Minimis* Shipments with Unsafe, Unfairly Traded Products,” White House, September 13, 2024, accessible here: <https://www.whitehouse.gov/briefing-room/statements-releases/2024/09/13/fact-sheet-biden-harris-administration-announces-new-actions-to-protect-american-consumers-workers-and-businesses-by-cracking-down-on-de-minimis-shipments-with-unsafe-unfairly-traded-products/>.

---

China), but the exact details of Trump's plans are unclear. It is uncertain whether Trump will proceed with the current *de minimis* reform proposals or adopt an alternative strategy.

### **Limiting Chinese content in freight rail cars**

On December 19, 2024 the Federal Railroad Administration (FRA) issued the final rule to monitor and enforce compliance with the Infrastructure Investment and Jobs Act's (IIJA) restriction on Chinese content in new freight railroad cars placed into service in the United States.<sup>12</sup> Under the rule, new freight cars must be manufactured, assembled, and substantially transformed in a qualified facility by a qualified manufacturer and newly manufactured freight cars may not operate in the United States if more than 20% (which later falls to 15%) of their content or any sensitive technology components come from countries of concern. Countries of concern are countries that are designated as nonmarket economies by the Department of Commerce, that are on USTR's Special 301 Priority Watch List, and that are subject to USTR monitoring under Section 306 of the Trade Act of 1974 (which requires USTR to monitor countries for compliance with Section 301 actions). China is the only country that currently meets all three conditions.

The measure became law as section 22425 of the IIJA in November 2021. The FRA implementing rule will enter into effect on January 21, 2025. The content limits enter force for railroad freight cars wholly manufactured on or after on December 19, 2025. Freight car manufacturers must certify their cars comply with the requirements and retain documents to support the certifications.

### **Options for the incoming Trump administration**

Trump will assume the presidency on January 20, 2025, leaving little time for the Biden administration to complete its ongoing regulatory plans. Once in office, Trump may choose to change or halt the development of proposed rules left by the Biden administration. Delays in rulemaking processes are also typical during presidential transitions, as the incoming president usually issues blanket orders to suspend any ongoing rulemaking. Trump will likely issue such an order, delaying all ongoing rulemaking until his staff can review and decide how to proceed with each measure. He could also initiate new rulemaking processes to alter regulations finalized by Biden, which would require following standard administrative procedures with new public notice and comment periods.

Another option for changing Biden-era regulations is the Congressional Review Act (CRA). The CRA allows Congress to use fast-track procedures and a simple majority vote in the Senate to overturn regulations recently finalized by the executive branch. Crucially, the CRA includes a "lookback" mechanism at Section 801(d) that gives a new session of Congress a brief period to revoke regulations finalized at the end of the previous Congress' term. The measure is often invoked when control of Congress and the presidency switch parties. A new session of Congress can revoke rules published within the last 60 legislative session days of the previous term.

The lookback date for the CRA likely falls around August 1, 2024 (the exact date will be determined by the Senate and House parliamentarians). Depending on the days Congress plans to be in session in 2025, Republicans will likely be able to introduce disapproval resolutions until late March 2025, which would qualify for fast-track until late May or early June 2025. Congressional Republicans have not yet clarified which regulations they may target for CRA revocation. All the recently completed regulations discussed above are potentially subject to a CRA revocation. Other actions completed by the Biden administration in late 2024 are also within the lookback period, include the Outbound Investment Security Program, the Inflation Reduction Act's Section 45X Advanced Manufacturing Production Credit implementing regulations, BIS' September 2024 advanced technology export control expansion, the final regulation for the ICTS rule, the December 2024 revisions to Commerce's antidumping and countervailing duty regulations, and the new federal procurement prohibition on Chinese drones.

---

<sup>12</sup> "Freight Car Safety Standards Implementing the Infrastructure Investment and Jobs Act," 89 FR 103677 (December 19, 2024), accessible here: <https://www.federalregister.gov/documents/2024/12/19/2024-30030/freight-car-safety-standards-implementing-the-infrastructure-investment-and-jobs-act>.



---

## Federal Highway Administration Revokes Domestic Content Waiver for Manufactured Products

On January 14, 2025, the US Department of Transportation Federal Highway Administration (FHWA) issued a final rule revoking the longstanding Buy America general waiver for manufactured products used in federal-funded highway projects.<sup>13</sup> The FHWA proposed the changes in March 2024, issuing a proposed rule for public feedback.<sup>14</sup> The final rule is substantially the same as the proposed rule. Revoking the general waiver will result in the automatic application of existing Buy America requirements to the covered manufactured products, except for products that are subject to other specific waivers. The final rule also provides implementation guidance for the requirement.

### Revoking the general waiver

Highway and bridge building and maintenance projects in the United States are typically managed by state governments using money provided by the FHWA, referred to as federal-aid projects. The system covers about one fourth of public roads in the United States. The FHWA is generally required by federal law to ensure that federal-aid projects use iron, steel, and manufactured products produced in the United States, with some exceptions and waivers. The Manufactured Products General Waiver has been in place since the modern Buy America regulations first came into effect for highway projects in 1982.

The implementation guidance enters into effect for projects obligated on or after March 17, 2025. However, the final rule delays the revocation of the general waiver and will now apply the revocation in stages: (i) the final assembly requirement will enter into effect for projects obligated on or after October 1, 2025; and (ii) the 55% requirement will enter into effect for projects obligated on or after October 1, 2026. The extended revocation timeline is the most notable change between the proposed rule and final rule.

Though the general waiver will no longer be available, contractors may still seek product specific waivers from the Buy America requirements. The FHWA has stated a preference for using time-limited and targeted waivers covering domestically unavailable products wherever appropriate. In the original proposed rule, the FHWA had speculated that it may issue these specific waivers while it revoked the general waiver. Ultimately, the FHWA decided to simply lengthen the phase out of the general waiver instead. In the final rule, the FHWA states that issuing the specific waivers in advance “will negatively affect onshoring that would otherwise be incentivized by the promulgation of this final rule.” Procurements covered by the WTO Government Procurement Agreement (GPA) or other international procurement agreements can also seek specific exemptions as required.

The action is part of the Biden administration’s long-running effort to tighten domestic content preferences in government procurement, which began with an executive order in 2021 that directed federal agencies to take additional measures to favor domestic products wherever possible.<sup>15</sup> The administration argues the actions are necessary to expand US manufacturing.

### Implementing BABA guidance

The final rule also provides implementation guidance to explain the manufactured product requirement. As the waiver has been in force since the United States introduced the Buy America rules, contractors have never needed compliance guidance in the past. As a result, the waiver revocation rule also introduces the needed guidance. The FHWA intends for the new guidance to align generally with the Build America, Buy America Act (BABA) guidance

---

<sup>13</sup> “Buy America Requirements for Manufactured Products,” 90 FR 2932 (January 14, 2025), accessible here: <https://federalregister.gov/d/2024-31350>.

<sup>14</sup> “Buy America Requirements for Manufactured Products,” 89 FR 17789 (March 12, 2024), accessible here: <https://www.federalregister.gov/documents/2024/03/12/2024-05182/buy-america-requirements-for-manufactured-products>.

<sup>15</sup> Executive Order 14005 of January 25, 2021: “Ensuring the Future Is Made in All of America by All of America’s Workers,” 86 FR 7475 (January 28, 2021), accessible here: <https://www.federalregister.gov/documents/2021/01/28/2021-02038/ensuring-the-future-is-made-in-all-of-america-by-all-of-americas-workers>.

---

issued by the Office of Management and Budget (OMB).<sup>16</sup> The new guidance for determining whether a manufactured product is “produced in the United States” would use BABA’s definition of domestically manufactured products, reflecting the OMB’s current standards.

To be considered “produced in the United States,” manufactured products on FHWA federal-aid projects must be (i) manufactured in the United States (the “final assembly requirement”) and (ii) have greater than 55% of the manufactured product’s components (by cost), be mined, produced, or manufactured in the United States (the “55% requirement”). The final rule also updates the FHWA’s standards for determining the cost of components and the definitions of key terms like “component,” “manufactured product,” and “manufacturer” to mirror the OMB’s established BABA requirements.

BABA was enacted as part of the 2021 Infrastructure Investment and Jobs Act (IIJA) in Sections 70901 through 70952. Unlike the mix of different, agency-specific Buy America laws that existed in the past, BABA is uniquely expansive. BABA establishes that federal financial assistance will be provided only for an eligible infrastructure project that meets the following conditions:

- ❑ All **iron, steel**, and other construction materials used in such project must have undergone all manufacturing processes in the United States (“from the initial melting stage through the application of coatings”).
- ❑ Any **manufactured products** used in such project must be manufactured in the United States, and the cost of components in such manufactured products “that are mined, produced or manufactured in the United States” must be “greater than 55 percent of the total cost of all components” of that manufactured product.
- ❑ Any **construction materials** used must have undergone all manufacturing processes in the United States.

The FHWA final rule concerns only the “manufactured product” element of the BABA requirements. A broad range of products may fall under the definition of “manufactured products.” BABA (and, by extension the FHWA final rule) defines manufactured products as “articles, materials, or supplies that have been: (i) Processed into a specific form and shape; or (ii) Combined with other articles, materials, or supplies to create a product with different properties than the individual articles, materials, or supplies;” and which are not otherwise defined as “iron or steel products;” “excluded materials;” or “supplies.” The FHWA does not provide a full list of relevant goods that would be covered by this definition, but has referenced retroreflective sheeting, LED lighting systems, utility products, intelligent transportation systems hardware, traffic signals and controllers, traffic cameras, changeable message signs, and vehicle detection equipment as manufactured products that US construction contractors often import from foreign manufacturers. The action does not change the already existing FHWA requirements for iron or steel products or excluded materials and supplies.

## **President Trump Orders “America First Trade Policy” Without Immediate Tariffs**

Updated January 23, 2025

Donald Trump assumed the presidency for the second time on January 20, 2025. Despite Trump’s vow to immediately impose tariffs upon taking office, Trump instead issued a Presidential Memorandum on “America First Trade Policy,” which instructs executive branch agencies to investigate various trade policy questions and recommend new trade policy actions by April 1, 2025. Though Trump did not issue any immediate tariff orders, he continues to say that he will impose tariffs soon.

One specific action that emerged from Trump’s first day was a memorandum to suspend US involvement in the OECD/G20 Inclusive Framework on Base Erosion and Profit Shifting Two-Pillar Solution. The memo also directs the

---

<sup>16</sup> Guidance for Grants and Agreements, 88 FR 57750 (August 23, 2023), accessible here: <https://www.federalregister.gov/documents/2023/08/23/2023-17724/guidance-for-grants-and-agreements>.



---

US government to begin planning retaliation against countries that adopt the new global tax system negotiated under the agreement.

### **First-day actions and the White House statement on initial priorities**

As soon as Trump took office, the White House posted a statement on forthcoming “America First Priorities,”<sup>17</sup> summarizing the Trump administration’s initial policy priorities. The statement mentions actions to impose new restrictions on immigration and refugee resettlement, reduce environmental regulations, support energy development (while also taking certain actions to limit green energy development), resume issuing liquefied natural gas export permits, pause issuance of new funds from the Inflation Reduction Act and Infrastructure Investment and Jobs Act, an attempt to delay enforcement of the TikTok ban, suspension of various Biden administration actions, and various conservative cultural priorities.

On trade policy, the statement only includes the following vague declarations, both of which were followed by specific memos (which are discussed further in this Alert):

- “President Trump will announce the America First Trade Policy;” and
- “America will no longer be beholden to foreign organizations for our national tax policy, which punishes American businesses.”

Specific instructions to implement many of these policies were issued later in the evening of January 20, along with the trade policy memos.<sup>18</sup> As is normal for any incoming president, the orders included a memorandum instructing that all ongoing rulemaking processes should pause to give the new administration time to review ongoing work.<sup>19</sup>

### **The America First Trade Policy memorandum**

On January 20, 2024, President Trump issued a presidential memorandum on “America First Trade Policy,” directing executive branch agencies to begin preparing new trade policy and tariff proposals.<sup>20</sup> The memo sets out a broad direction for a more aggressive and protectionist trade policy stance and instructs agencies to begin studies on possible actions but does not impose any tariffs itself. Though many observers had expected Trump to immediately act to impose tariffs on the first day of his administration, the memo suggests his administration intends to take a more considered and legally sound approach. However, this does not mean that significant tariffs will never be imposed. Many of the potential actions described in the memo could lead to significant new trade restrictions in future, including new Section 232 investigations, Section 301 investigations, expanded national security restrictions, attempts to change free trade agreements (FTAs), global tariffs, and antidumping and countervailing duty regulation changes.

The memo instructs the Office of the United States Trade Representative (USTR), the Department of Commerce (Commerce), and the Department of the Treasury (Treasury) to collect the results of the reviews into a set of reports, which would be sent to the president by April 1, 2025. More information on what specific policy actions may result from this reporting process will emerge over the next few months. Monitoring the individual agencies for follow-up actions and statements will be important to understanding how policy will develop.

Issues and policy objectives the agencies should examine for the reports are summarized below:

---

<sup>17</sup> “President Trump’s America First Priorities,” White House, January 20, 2025, accessible here: <https://www.whitehouse.gov/briefings-statements/2025/01/president-trumps-america-first-priorities/>.

<sup>18</sup> See the “Presidential Actions” page on the White House website for a full collection of the various policy orders, accessible here: <https://www.whitehouse.gov/presidential-actions/>.

<sup>19</sup> “Regulatory Freeze Pending Review,” White House, January 20, 2025, accessible here: <https://www.whitehouse.gov/presidential-actions/2025/01/regulatory-freeze-pending-review/>.

<sup>20</sup> “America First Trade Policy,” White House, January 20, 2024, accessible here: <https://www.whitehouse.gov/presidential-actions/2025/01/america-first-trade-policy/>.

- **Investigating the causes of the trade deficit and considering policy options:** Instructs the government to “investigate the causes of our country’s large and persistent annual trade deficits in goods, as well as the economic and national security implications and risks resulting from such deficits, and recommend appropriate measures, such as a global supplemental tariff or other policies, to remedy such deficits.”
- **Consider creating an External Revenue Service:** Instructs the government to investigate the feasibility of establishing a new agency to collect tariffs, called the “External Revenue Service.” Trump originally announced the new tax agency on January 14, stating he “will create the EXTERNAL REVENUE SERVICE to collect our Tariffs, Duties, and all Revenue that come from Foreign sources” and that the United States will “will begin charging those that make money off of us with Trade, and they will start paying, FINALLY, their fair share.”<sup>21</sup> It is unclear how this would differ from the current tariff system implemented by US Customs and Border Protection (CBP). Some advisors close to Trump have suggested the new agency would also collect taxes on foreign investment in the United States, in addition to CBP’s existing tariff collections.
- **Investigate foreign currency manipulation:** Instructs Treasury to investigate foreign exchange rate management practices and consider policy responses. Though Trump has previously threatened to retaliate against countries that suppress the values of their currencies, this directive appears to simply restate existing US practice. Treasury’s latest report on foreign exchange practices of US trade partners (published in November 2024) includes China, Japan, South Korea, Taiwan, Singapore, Vietnam, and Germany on the Monitoring List.<sup>22</sup> No countries currently meet all the criteria for enhanced scrutiny regarding potential currency manipulation. Treasury’s report acknowledges the listed countries are running unusually high current account surpluses but determines that “currency manipulation was not a driving force of those surpluses during this period.” Instead, as the report notes, most US trade partners have been selling US dollars to defend the values of their currencies against devaluation because US interest rates are rising.
- **Identifying unfair trade practices:** Instructs the government to review and identify “any unfair trade practices by other countries and recommend appropriate actions to remedy such practices under applicable authorities.” The memo mentions the possibility of using trade enforcement authorities under Section 301, Section 201 (safeguards), Section 338 of the Tariff Act of 1930 (a law the government has not used since the 1930s), Section 337 (pertaining to the prohibition of imports that infringe on intellectual property rights), the International Emergency Economic Powers Act (IEEPA), and 15 U.S.C. sections 71-75 (this citation includes the repealed 1916 Antidumping Law, as well as provisions that relate to collusion and blockades that the government has not used in recent years).<sup>23</sup>
- **Reviewing existing free trade agreements and negotiating new ones:** Instructs USTR to “review existing United States trade agreements and sectoral trade agreements and recommend any revisions that may be necessary or appropriate to achieve or maintain the general level of reciprocal and mutually advantageous concessions with respect to free trade agreement partner countries.” Although details are sparse, the statement suggests that Trump may aim to renegotiate FTAs, similar to his actions during his first term with the United States – Mexico – Canada Agreement (“USMCA”) and the Korea – United States FTA (“KORUS”). The memo also instructs USTR to “identify countries with which the United States can negotiate agreements on a bilateral or sector-specific basis [...]”
- **Strengthening trade remedies investigations:** Instructs Commerce to review antidumping and countervailing duty regulations and consider amendments to strengthen the systems, “including with regard to transnational subsidies, cost adjustments, affiliations, and ‘zeroing’” and procedures for encouraging compliance with

<sup>21</sup> January 14, 2025 post on Truth Social, accessible here: <https://truthsocial.com/@realDonaldTrump/posts/113827650534234057>.

<sup>22</sup> “Report to Congress: Macroeconomic and Foreign Exchange Policies of Major Trading Partners of the United States,” Department of the Treasury, November 2024, accessible here: <https://home.treasury.gov/system/files/136/November-2024-FX-Report.pdf>.

<sup>23</sup> 15 U.S.C. sections 71-75, accessible here: <https://uscode.house.gov/view.xhtml?path=/prelim@title15/chapter2&edition=prelim>.

---

verifications. The Biden administration issued two sets of amendments to the trade remedies regulations in 2024, which had also sought to strengthen rules around some of these same issues.

- **Considering restricting use of customs *de minimis* entry:** Instructs agencies to review the customs *de minimis* entry processes and associated risks of tariff revenue loss, drug trafficking, and smuggling of counterfeit products. Though lacking detail, the concerns resemble the interests that motivated the Biden administration to propose new regulations in January 2025 to strengthen customs enforcement in the *de minimis* channel and exclude goods covered by Section 301 and Section 232 duties from using *de minimis*. The future of the rulemaking processes for Biden's two *de minimis* proposed rules depends on the Trump administration.
- **Buy America rules:** Instructs the government to review trade agreements and find more ways to favor domestic companies in government procurement. The memo also instructs the government to “assess any distorting impact of foreign government financial contributions or subsidies on United States Federal procurement programs and propose guidance, regulations, or legislation to combat such distortion.”
- **Investigate trade relations with Mexico and Canada, including compliance with USMCA:** Instructs Commerce and the Department of Homeland Security (DHS) to “recommend appropriate trade and national security measures” to address “unlawful migration and fentanyl flows from Canada, Mexico, the PRC [People's Republic of China], and any other relevant jurisdictions.” Regardless of the outcome of Trump's threatened 25% tariffs on Canada and Mexico, the three USMCA partner countries are also approaching the 2026 six-year review of the agreement. Trump intends to turn the review into a renegotiation, which would likely lead to significant debates among the parties. The memo simply notes that USTR should begin preparations for the 2026 review, which aligns with the consultation process set out in the USMCA implementing law.<sup>24</sup>
- **Evaluate trade relations with China, including China's compliance with the 2020 Phase One trade deal and new potential tariff increases:** Specific to China, the memo instructs USTR to review China's compliance with the Phase One Agreement; consider further increases to tariffs under the existing Section 301 tariff action; initiate new Section 301 investigations (for unspecified purposes); and “assess” proposals by members of Congress to repeal Permanent Normal Trade Relations (PNTR) with China. Trump had previously threatened to significantly increase tariffs on China immediately upon taking office. The actions described in the memo could lead to the imposition of higher tariffs as soon as April, but also leaves room for new negotiations with China. The elevation of assessing compliance with the Phase One Agreement suggests the Trump administration may be considering entering dispute settlement over the agreement, which could result in withdrawal from the agreement and resumption of currently suspended Section 301 tariff orders or (alternatively) a new agreement with China. Jamieson Greer, Trump's nominee to lead USTR, has endorsed using the Phase One Agreement dispute process, arguing that China has failed to meet its obligations under the Phase One Agreement and that the Biden administration had failed to enforce those obligations. The memo also directs the government to “assess the status of United States intellectual property rights such as patents, copyrights, and trademarks conferred upon PRC persons, and shall make recommendations to ensure reciprocal and balanced treatment of intellectual property rights with the PRC.” Importantly for third countries, the memo suggests the China tariff changes could address “industrial supply chains and circumvention through third countries,” which may lead to tariffs targeting China-linked supply chains in other countries.
- **Considering potential Section 232 investigations and reviewing the Section 232 steel and aluminum tariff exclusions:** Directs Commerce to “conduct a full economic and security review of the United States' industrial and manufacturing base” and determine whether it should initiate any new Section 232 investigations. If Commerce proceeds with the Section 232 investigations, tariffs could follow once the investigations are concluded. In 2018, the Trump administration used Section 232 to impose 10% tariffs on imports of aluminum and 25% tariffs on steel, which were later expanded to apply to certain derivative articles. The Trump

<sup>24</sup> 19 U.S.C. 4611, accessible here: <https://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-title19-section4611&num=0&edition=prelim>.

---

administration conducted six other Section 232 investigations targeting other sectors (including the automotive industry, certain critical minerals, metals, and power transformer inputs), none of which led to tariffs.<sup>25</sup> The memo also instructs the government to review the active exclusions and exemptions from the Section 232 steel and aluminum tariffs, which could lead to changes in market access for certain countries.

- **Investigating foreign tax practices:** Instructs the government to “investigate whether any foreign country subjects United States citizens or corporations to discriminatory or extraterritorial taxes.” The memo states the investigations should rely on 26 U.S.C. section 891, a never-before-used section of the US tax code that allows Treasury to impose punitive income taxes on companies from countries that apply discriminatory taxes to US companies.<sup>26</sup> In a separate presidential memorandum, Trump distanced the United States from the OECD Two-Pillar Solution and implied that he views taxes associated with the agreement as being extraterritorial and disproportionately affecting US companies (discussed below). During Trump’s first term as president, USTR threatened to impose Section 301 tariffs on countries adopting DSTs, a dispute which the OECD agreement was partly intended to resolve. Trump may be considering returning to relying on Section 301 tariffs to deter DSTs, in addition to the new threat of Section 891 actions.
- **Considering expansions of certain economic security actions:** Directs Commerce and Treasury to review recent Biden administration national security-based trade actions to determine whether the actions should be strengthened. The memo includes (i) export controls, and whether current technology controls should be strengthened; (ii) the ICTS rule prohibition on Chinese connects vehicles, and whether it should “be expanded to account for additional connected products;” and (iii) the new Outbound Investment Security Program (OISP), and whether it “includes sufficient controls to address national security threats.”

### OECD Global Tax Deal memorandum

In a separate action, Trump issued a presidential memorandum stating that the OECD/G20 Inclusive Framework on Base Erosion and Profit Shifting Two-Pillar Solution for digital services taxes (DSTs) and global minimum taxes “have no force or effect within the United States absent an act by the Congress adopting the relevant provisions of the Global Tax Deal.”<sup>27</sup> The outgoing Biden administration was unable to finalize negotiations and secure Senate ratification for the Pillar One Multilateral Convention. Meanwhile, Congressional Democrats’ attempts to implement the necessary tax code changes for Pillar Two’s global minimum tax during the 2020-2022 and 2022-2024 terms were unsuccessful. Trump’s memo includes few details on what the new US policy will be and may not fundamentally change the stalled nature of the agreement. The memo also does not reference the status of the ongoing negotiations or make any specific reference to the details of either of the Pillars.

In a second section of the memo, Trump instructs Treasury and USTR to “investigate whether any foreign countries are not in compliance with any tax treaty with the United States or have any tax rules in place, or are likely to put tax rules in place, that are extraterritorial or disproportionately affect American companies” and to recommend “options for protective measures or other actions that the United States should adopt or take in response to such non-compliance or tax rules.” The memo does not specify what aspects of the OECD arrangements the Trump administration finds objectionable or what US responses may eventually emerge. The “America First Trade Policy” memo, however, references the possible use of 26 U.S.C. section 891 in retaliation for unfair foreign tax practices.

---

<sup>25</sup> See “Section 232 Investigations: The Effect of Imports on the National Security” on the Bureau of Industry and Security website for links to all the investigations, accessible here: <https://www.bis.doc.gov/index.php/other-areas/office-of-technology-evaluation-ote/section-232-investigations>.

<sup>26</sup> 26 U.S.C. section 891, accessible here: <https://www.govinfo.gov/app/details/USCODE-2023-title26/USCODE-2023-title26-subtitleA-chap1-subchapN-partII-subpartD-sec891>.

<sup>27</sup> “The Organization for Economic Co-operation and Development (OECD) Global Tax Deal (Global Tax Deal),” White House, January 20, 2025, accessible here: <https://www.whitehouse.gov/presidential-actions/2025/01/the-organization-for-economic-co-operation-and-development-oecd-global-tax-deal-global-tax-deal/>.

---

Section 891 is a tax code authority that allows the United States to impose punitive income taxes on persons from countries the president has determined subject US citizens and companies to “discriminatory or extraterritorial taxes.”

The mention of taxes that “disproportionately affect American companies” is likely referring to DSTs, which US businesses and the US government argue are targeted at US companies. If the United States abandons the Pillar One negotiations, other countries will likely accelerate implementing DSTs. Though it is too early to say for certain, the memo may imply that Trump intends to resume making threats of imposing Section 301 tariffs on countries that implement DSTs.<sup>28</sup>

The reference to “extraterritorial” taxes is likely referring to the global minimum tax negotiated under Pillar Two, and the under-taxed payment rule (UTPR) in particular. Members of the Republican party (who oppose Pillar Two) have become alarmed by the costs the United States could incur if the rest of the world adopts Pillar Two while the United States does not. Seeing these risks, Republican legislators have begun threatening countries that are implementing Pillar Two with US retaliation and have praised Trump for the January 20 memo.<sup>29</sup> On January 22, 2025, Republicans on the House Ways and Means Committee introduced H.R.591, the “Defending American Jobs and Investment Act,” which would have further empowered Treasury to charge a retaliatory tax on the investors and corporations of any country that applies Pillar Two’s UTPR to US companies.<sup>30</sup> Scott Bessent, who President Trump has nominated to be Secretary of the Treasury, has echoed this general stance, stating in his nomination hearing on January 16 that “any country that in the next few days before President Trump takes office is intent on implementing Pillar Two will find it a grave mistake.”<sup>31</sup> Dozens of countries have already adopted Pillar Two global minimum taxes.

## **Bureau of Industry and Security Finalizes Prohibition on Connected Vehicles Linked to China and Russia**

On January 14, 2025, the Bureau of Industry and Security (BIS) issued the final rule for its information and communication technologies and services (ICTS) rule-based restrictions on connected vehicles (the “final rule”).<sup>32</sup> The final rule prohibits transactions involving the import and sale of certain hardware and software components used in automotive telecommunications and autonomous driving systems (as well as finished vehicles that contain such systems) that are designed, developed, manufactured, or supplied by persons owned by, controlled by, or subject to the jurisdiction or direction of China (including Hong Kong and Macau) or Russia.

When the final rule enters effect, the prohibition will apply to automotive manufacturers and suppliers located in all countries (including the United States itself) that either use covered Chinese and Russian hardware and software as inputs or are owned by, controlled by, or subject to the jurisdiction or direction of China or Russia. All companies

---

<sup>28</sup> See “Section 301 – Digital Services Taxes,” for records of the previous investigations from Trump’s first term as president, accessible here: <https://ustr.gov/issue-areas/enforcement/section-301-investigations/section-301-digital-services-taxes>.

<sup>29</sup> See, e.g., “At OECD, Chairman Smith Warns That Congress Will Reject New Job-Killing Global Tax Surrender,” September 1, 2023, accessible here: <https://gop-waysandmeans.house.gov/at-oecd-chairman-smith-warns-that-congress-will-reject-new-job-killing-global-tax-surrender/>; and “Rep. Estes Publishes Op-ed Rejecting Biden Admin’s Pillar 2 Push,” Rep. Ron Estes (R-KS), January 15, 2025, accessible here: <https://estes.house.gov/news/documentsingle.aspx?DocumentID=5823>; and “Smith Lauds President Trump’s Action Ending Biden’s Global Tax Surrender,” January 21, 2025, accessible here: <https://waysandmeans.house.gov/2025/01/21/smith-lauds-president-trumps-action-ending-bidens-global-tax-surrender/>.

<sup>30</sup> “Ways and Means Republicans Introduce Legislation to Reinforce Trump Administration’s Rejection of Biden Global Tax Surrender,” January 22, 2025, accessible here: <https://waysandmeans.house.gov/2025/01/22/ways-and-means-republicans-introduce-legislation-to-reinforce-trump-administrations-rejection-of-biden-global-tax-surrender/>; and H.R.591 - To provide an enforcement of remedies against the extraterritorial taxes and discriminatory taxes of foreign countries, 119th Congress (2025-2026), accessible here: <https://www.congress.gov/bills/119th-congress/house-bill/591>.

<sup>31</sup> “Hearing to Consider the Anticipated Nomination of Scott Bessent, of South Carolina, to be Secretary of the Treasury,” Senate Committee on Finance, January 16, 2025, accessible here: <https://www.finance.senate.gov/hearings/hearing-to-consider-the-anticipated-nomination-of-scott-bessent-of-south-carolina-to-be-secretary-of-the-treasury>.

<sup>32</sup> Final rule: “Securing the Information and Communications Technology and Services Supply Chain: Connected Vehicles,” 90 FR 5360 (January 16, 2024), accessible here: <https://federalregister.gov/d/2025-00592>.



---

engaging in covered transactions that are not prohibited under the final rule must also submit regular reports to BIS certifying their compliance.

### Salient changes in the final rule

The final rule builds on a notice of proposed rulemaking (NPRM) issued by BIS in September 2024<sup>33</sup> and an advance notice of proposed rulemaking (ANPRM) issued in March 2024.<sup>34</sup> After reviewing public feedback on the proposals, BIS has made several notable changes in the final rule, summarized below:

- **Vehicle weight limit:** The final rule only applies to vehicles that weigh 10,000 pounds (lbs.) (4,536 kilograms) or less. In contrast, the NPRM had originally proposed the rule would apply to all motorized road vehicles, regardless of vehicle type. BIS appears to have based this weight-based delineation on the Federal Motor Carrier Safety Regulations' (FMCSRs) definition of "commercial motor vehicle," which includes a similar weight threshold, along with several other criteria.<sup>35</sup> The threshold is intended to distinguish between medium and heavy vehicles subject to the Federal Motor Carrier Safety Administration's operational standards (which the FMCSRs regulate); and smaller vans, pickup trucks, and cars (which are regulated through different systems). However, BIS has not adopted the rest of the FMCSR definition, including the passenger and cargo transport criteria. As a result, commercial vehicles under 10,001 lbs. are covered by the final rule, while non-commercial vehicles over 10,000 lbs. are exempt.
- **New forthcoming rule on vehicles over 10,000 lbs.:** In announcing the reduced scope, BIS explains that the commercial vehicle supply chain will need a separate set of rules. According to BIS' press statement, the agency will "issue a separate rulemaking addressing the technologies present in connected commercial vehicles – including in trucks and buses – in the near future." BIS has not announced a timeline or process for this new rule. Given the change in presidential administration, delays and changes in this rulemaking process are likely.
- **New exclusion for replacement parts:** For completed connected vehicles with a model year prior to 2030, imports of covered items for the purpose of warranty or repair will be permanently exempted from the import prohibitions.
- **New exclusion for legacy code:** BIS has changed the definition of covered software to exclude certain legacy software code. The final rule states that covered software "does not include software subcomponents that were designed, developed, manufactured, or supplied prior to March 17, 2026, as long as those software subcomponents are not maintained, augmented, or otherwise altered by an entity owned by, controlled by, or subject to the jurisdiction or direction of a foreign adversary after March 17, 2026." According to BIS, companies should use the time before March 17, 2026 to "transfer intellectual property rights as well as responsibility for development and maintenance of code to within their organizations in order to come into compliance with the covered software prohibition."
- **Clarifications to scope of Vehicle Connectivity System (VCS):** The final rule narrows the scope of the definitions of the covered VCS by describing it as hardware and software the "directly enable" covered functions, instead of "supports" the functions. BIS has also added specific exclusions to the definition of covered VCS for sensing technologies, key fobs, radio receivers, and power supply systems.

---

<sup>33</sup> NPRM: "Securing the Information and Communications Technology and Services Supply Chain: Connected Vehicles," 89 FR 79088 (September 26, 2024), accessible here: <https://www.federalregister.gov/documents/2024/09/26/2024-21903/securing-the-information-and-communications-technology-and-services-supply-chain-connected-vehicles>.

<sup>34</sup> ANPRM: "Securing the Information and Communications Technology and Services Supply Chain: Connected Vehicles," 89 FR 15066 (March 1, 2024), accessible here: <https://federalregister.gov/d/2024-04382>; and "Citing National Security Concerns, Biden-Harris Administration Announces Inquiry into Connected Vehicles with ICTS Components and Systems From Foreign Adversaries," February 29, 2024, accessible here: <https://www.bis.doc.gov/index.php/documents/about-bis/newsroom/press-releases/3458-2024-02-29-citing-national-security-concerns-biden-harris-administration-announces-inquiry-into-connected-vehicles/file>.

<sup>35</sup> 49 CFR 390.5, accessible here: <https://www.ecfr.gov/current/title-49/subtitle-B/chapter-III/subchapter-B/part-390/subpart-A/section-390.5>.



- 
- **Reducing the burden of the Declaration of Conformity system:** BIS has withdrawn the NPRM's proposed requirement that covered entities disclose extensive business confidential details of their supply chains (including bills of materials) to BIS in annual reports. While the final rule will still require extensive due diligence by all industry participants to demonstrate compliance in the annual Declaration of Conformity, companies will only be required to retain the records in case of audit.
  - **Removal of the General Authorizations from the regulation text:** The final rule does not include the general authorizations for *de minimis* and low risk activities that BIS had proposed in the NPRM. According to the final rule, BIS intends to issue general authorizations in separate notices, giving regulators more flexibility to modify them without lengthy rulemaking processes.
  - **Timeline for BIS opinions:** The final rule includes a new 60-day timeline for BIS to respond to advisory opinion requests.

### Prohibited automotive ICTS transactions

The final rule is composed of three specific prohibitions applying to certain classes of technologies and manufacturers, referred to collectively as the proposed rule's "prohibited transactions." The key terms in each prohibition are defined in the final rule, providing further guidance on what technologies, relationships, and entities are covered.

The three prohibitions are:

- **(1) Prohibited VCS hardware transactions:** VCS hardware importers are prohibited from knowingly importing VCS hardware that is designed, developed, manufactured, or supplied by persons owned by, controlled by, or subject to the jurisdiction or direction of China or Russia.
- **(2) Prohibited covered software transactions:**
  - **(2.a) Import:** Connected vehicle manufacturers are prohibited from knowingly importing into the United States completed connected vehicles that incorporate covered software, designed, developed, manufactured, or supplied by persons owned by, controlled by, or subject to the jurisdiction or direction of China or Russia.
  - **(2.b) Sale:** Connected vehicle manufacturers are prohibited from knowingly selling in the United States completed connected vehicles that incorporate covered software, designed, developed, manufactured, or supplied by persons owned by, controlled by, or subject to the jurisdiction or direction of China or Russia.
- **(3) Related prohibited transactions:** Connected vehicle manufacturers who are persons owned by, controlled by, or subject to the jurisdiction or direction of China or Russia, are prohibited from knowingly selling in the United States completed connected vehicles that incorporate VCS hardware or covered software. The final rule clarifies that these manufacturers are also prohibited from offering commercial services that use completed connected vehicles that incorporate Automated Driving Systems (ADS).

The prohibition is split into the different parts based on who BIS has designated as responsible for compliance. For the VCS hardware prohibition, VCS hardware importers will be responsible for compliance. For the covered software prohibitions, connected vehicle manufacturers that import or sell completed connected vehicles will be responsible for compliance. Because the prohibitions overlap, a single company may have obligations under multiple prohibitions. For example, a company that imports finished cars for distribution in the United States may be both a VCS hardware importer under the hardware transactions prohibition and a connected vehicle manufacturer under the software transactions prohibitions.

The last prohibition applies directly to vehicle manufacturers that are owned by, controlled by, or subject to the jurisdiction or direction of China or Russia. The prohibition would apply even if the connected vehicle manufacturer

---

that is owned by, controlled by, or subject to the jurisdiction or direction of China or Russia was not involved in the design or development of the specific covered hardware and software components.

### **The ICTS Rule's framework for technology trade restrictions**

The prohibition is based on national security regulations at 15 CFR 791 that empower BIS to restrict ICTS transactions that pose certain security risks, known as the "ICTS rule."<sup>36</sup> The ICTS rule authorizes BIS to prohibit transactions or impose mitigation measures for ICTS that have been designed, developed, manufactured, or supplied by persons owned by, controlled by, or subject to the jurisdiction of a foreign adversary if BIS determines that the ICTS pose an undue or unacceptable risk to US national security or the safety of US persons. China (including Hong Kong), Cuba, Iran, North Korea, Russia, and the Maduro Regime in Venezuela are the designated adversary countries. To implement a specific ICTS prohibition, BIS may issue rules that establish criteria for particular classes of technology or for specific market participants, to which the ICTS rule's restrictions would automatically apply.

The connected vehicles rule is the first class restriction that BIS has issued under the ICTS Rule. Following the ICTS Rule's framework, the final rule provides the definitions of automotive technologies, transactions, and market participants that will be subject to the ICTS Rule's restrictions (the definitions at 15 CFR 791.1 also apply and should be read in conjunction with the new definitions set out in the final rule). The final rule also establishes certain specific compliance and administrative processes to implement and enforce the new restrictions, as well as general explanatory notes and examples of transactions. Technology and automotive companies should review the final rule's definitions closely to determine whether they, their products, or their suppliers are subject to any of the prohibitions or reporting requirements.

### **Entry into force**

The final rule enters into effect on March 17, 2025. The prohibitions and compliance processes will phase in over model years 2027 to 2030, as outlined below:

- ❑ VCS hardware importers would be permitted to engage in otherwise prohibited transactions so long as: (i) the VCS hardware unit is associated with a vehicle model year prior to 2030 or the VCS hardware is integrated into a connected vehicle with a Model Year prior to 2030; or (ii) for VCS hardware not associated with a model year, the import of the VCS hardware takes place prior to January 1, 2029.
- ❑ Connected vehicle manufacturers would be permitted to engage in otherwise prohibited transactions involving covered software designed, developed, manufactured, or supplied by a person owned by, controlled by, or subject to the jurisdiction or direction of China or Russia, so long as the completed connected vehicle that is imported, or sold within the United States, is of a model year prior to 2027.
- ❑ Connected vehicle manufacturers who are owned by, controlled by, or subject to the jurisdiction or direction of China or Russia may engage in prohibited transactions and are exempt from submitting Declarations of Conformity, provided that the completed connected vehicle that incorporates VCS hardware and/or covered software was manufactured prior to model year 2027.
- ❑ For completed connected vehicles with a model year prior to 2030, imports of parts for the purpose of warranty or repair will be permanently exempted from the import prohibition. This exemption is a new addition to the final rule.

Though the rulemaking process was concluded during the Biden administration, the Trump administration will be responsible for implementing the prohibitions. Trump may decide to make changes to the regulation, which he could do through standard rulemaking processes. In his January 20, 2025 presidential memorandum on "America First

---

<sup>36</sup> 15 CFR 791, accessible here: <https://www.ecfr.gov/current/title-15/subtitle-B/chapter-VII/subchapter-E/part-791?toc=1>.

---

Trade Policy,” Trump instructed BIS to review the rule and consider whether it should “be expanded to account for additional connected products.”<sup>37</sup>

---

<sup>37</sup> “America First Trade Policy,” White House, January 20, 2024, accessible here: <https://www.whitehouse.gov/presidential-actions/2025/01/america-first-trade-policy/>.

---

## Trade Actions

### Lessons from the First Tariff Action of the Trump Administration

President Trump began (and ended) the first trade dispute of his new term as president on January 26, 2025, announcing he would impose broad tariffs and sanctions on Colombia after Colombian President Gustavo Petro refused to allow the United States to change how it conducts repatriation flights for Colombian nationals.<sup>38</sup> Soon after Trump made the threat, the government of Colombia responded with threats of retaliatory tariffs. Nine hours later, the White House announced the dispute had been resolved.<sup>39</sup> Most of the threatened actions were quickly dropped and repatriation flights have resumed. Though it is unclear whether any significant policy concessions resulted from the dispute, Trump has been quick to claim victory.

#### Lessons from the dispute

The incident offers several lessons for how Trump may use threats of trade restrictions in his second term. Trump's actions indicate he intends to use sudden tariff and sanction threats to rapidly escalate political disputes, even against free trade agreement (FTA) partners. Though the threats are serious, they appear to serve as a negotiating tactic to obtain concessions from the target country.

- Trump is willing to use tariffs aggressively to pressure other countries over a variety of policy disputes that are unrelated to traditional trade policy concerns. The United States, including under Trump's first term, usually reserves the use of tariffs for trade disputes. Trump has now taken a more expansive view of how he may use tariffs in his second term, treating them as a universal tool to address any foreign policy dispute.
- Tariff actions may be combined with other sanctions, travel restrictions, and non-tariff barriers, suggesting Trump's willingness to use the strongest tools available under the law. While Trump usually focuses on tariffs in his trade policy statements and threats against other countries, the January 26 threat against Colombia extended beyond tariffs. Trump also threatened to impose visa restrictions against individuals from Colombia and financial sanctions against the Colombian economy. He also said he would direct US Customs and Border Protection (CBP) to conduct "enhanced inspections" of Colombian cargo and persons entering the United States, interfering in the normal flow of traffic. Expansive financial sanctions, typically reserved for US adversaries in near-war situations, would freeze most international trade that requires payments routed through the US financial sector. If full sanctions such as these were implemented, the tariffs (as well as the target country's retaliatory tariffs) would have little added effect.

Though Trump did not follow through with the threat of tariffs or sanctions, the visa restrictions and enhanced customs inspections remained in effect for several days after the dispute (apparently as an effort to enforce compliance).<sup>40</sup> The United States has used visa sanctions in past disputes over migrant repatriation agreements, so this measure may be less unusual than Trump's other threats in this context.

- The intent of Trump's aggressive threats is to make deals that he can describe as victories for the United States. His original statement announcing the threat against Colombia was intended to coerce the Colombian government into negotiating and reaching a swift settlement. Once the deal was reached, Trump's staff quickly pivoted to declaring victory. Despite claiming victory, the White House has not described what concessions it

---

<sup>38</sup> Trump announced the original threat via his personal Truth Social account at 1:28 pm on January 26, 2025, accessible here: <https://truthsocial.com/@realDonaldTrump/posts/113896070273857964>.

<sup>39</sup> The office of the White House press secretary posted on its official X (Twitter) account that the dispute was resolved at 10:20 pm on January 26, 2025 (which was retweeted by the president of Colombia), accessible here: <https://x.com/PressSec/status/1883716584843391025>.

<sup>40</sup> "CBP is taking decisive measures under President Trump's orders in response to Colombia," CBP, January 26, 2025, accessible here: <https://www.cbp.gov/newsroom/announcements/cbp-taking-decisive-measures-under-president-trumps-orders-response>; and "Secretary Rubio Authorizes Visa Restrictions on Colombian Government Officials and their Immediate Family Members," Department of State, January 26, 2025, accessible here: <https://www.state.gov/secretary-rubio-authorizes-visa-restrictions-on-colombian-government-officials-and-their-immediate-family-members/>.

---

secured from Colombia or released the text of the agreement. The United States already regularly conducts repatriation flights between the two countries. The White House press office stated that Colombia “has agreed to all of President Trump’s terms, including the unrestricted acceptance of all illegal aliens from Colombia returned from the United States, including on U.S. military aircraft, without limitation or delay.” In contrast, the Colombian government indicated that both sides achieved their objectives, with an agreement to resume repatriation flights in a manner that protects Colombian citizens. According to the Colombian government, repatriation flights conducted over the past few days have happened on Colombian aircraft and the United States is resuming consular activities in Bogota following meetings in Washington on January 28.<sup>41</sup>

- Sudden tariff actions such as this will be based on the International Emergency Economic Powers Act (IEEPA). Though no president has ever used IEEPA to impose tariffs, policy advisors close to Trump have argued the law’s extensive authorities could allow the president to rapidly implement tariffs with less need for investigations or oversight. The statement from the White House press secretary confirmed that Trump is using IEEPA for these actions, describing the action as being based on “fully drafted IEEPA tariffs and sanctions.” With few limits around the use of IEEPA, Trump can escalate conflicts very suddenly, as he did on January 26.
- Initial media reports on these events may be unreliable and Trump’s statements may be exaggerated. After Trump announced the threat against Colombia, most of the initial news reports wrongly stated that the United States had already imposed the tariffs and sanctions. Despite these initial reports, the Trump administration never finalized or issued the IEEPA declaration or tariff orders. The White House statement following the settlement of the dispute acknowledged this fact, describing the order as drafted but never signed. If the Trump administration follows through with a threatened tariff, the White House would publish the relevant legal declarations by the president and the relevant implementing agencies would follow up with guidance.

## Background on IEEPA

The scope of the authority spelled out in IEEPA is broad, allowing the president to “regulate [...] any [...] importation [...] of, or dealing in, [...] or transactions involving, any property in which any foreign country or a national thereof has any interest by any person, or with respect to any property, subject to the jurisdiction of the United States” in response to national emergencies.<sup>42</sup> IEEPA does not require investigations or reports before implementing trade restrictions, unlike Section 301, Section 232, and Section 201. To use IEEPA, the president declares a national emergency under the National Emergencies Act (NEA) and then exercises discretionary authority under IEEPA, which may involve imposing import tariffs. A national emergency can be based on a threat to the US national security, foreign policy, or the economy. Presidents typically use the law to impose sanctions on US adversaries. The scope and breadth of such emergencies has evolved over time to cover more expansive issues.

---

<sup>41</sup> “Declaración del Canciller Luis Gilberto Murillo sobre la situación de nuestros connacionales en el exterior,” Embassy of Colombia in the United States, January 27, 2025, accessible here: <https://estadosunidos.embajada.gov.co/newsroom/news/declaracion-del-canciller-luis-gilberto-murillo-sobre-la-situacion-de-nuestros> (in Spanish).

<sup>42</sup> 50 U.S.C. §§1701–1709, accessible here: <https://www.govinfo.gov/app/details/USCODE-2023-title50/USCODE-2023-title50-chap35-sec1701>.

---

## United States Imposes 10% Tariffs on All Imports from China, Delays Tariffs on Canada and Mexico

On February 1, 2025, President Trump issued three executive orders directing the United States to impose new tariffs on imports from Canada,<sup>43</sup> Mexico,<sup>44</sup> and China (and Hong Kong).<sup>45</sup> The tariffs are an additional 25% on all imports from Canada (except for Canadian energy resources, which will face a 10% tariff instead) and Mexico and an additional 10% on all imports from China. By the time the tariffs were scheduled to enter into force on February 4, the Trump administration had agreed to delay the Canada and Mexico tariffs until March 4 to allow more time for negotiations. However, the China tariffs entered effect as scheduled, although the two countries are continuing to negotiate. China issued its initial retaliation measures on February 4, which covered a broad range of tariff and non-tariff measures.

### Ongoing negotiations with Mexico and Canada

Hours before the tariffs were set to enter effect, the president of Mexico and the prime minister of Canada personally negotiated temporary settlements with Trump during phone calls on February 3. The agreements are similar, delaying the tariffs until March 4, making various symbolic commitments to increasing border security, and committing to ongoing negotiations for additional border security measures.<sup>46</sup> Trump may extend the tariff suspensions until negotiations reach a conclusion. On the other hand, if Trump decides the negotiations have not produced an outcome to his liking, he may reimpose (or threaten to reimpose) the tariffs.

### China implements retaliation measures

When Trump first announced the tariffs, China responded by stating that it would “take corresponding countermeasures to firmly safeguard its own rights and interests” and would initiate a dispute settlement case at the WTO but did not provide full details on its retaliation plan.<sup>47</sup> On February 4, shortly after the US tariffs on China entered into effect, China issued specific retaliation measures, summarized below:

- **Imposing 10% and 15% tariffs on certain goods imported from the United States:** China’s State Council Tariff Commission (SCTC) published Notification No. 1/2025,<sup>48</sup> imposing additional tariffs on certain goods from the United States effective from February 10, 2025. The action imposes (i) 15% additional tariffs on anthracite, coal, coke, lignite, and liquified natural gas (covering 8 HS codes as listed in Annex 1); and (ii) 10% additional

---

<sup>43</sup> Executive Order of 1 February 2025: “Imposing Duties to Address the Flow of Illicit Drugs Across Our Northern Border,” accessible here: <https://www.whitehouse.gov/presidential-actions/2025/02/imposing-duties-to-address-the-flow-of-illicit-drugs-across-our-national-border/>; and “Implementation of Additional Duties on Products of Canada Pursuant to the President’s February 1, 2025 Executive Order Imposing Duties to Address the Flow of Illicit Drugs Across Our Northern Border” (withdrawn, originally published on February 5, 2025).

<sup>44</sup> Executive Order of February 1, 2025: “Imposing Duties to Address the Situation at Our Southern Border,” accessible here: <https://www.whitehouse.gov/presidential-actions/2025/02/imposing-duties-to-address-the-situation-at-our-southern-border/> (DHS has not issued implementing guidance for the Mexico tariff order).

<sup>45</sup> Executive Order of February 1, 2025: “Imposing Duties to Address the Synthetic Opioid Supply Chain in the People’s Republic of China,” accessible here: <https://www.whitehouse.gov/presidential-actions/2025/02/imposing-duties-to-address-the-synthetic-opioid-supply-chain-in-the-peoples-republic-of-china/>; and “Implementation of Additional Duties on Products of the People’s Republic of China Pursuant to the President’s February 1, 2025 Executive Order Imposing Duties To Address the Synthetic Opioid Supply Chain in the People’s Republic of China,” 90 FR 9038 (February 5, 2025), accessible here: <https://www.federalregister.gov/documents/2025/02/05/2025-02293/implementation-of-additional-duties-on-products-of-the-peoples-republic-of-china-pursuant-to-the>.

<sup>46</sup> Executive Order of February 3, 2025: “Progress on the Situation At Our Southern Border,” accessible here: <https://www.whitehouse.gov/presidential-actions/2025/02/progress-on-the-situation-at-our-southern-border/>; and Executive Order of February 3, 2025: “Progress on the Situation at Our Northern Border,” accessible here: <https://www.whitehouse.gov/presidential-actions/2025/02/progress-on-the-situation-at-our-northern-border/>.

<sup>47</sup> Press release by the China Ministry of Commerce, February 1, 2025, accessible here: [https://www.mofcom.gov.cn/xwfb/xwfytrth/art/2025/art\\_a4a4f6e20b034cc78d506731007f1c1f.html](https://www.mofcom.gov.cn/xwfb/xwfytrth/art/2025/art_a4a4f6e20b034cc78d506731007f1c1f.html) (in Chinese).

<sup>48</sup> “Announcement of the State Council Tariff Commission on imposing additional tariffs on some imported goods originating from the United States,” SCTS, February 4, 2025, accessible here: [https://www.mof.gov.cn/zhengwuxinxi/caizhengxinwen/202502/t20250204\\_3955222.htm](https://www.mof.gov.cn/zhengwuxinxi/caizhengxinwen/202502/t20250204_3955222.htm) (in Chinese).



---

tariffs on crude oil, various types of agricultural machinery, tractors, large-displacement vehicles and pickup trucks, electric wagons, agricultural trailers, and semi-trailers (covering 72 HS codes as listed in Annex 2).

- **Filing a complaint to the WTO Dispute Settlement Body:** The Ministry of Commerce (MOFCOM) posted a press release announcing it had filed a dispute settlement claim against the US tariff measures. The request for dispute consultations was circulated to WTO members on February 5.<sup>49</sup>

China announced several other actions against US companies on February 4. Although the government did not explicitly link these actions to the trade disputes, the timing suggests they are intended as responses:

- **Imposing sanctions on PVH Group and Illumina, Inc.:** MOFCOM issued, on behalf of China's Unreliable Entity List (UEL) Working Mechanism, UEL Notification No. 4/2025, adding PVH Group and Illumina, Inc. to the UEL.<sup>50</sup> MOFCOM stated that the two entities suspended legitimate transactions with Chinese entities and took discriminatory measures against Chinese entities. UEL listings grant MOFCOM discretion to impose various measures, including restrictions or bans on import/export activities, inbound investment in China's territory, entry of personnel or transportation vehicles, visa or work permits, and monetary fines, among other actions.
- **Export control measures on certain critical mineral products:** MOFCOM published Notification No. 10/2025,<sup>51</sup> announcing the imposition of export controls on products of tungsten, tellurium, bismuth, molybdenum, and indium as well as the relevant technologies and information related to processing specifications, parameters, and technical procedures, effective immediately on February 4, 2025.
- **Initiating an anti-monopoly investigation of Google:** The one sentence announcement from the State Administration for Market Regulation did not provide any further details of the action, other than announcing its initiation.<sup>52</sup>

When asked about China's retaliation announcement on February 4, Trump told reporters "that's fine." Trump has not hinted at any tariff escalation in response to China's announcement, despite his earlier pledge to raise the US tariffs if the targeted countries retaliate. The two countries are reportedly working on arranging a meeting between Trump and Xi Jinping.

### Consistent language across all three executive orders

The three orders are written similarly, rely on the same legal basis, and apply the same technical measures. As Trump is likely to rely on these legal authorities for other sudden tariff orders, the practical elements of the Mexico, Canada, and China actions could provide useful insights, discussed below:

- **Reliance on IEEPA:** Trump is using the International Emergency Economic Powers Act (IEEPA) as the basis for the tariff orders. Though no US president has ever used IEEPA to impose tariffs, policy advisors close to Trump have argued the law's extensive authorities could allow the president to rapidly implement tariffs with less need

---

<sup>49</sup> "China initiates WTO dispute complaint regarding US tariff measures," WTO, January 5, 2025, accessible here: [https://www.wto.org/english/news\\_e/news25\\_e/ds633rfc\\_05feb25\\_e.htm](https://www.wto.org/english/news_e/news25_e/ds633rfc_05feb25_e.htm).

<sup>50</sup> "Announcement of the Working Mechanism of the Unreliable Entity List on the inclusion of PVH Group and Illumina Inc. of the United States in the Unreliable Entity List," Ministry of Commerce, February 4, 2025, accessible here: [https://www.mofcom.gov.cn/zwgk/zcfb/art/2025/art\\_ab15d2258dda4e93b8ad1ec4776d37c3.html](https://www.mofcom.gov.cn/zwgk/zcfb/art/2025/art_ab15d2258dda4e93b8ad1ec4776d37c3.html) (in Chinese).

<sup>51</sup> "Announcement No. 10 of 2025 of the General Administration of Customs of the Ministry of Commerce Announced items related to tungsten, tellurium, bismuth, molybdenum, and indium Decisions to implement export controls," Ministry of Commerce, February 4, 2025, accessible here: [https://www.mofcom.gov.cn/zwgk/zcfb/art/2025/art\\_e623090907fc4e1092f0a4db72f57b95.html](https://www.mofcom.gov.cn/zwgk/zcfb/art/2025/art_e623090907fc4e1092f0a4db72f57b95.html) (in Chinese).

<sup>52</sup> "Google is suspected of violating the Anti-Monopoly Law. The State Administration for Market Regulation has decided to initiate an investigation in accordance with the law," State Administration for Market Regulation, February 4, 2025, accessible here: [https://www.samr.gov.cn/xw/zj/art/2025/art\\_396a9ab3aa6d4c4bbd40833815afd245.html](https://www.samr.gov.cn/xw/zj/art/2025/art_396a9ab3aa6d4c4bbd40833815afd245.html) (in Chinese).

---

for investigations or oversight. With few procedural limits around the use of IEEPA, Trump can escalate conflicts very suddenly, as he did here.

- **Short schedule for entry into force:** Trump signed the executive orders on the evening of February 1, to enter into force for products that are entered for consumption, or withdrawn from warehouse for consumption, on or after 12:01 a.m. Eastern Standard Time February 4, 2025. The action provided only two days for importers to prepare and for the target governments to attempt negotiations.
- **Issuance of further guidance:** The original executive orders did not provide sufficient guidance for importers, which is common for US tariff actions. Typically, the implementing agencies provide further details after the presidential order is issued. In the case of the IEEPA-based tariffs described here, authority for the implementing guidance was assigned to DHS, which issued Federal Register notices providing some of the needed information. US Customs and Border Protection (CBP) followed up with several messages to traders providing more details. Despite this follow up guidance, important questions about the product coverage of the tariffs have not been addressed in any guidance issued to date.
- **Brief exception for goods in transit:** The executive orders provided a short exception window for goods already in transit to the United States, stating that imports that were loaded onto their final mode of transit before entering the United States prior to 12:01 am on February 1, 2025 would be exempt from the tariffs. The implementation guidance provided by DHS shortened the window, stating that imports from Canada could only claim the exception if they enter the United States prior to 12:01 am Eastern Standard Time on February 7 and imports from China could only claim the exception if they enter the United States prior to 12:01 a.m. Eastern Standard Time on March 7. The DHS guidance also provided an HTSUS chapter 99 special tariff code that importers would enter with their declaration to claim the exception.
- **No exclusion application process (but potential for later establishment):** Unlike tariff actions during Trump's first term, the new tariff orders include no provisions allowing importers to apply for product exclusions. Based on the implementation authorities the orders delegate to DHS, it is technically possible that the government may decide to introduce an exclusions process in the future. That said, Trump administration officials have said they do not intend to allow exclusions at this time.
- **Prohibition from using customs *de minimis* entry (including for postal entry):** The orders suspend access to the Section 321 customs *de minimis* entry process. Prohibiting the covered low-value imports from *de minimis* entry would subject them to the applicable tariff, to any other applicable tariffs (including the existing Section 301 and Section 232 tariffs), and to more costly formal entry processes. The action will be a significant challenge for international e-commerce. CBP issued special guidance on the evening of February 3, stating that ACE will automatically reject the *de minimis* clearance for ineligible shipments.<sup>53</sup> The DHS guidance for China and Canada also stated that international mail from these countries would need to undergo formal customs entry processes. On February 4, the US Postal Service (USPS) briefly suspended parcel entry from China to comply with this directive. USPS then restored service by February 5, stating, "USPS and Customs and Border Protection are working closely together to implement an efficient collection mechanism for the new China tariffs to ensure the least disruption to package delivery."<sup>54</sup>
- **Required exclusions for certain personal, travel, charity, and media products:** The executive orders state that the tariffs will exclude any merchandise encompassed by 50 U.S.C. § 1702(b).<sup>55</sup> The provision prohibits

<sup>53</sup> "CSMS # 63992482 - GUIDANCE: ACE Processing of De Minimis Shipments Per Executive Orders issued February 1, 2025," CBP, 3 February 2025, accessible here: <https://content.govdelivery.com/bulletins/gd/USDHSCBP-3d072a2>.

<sup>54</sup> "International inbound mail and packages from China and Hong Kong Posts," USPS, accessible here: <https://about.usps.com/newsroom/service-alerts/international/suspension-of-inbound-parcels-from-china-and-hong-kong.htm>.

<sup>55</sup> 50 U.S.C. § 1702(b), accessible here: <https://www.govinfo.gov/content/pkg/USCODE-2023-title50/pdf/USCODE-2023-title50-chap35-sec1702.pdf>.

---

IEEPA-based actions from regulating or prohibiting, directly or indirectly, (1) personal communications, (2) donated articles, (3) informational materials, and (4) transactions ordinarily incident to travel. The DHS guidance requires importers of excluded products to file special HTSUS chapter 99 codes to claim the exceptions. The government has not provided guidance that explains what products or HTSUS codes would qualify under these exclusions.

- **Prohibiting use of duty drawback:** The orders state that “no drawback shall be available with respect to the duties imposed pursuant to this order.”
- **Allowing use of temporary importation under bond (TIB):** The executive orders did not reference the HTSUS chapter 98 TIB programs, implying they would remain active. The DHS guidance later clarified their application. The tariffs will allow importers to continue using TIB programs, though in some cases tariffs may apply to certain foreign shares of a product’s value. The DHS guidance provides details for treatment of each chapter 98 code.
- **US Foreign Trade Zone implications:** The orders state that goods subject to the additional tariffs and admitted into a US foreign trade zone (FTZ) on or after 12:01 a.m. Eastern Standard Time on February 4, 2025 may only enter in Privileged Foreign Status. These products would retain the duty even if processed into a different good in the FTZ.
- **Applies to products covered by temporary duty exemptions:** The DHS guidance states that products that are otherwise eligible for temporary tariff exemptions or reductions under subchapter II to HTSUS chapter 99 (the Miscellaneous Tariff Bill) shall be subject to the tariff.
- **Rules of origin and free trade agreements (FTAs):** For Canada, the DHS guidance for rules of origin states that origin can be determined through substantial transformation or under the United States – Mexico – Canada Agreement (USMCA) marking rules at 19 C.F.R. part 102, instead of relying solely on the FTA rules.

### Policy implications and other potential tariff actions

The recent actions illustrate Trump’s willingness to use tariffs aggressively to pressure other countries over various policy disputes that extend beyond traditional trade policy concerns, regardless of the economic and diplomatic costs. Historically, the United States, including during Trump’s first term, has typically reserved the use of tariffs for trade disputes. However, Trump is now adopting an expansive approach, treating tariffs as a universal tool to address any foreign policy concern. FTA partners will not be immune from these actions, raising questions about the reliability of any trade commitments made by the United States, including those negotiated in Trump’s first term like the USMCA.

In recent weeks, Trump has also made personal tariff threats against several other economies, including the European Union and BRICS member countries (Brazil, Russia, India, China, South Africa, Egypt, Ethiopia, Indonesia, Iran, and the United Arab Emirates). Beyond country-specific tariffs, Trump has also suggested the possibility of new global tariffs on semiconductors, pharmaceuticals, oil, steel, aluminum, and copper. If Trump follows through with any of these threats, his actions may follow the same playbook as the China, Canada, and Mexico tariff orders.

It is also possible that Trump will begin ordering tariffs (or threatening tariffs) according to other strategies and motivations as well. The president’s January 20 “America First Trade Policy” memorandum outlined a wide variety of other potential tariff actions, including new Section 232 and Section 301 investigations, escalating the existing Section 301 tariff dispute with China, universal tariffs, and regulation changes.<sup>56</sup> Activities under these other proposals have not yet begun.

### The International Emergency Economic Powers Act

---

<sup>56</sup> Memorandum of January 20, 2025: “America First Trade Policy,” 90 FR 8471, accessible here: <https://www.federalregister.gov/documents/2025/01/30/2025-02032/america-first-trade-policy>.

---

Trump is using the International Emergency Economic Powers Act (IEEPA) as the basis for the tariff orders. Though no US president has ever used IEEPA to impose tariffs, policy advisors close to Trump have argued the law's extensive authorities could allow the president to rapidly implement tariffs with less need for investigations or oversight. With few procedural limits around the use of IEEPA, Trump can escalate conflicts very suddenly, as he did in this case.

The scope of the authority spelled out in IEEPA is broad, allowing the president to “regulate [...] any [...] importation [...] of, or dealing in, [...] or transactions involving, any property in which any foreign country or a national thereof has any interest by any person, or with respect to any property, subject to the jurisdiction of the United States” in response to national emergencies. IEEPA does not require investigations or reports before implementing trade restrictions, unlike Section 301, Section 232, and Section 201. To use IEEPA, the president declares a national emergency under the National Emergencies Act (NEA) and then exercises discretionary authority under IEEPA, which may involve imposing import tariffs. A national emergency can be based on a threat to the US national security, foreign policy, or the economy. Presidents have typically used the law to impose sanctions on US adversaries. The scope and breadth of such emergencies has evolved over time to cover more expansive issues. For the February 1 tariff orders, Trump is asserting that fentanyl smuggling and irregular migration are the relevant national emergency.

---

## Trade Agreements

### USTR Issues Forced Labor Trade Strategy and Model Negotiating Texts

As the Biden administration nears its end, the leadership of the Office of the United States Trade Representative (USTR) has been issuing strategy reports to promote the administration's view of trade policy and argue for its continuation. On January 13, 2025, USTR issued its "Trade Strategy to Combat Forced Labor" (the "Trade Strategy"), which USTR billed as "the first time the United States has laid out a comprehensive approach to using trade tools to combat forced labor."<sup>57</sup> The same day, USTR published "model negotiating texts," which are intended to promote the Biden administration's approach to trade policy.<sup>58</sup> The model texts cover competition policy; inclusive economy and trade; non-market policies and practices; standards, technical regulations, and conformity assessment; and public enterprises and designated monopolies.

#### Forced labor trade strategy

While different US government agencies, including USTR, have previously articulated forced labor strategies with respect to certain products/exporting countries (for example, focused on implementation of the Uyghur Forced Labor Prevention Act (UFLPA)), the new Trade Strategy is meant to provide an overview of current trade-related approaches to dealing with forced labor abroad, and set priorities going forward.

While the accompanying USTR press release states that the Trade Strategy includes "goals and priority actions," and "areas for potential future action," it does not break new ground. Rather, it mostly reiterates the Biden administration's approach over the past four years, touts its accomplishments, and sets a vision for continuity of approach during the next administration.

The strategy contains four strategic goals with related priority actions:

#### 1. Develop equitable trade through inclusive processes

This goal focuses on diverse stakeholder engagement in the US government decision-making process, including coordination with other agencies, such as the Department of Labor, but also outreach to labor unions and disadvantaged communities. USTR states that it undertook such outreach in the development of the Trade Strategy.

The Trade Strategy points to several existing platforms for conducting stakeholder engagement, including the Labor Advisory Committee, Industry Trade Advisory Committees, and the Advisory Council on Human Trafficking.

The "priority actions" under this goal include (i) supporting implementation of the Presidential Memorandum on Global Labor Rights; (ii) increasing engagement with stakeholders such as workers, civil society organizations, underserved and disadvantaged communities, and industry; and (iii) continue participating in intergovernmental initiatives such as the Forced Labor Enforcement Task Force (FLETf).

#### 2. Fully utilize all available trade tools to combat forced labor

This goal constitutes the substantive core of the Trade Strategy, outlining the trade-related policy levers at USTR's disposal to combat forced labor in supply chains, describing how each has been utilized under the Biden administration, and flagging opportunities for further action under each authority.

- **Section 307:** USTR highlights that, by the end of 2024, Customs and Border Protection (CBP) enforced 51 active withhold release orders (WROs) and 9 Findings under Section 307. USTR also discusses the volume of

---

<sup>57</sup> "USTR Releases First-ever Trade Strategy to Combat Forced Labor," USTR, January 13, 2025, accessible here: <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2025/january/ustr-releases-first-ever-trade-strategy-combat-forced-labor>.

<sup>58</sup> "USTR Releases Model Negotiating Texts," USTR, January 13, 2025, accessible here: <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2025/january/ustr-releases-model-negotiating-texts>.

---

detentions under UFLPA, which it asserts “strengthen[ed] the ability of the United States to enforce the existing prohibition in Section 307.” The Trade Strategy gestures towards “bolstering” enforcement under Section 307, without much detail. Related “priority actions” include (i) supporting CBP in enforcing Section 307; (ii) engaging with foreign governments on Section 307; (iii) supporting FLETF in expanding the UFLPA Entity List; and (iv) examining areas of potential circumvention of Section 307, including of shipments under the *de minimis* threshold.

- **Section 301:** USTR notes that, in December 2024, it announced the initiation of an investigation of Nicaragua’s acts, policies, and practices related to labor rights, human rights, and the rule of law – the first such investigation regarding potential labor rights violations. USTR is also investigating “unfair practices” in the Chinese maritime, logistics, and shipbuilding sector. There are no specific priority actions relating to enforcement under Section 301.
- **Free Trade Agreements (FTAs):** The Trade Strategy cites the United States-Mexico-Canada Agreement’s (USMCA) prohibition of imports produced with forced or compulsory labor as a “groundbreaking provision.” It also refers generally to other FTA provisions relating to forced labor and opportunities for stakeholder input arising thereunder. For example, USTR notes that the United States and the Dominican Republic have held discussions under the auspices of the Dominican Republic-Central America Free Trade Agreement (DR-CAFTA) on improvement of labor law enforcement in the Dominican sugar sector. USTR lists as related priority actions (i) working with the Canadian/Mexican governments to implement the labor provisions under the USMCA; and (ii) continuing to work through “established labor cooperation mechanisms” under the United States’ FTAs.
- **Trade Preference Programs:** Trade preference programs such as Generalized System of Preferences (GSP) and the African Growth and Opportunity Act (AGOA) require that beneficiary countries meet certain standards, including related to labor rights. USTR suggests that these programs create opportunities and leverage to address labor rights concerns. As noted in the Trade Strategy, GSP is currently lapsed and pending reauthorization. There are no specific priority actions relating to trade preference programs.
- **Trade and Investment Framework Agreements:** USTR notes that Trade and Investment Framework Agreements (TIFAs) provide platforms outside of formal FTAs for the United States to engage its trading partners on labor rights issues. As a priority action, USTR notes an opportunity to “negotiat[e] separate protocols or annexes to existing TIFAs to address forced labor issues.”
- **Other Authorities:** USTR briefly discusses other trade-related forced labor laws and provisions currently on the books. These include (i) criminal law provisions which the US Department of Homeland Security and the Department of Justice could wield to target forced labor issues; (ii) the Human Rights Crossover Rule, used to add entities from Xinjiang to the BIS Entity List; (iii) recent amendments to the United States’ antidumping/countervailing duty regulations which allow the US Department of Commerce to take into account the failure of a government to enforce labor protections; (iv) various sanctions authorities; and (v) federal procurement restrictions. USTR mostly just lists these various existing authorities and their relevance to forced labor enforcement, as opposed to presenting a plan for expanding/intensifying enforcement. The priority actions relating to these authorities largely consist of “working with” or “supporting” other agencies – DHS, DOJ, Commerce, Treasury, State – to address labor rights issues more effectively.
- **Technical Assistance:** Finally, USTR notes its work alongside the Department of Labor and the Department of State to engage and assist trade partners in complying with their labor-related trade commitments. There are no specific priority actions relating to technical assistance.

### 3. Develop and implement innovative trade tools to combat forced labor

This goal is more forward-looking, identifying emerging tools which may be further leveraged to combat forced labor. These mostly include opportunities for enhanced bilateral engagement, such as forced labor initiatives/disciplines arising under: (i) the US-European Union Trade and Labor Dialogue; (ii) the US-Japan Partnership on Trade; (iii) the



---

US-Japan Critical Minerals Agreement; (iv) the Indo-Pacific Economic Framework for Prosperity (IPEF); (v) Kenya and Taiwan bilateral engagements; and (vi) the Americas Partnership for Economic Prosperity (APEP). The Trade Strategy largely recounts the pertinent language already included under each agreement. The section also includes some forward-looking ideas, such as developing new trade arrangements in the mold of US-Taiwan Initiative on 21st Century Trade, the US-Kenya Strategic Trade and Investment Partnership, and IPEF; and encouraging trade partners to incorporate complementary prohibitions on the importation of goods produced with forced labor in their domestic laws.

#### **4. Increase multilateral engagement with trading partners to combat forced labor**

Finally, in addition to bilateral engagement, USTR cites to its multilateral efforts with bodies such as the WTO; G7; G20; World Customs Organization; the United States, Japan, and EU Trilateral Partnership; APEC; and ASEAN. The envisioned priority actions relating to multilateral engagement include injecting forced labor discussions into WTO trade policy reviews, committee work, and negotiations; and advancing discussions on the WTO Agreement on Fisheries Subsidies (to which Biden's USTR had attempted to add commitments on forced labor).<sup>59</sup>

##### **Model negotiating texts**

Unveiling the model negotiating texts, USTR criticized free trade and private markets for ignoring concentration and geopolitical risks and creating "race-to-the-bottom globalization." The statement says that the Biden administration has rejected "decades of market-knows-best policies" and adopted policies to protect US workers, focusing on "(1) investing in America; (2) empowering workers; and (3) promoting competition." To that end, the Biden administration is leaving office by proposing model texts that would shift US trade policy towards increasing public engagement, increasing space for trade-disrupting domestic regulations, and increasing protection against foreign state-owned enterprises and other government-controlled businesses. The Biden administration has not actually implemented these chapters in any FTAs over the past four years. Instead, it hopes the texts can be "used to spur further discussion about how to advance the goals of resilient and equitable globalization and can also form the basis for negotiations with like-minded partners and allies" in the future.

##### **□ Competition policy**

The competition model text is intended to better promote competition and antimonopoly policy coordination internationally. The text is similar to several subsections of the competition policy chapters of other FTAs the United States has recently negotiated, including the Trans-Pacific Partnership (TPP) and the USMCA.

##### **□ Inclusive economy and trade**

The inclusivity model text is intended to promote responsible business conduct and protect underserved communities. The text includes sections acknowledging economic interests of women, youth, persons with disabilities, diaspora communities, Indigenous Peoples and local communities, rural and remote communities, and traditionally underserved and overburdened communities and commits the parties to improving consultations and outreach with these groups. However, the chapter makes no substantive policy commitments.

##### **□ Non-market policies and practices (NMPPs)**

The text on NMPPs is intended to advance the values of market-oriented economies and create new tools to combat non-market practices. As USTR states in its announcement, the United States is seeking to build a coalition to respond to China's economic policies. The chapter's core commitments relate to coordinating with US

---

<sup>59</sup> "United States Urges WTO Members to Address Forced Labor on Fishing Vessels in Ongoing Fisheries Subsidies Negotiations," USTR, May 26, 2021, accessible here: <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2021/may/united-states-urges-wto-members-address-forced-labor-fishing-vessels-ongoing-fisheries-subsidies>.

---

partners to deter and respond to NMPPs. The chapter establishes shared definitions of NMPPs, forced technology transfer, and economic coercion.

The chapter also includes a provision encouraging the parties to avoid negotiating FTAs with non-market economies. If a party does adopt an FTA with a non-market economy, the other parties may withdraw from the agreement. The provision is based on Article 32.10 of the USMCA, which the Trump administration added to the agreement to deter Canada and Mexico from entering into FTAs with China.

#### □ **Standards, technical regulations, and conformity assessment**

The provisions promoted in the standards text are similar to previous language the United States has supported in other FTA chapters related to technical barriers to trade, conformity assessment, and other standards. However, the model text would seek to expand the policy space preserved for governments to regulate and diminish the role of international standards bodies. USTR argues this change is necessary “for market-oriented economies, and in particular market-oriented democracies, to ensure that they retain the sovereign ability to set standards as appropriate, rather than being exposed to trade arbitration for deviating from international standards that undermine fair competition.” According to USTR, this step back from international standards is a response to how China (in USTR’s view) “has begun to engage with standard-setting bodies as a way to advantage its own competitors, and thus leverage gains made through NMPPs.”

USTR’s position on this matter appears to contradict the Biden administration’s 2024 “National Standards Strategy for Critical and Emerging Technology,” which had laid out an affirmative agenda for supporting inclusivity and integrity in international technical standards fora.<sup>60</sup> The reason for the change (as well as whether the change is supported by the agencies the Biden administration tasked with implementing the standards strategy) is unclear.

#### □ **Public enterprises and designated monopolies**

The model text draws on previous US model texts for state-owned enterprises (SOEs). It goes further than these past agreements to counter efforts by states to gain commercial advantages for their SOEs and restricting certain forms of state aid. The text also expands the scope of the commitments from only applying to SOEs to applying to a broader range of businesses subject to government control and support.

### **Durability of the strategies**

Though the Biden administration’s USTR will not be able to implement the policies it is promoting in its final week, it likely hopes the reports will help shape the future of US trade policy.

The Trade Strategy largely reads as a retrospective tally of accomplishments claimed by the Biden administration and a comprehensive list of forced labor-related authorities throughout the US government. As USTR transitions into the Trump administration, the Trade Strategy could present a baseline for the US government’s commitment to forced labor enforcement. Also, to the extent USTR and other agencies – Commerce, in particular – jockey for trade policy influence under the new administration, the Trade Strategy plants a flag for USTR as anchoring the whole-of-government approach to forced labor enforcement. It will be important to monitor the Trump administration’s early actions on forced labor and trade to understand how the United States’ strategy will evolve over the next four years.

The model texts’ focus on promoting competition, inclusive engagement, and a standards text that promotes increased “policy space” for regulation have been key interests of the Biden administration’s trade policy, though they made little progress implementing them in practice. Republicans and industry interests that are more inclined to

---

<sup>60</sup> See, “Implementing the National Standards Strategy for Critical and Emerging Technology,” White House, July 26, 2024, accessible here: <https://www.whitehouse.gov/briefing-room/statements-releases/2024/07/26/fact-sheet-implementing-the-national-standards-strategy-for-critical-and-emerging-technology/>.

---

support aggressively protecting export market access would be less likely to support some of these provisions, such as the reduced standards commitments. The model texts and NMPPs and SOEs may be more broadly reflective of concerns in Washington about the rise of China and the distortions caused by China's style of economic management.<sup>61</sup> The general themes of these two chapters – if not the actual language – will likely remain a feature of US trade policy.

---

<sup>61</sup> On January 15, 2024, USTR also issued its annual report on China's WTO compliance, where it criticizes China's economic practices and advocates for the Biden administration's approach to the trade war. See, "2024 Report To Congress On China's WTO Compliance," USTR, January 15, 2024, accessible here: <https://ustr.gov/sites/default/files/files/reports/2025/2024USTRReportCongressonChinaWTOCompliance.pdf>.

---

## Petitions & Investigations

### Regulations

---

#### US Department of Commerce Amends Antidumping and Countervailing Duty Regulations

On December 16, 2024, the Department of Commerce (Commerce) published a final rule amending its antidumping duty (ADD) and countervailing duty (CVD) regulations.<sup>62</sup> According to Commerce, the amendments will strengthen enforcement against non-market economies (NMEs), improve communications with US Customs and Border Protection (CBP), and ensure that subsidies are accurately calculated and remedied.<sup>63</sup> Commerce originally issued the proposal in July 2024 and has made several technical modifications in the final rule in response to public comments.<sup>64</sup> The final amendments entered into effect on January 15, 2025. This marks the second set of significant reforms to the trade remedies regulations issued by Commerce in 2024, following the amendments which entered into force on April 24, 2024.<sup>65</sup>

#### Overview

The amendments are meant to enhance the administration of the regulations by clarifying and/or codifying existing procedures, improving administrative procedures, and introducing new regulatory provisions. Among the new provisions are measures that seek to strengthen rules for exporters from NMEs and NME-related entities in third countries, changes to cash deposit collection processes, changes to accounting processes for certain subsidies, and changes to the selection processes for examined respondents.

For the most part, the proposed modifications do not introduce new substantive requirements or rules; rather, they are largely meant to codify existing Commerce practice. In the cases where the proposed rules do introduce new elements, they mostly consist of either narrow technical changes or changes to treatment of NMEs. Counsel participating in ADD and CVD investigations should ensure they have reviewed the amendments and are prepared to handle the new requirements.

#### Notable changes

The final rule includes 28 specific technical amendments to the ADD and CVD regulations. Notable changes include the following:

- **Cash deposit rates for specific producer/exporter combinations:** Commerce revised the cash deposit regulation to better reflect current practices, setting out the effective dates for cash deposit rates when correcting ministerial errors and explaining that Commerce may impose cash deposit rates on a per-unit basis (in addition to an *ad valorem* basis). The new rule also introduces an exception to the normal cash deposit rate calculation methodology to enable Commerce to apply a cash deposit rate only to imported merchandise both produced by an identified producer and exported by an identified exporter in a producer/exporter *combination* rather than all the subject merchandise exported or produced by an examined entity.

---

<sup>62</sup> "Regulations Enhancing the Administration of the Antidumping and Countervailing Duty Trade Remedy Laws," 89 FR 101694 (December 16, 2024), accessible here: <https://www.federalregister.gov/documents/2024/12/16/2024-29245/regulations-enhancing-the-administration-of-the-antidumping-and-countervailing-duty-trade-remedy>.

<sup>63</sup> "US Department of Commerce Updates Trade Enforcement Regulations to Level the Playing Field for US Producers and Workers," Commerce, December 19, 2024, accessible here: <https://www.trade.gov/press-release/us-department-commerce-updates-trade-enforcement-regulations-level-playing-field-us-0>.

<sup>64</sup> "Regulations Enhancing the Administration of the Antidumping and Countervailing Duty Trade Remedy Laws," 89 FR 57286 (July 12, 2024), accessible here: <https://www.federalregister.gov/documents/2024/07/12/2024-15086/regulations-enhancing-the-administration-of-the-antidumping-and-countervailing-duty-trade-remedy>.

<sup>65</sup> "Regulations Improving and Strengthening the Enforcement of Trade Remedies Through the Administration of the Antidumping and Countervailing Duty Laws," 89 FR 20766 (March 25, 2024), accessible here: <https://www.federalregister.gov/documents/2024/03/25/2024-05509/regulations-improving-and-strengthening-the-enforcement-of-trade-remedies-through-the-administration>.

- **Clarifying processes for NME rate determinations:** Commerce introduced new criteria for determining *de jure* or *de facto* NME government control, and to clarify the treatment of entities located in an NME but owned by a market economy foreign entity. The changes could widen the scope of scenarios under which Commerce may find an entity is controlled by the NME government. Commerce states these changes will allow it to “address additional real-world factors through which a foreign government can control or influence production decisions, pricing and sales decisions, and export behavior.”
- **NME separate rate regulation for third countries in ADD cases:** Commerce will now be able to assign NME entity rates to entities in third countries if those entities (i) export subject merchandise from the NME to the United States; and (ii) are owned or controlled by the NME government. Such companies must establish their eligibility for a separate rate to avoid being subjected to the NME entity-wide rate. Commerce added clarifications to this provision in the final rule.
- **Changing surrogate country selection process for NMEs:** The regulation codifies Commerce’s processes for selecting surrogate countries for NME investigations. Under the codified process, Commerce will primarily rely on per capita gross domestic product (GDP) instead of per capita gross national income (GNI) to select potential surrogates. The original proposed rule would have allowed for Commerce to choose between using either GNI or GDP, which the final rule acknowledged would have led to inconsistent rulings.
- **Changes to Commerce’s specificity requirement for countervailable programs:** Commerce proposes eliminating and altering multiple existing exceptions to its requirement that programs be specific in order to be found countervailable. Among the changes are a new provision that allows Commerce to countervail relief from taxes when the relief is a “result of being located in an area designated by the government as being outside the customs territory of the country” (*i.e.*, in a free trade zone). Commerce withdrew the specificity rule exception for the agriculture sector and small- and medium-sized businesses. In response to several comments that raised concerns about the removal of the agriculture exception, Commerce stated that it intends to assess whether agriculture subsidies are specific on a case-by-case basis.
- **Providing guidance for subsidies resulting from the government’s purchase of goods for more than adequate remuneration:** Commerce has introduced a new regulation providing guidance on subsidies resulting from the purchase of a good for more than adequate remuneration (MTAR), including how to measure adequate remuneration in this context, how to calculate the benefit, and how to calculate a benefit when the government is both a provider and purchaser of the good.
- **Changing the treatment of loans in countervailing duty proceedings:** Commerce’s revisions standardize the benefit calculation for long-term loans, remove the cap on loan benefits, and set a lower standard for specificity allegations relating to loans provided by government-owned policy banks.
- **Affiliated input suppliers and home market resellers:** The new rule codifies the practice of collapsing both affiliated producers and non-producers where “there is a significant potential for the manipulation of price or production” and identifies the factors Commerce may consider in making the determination.

In a separate notice on December 19, 2024, Commerce updated the annexes for the ADD and CVD regulations.<sup>66</sup> The updates revise the annexes to account for the 2024 regulation amendments, updating cross-references and timelines; adding new guidance for scope inquiries, circumvention inquiries, and covered merchandise referrals; and removing obsolete guidance that was in Annex V.

<sup>66</sup> “Modernizing the Annexes of the Antidumping and Countervailing Duty Trade Remedy Regulations,” 89 FR 103633 (December 19, 2024), accessible here: <https://www.federalregister.gov/documents/2024/12/19/2024-30257/modernizing-the-annexes-of-the-antidumping-and-countervailing-duty-trade-remedy-regulations>.

---

## Investigations

---

### Commerce Issues Final ADD Order on Melamine from Japan and Final ADD and CVD Orders on Melamine from Germany, Qatar, and Trinidad and Tobago

On January 31, 2025, Department of Commerce (Commerce) issued countervailing duty (CVD) orders on melamine from Germany, Qatar, and Trinidad and Tobago<sup>67</sup> and antidumping duty (ADD) orders on melamine from Germany, Japan, the Netherlands, and Trinidad and Tobago.<sup>68</sup>

For Japan, the weighted-average dumping margins are 127.69% for Mitsui Chemicals, Inc. and 115.11% for the All-Others rate. The rate for Mitsui Chemicals was based on adverse facts available because the company declined to participate in the investigation. Commerce also originally issued a preliminary affirmative determination of critical circumstances for Mitsui Chemicals, which was suspended in the final order following a negative critical circumstances determination by the US International Trade Commission (ITC). The All-Others rate was based on the average of the petitioner's alleged estimated dumping margins for Japan. Commerce will now instruct US Customs and Border Protection (CBP) to continue to suspend liquidation and require cash deposits.

The final orders follow soon after the ITC published its injury investigations on January 29, 2025.<sup>69</sup> The ITC determined that (i) the US industry is materially injured by imports of melamine from Germany, Japan, and Netherlands that have been found by Commerce to be sold in the United States at less than fair value; (ii) the US industry is materially injured by imports of melamine from Germany and Qatar that have been found by Commerce to be subsidized by the governments of Germany and Qatar; and (iii) the US industry is threatened with material injury by reason of imports of melamine from Trinidad and Tobago that have been found by Commerce to be sold in the United States at less than fair value and subsidized by the government of Trinidad and Tobago. The ITC had previously published its affirmative preliminary determinations on April 4, 2024.<sup>70</sup>

Commerce published the final determinations in the less-than-fair value and countervailable subsidies investigations on December 9, 2024.<sup>71</sup> The ADD investigations found that melamine from Japan, Germany, the Netherlands, and

---

<sup>67</sup> "Melamine From Germany, Qatar, and Trinidad and Tobago: Countervailing Duty Orders," 90 FR 8698 (January 31, 2025), accessible here: <https://www.federalregister.gov/documents/2025/01/31/2025-02001/melamine-from-germany-qatar-and-trinidad-and-tobago-countervailing-duty-orders>.

<sup>68</sup> "Melamine From Germany, Japan, the Netherlands, and Trinidad and Tobago: Antidumping Duty Orders," 90 FR 8701 (January 31, 2025), accessible here: <https://www.federalregister.gov/documents/2025/01/31/2025-01999/melamine-from-germany-japan-the-netherlands-and-trinidad-and-tobago-antidumping-duty-orders>.

<sup>69</sup> "Melamine From Germany, Japan, Netherlands, Qatar, and Trinidad and Tobago," 90 FR 8405 (January 29, 2025), accessible here: <https://www.federalregister.gov/documents/2025/01/29/2025-01858/melamine-from-germany-japan-netherlands-qatar-and-trinidad-and-tobago>.

<sup>70</sup> "Melamine From Germany, India, Japan, Netherlands, Qatar, and Trinidad and Tobago; Determinations," 89 FR 23610 (April 4, 2024), accessible here: <https://www.federalregister.gov/documents/2024/04/04/2024-07181/melamine-from-germany-india-japan-netherlands-qatar-and-trinidad-and-tobago-determinations>.

<sup>71</sup> "Melamine From Japan: Final Affirmative Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances, In Part," 89 FR 97601 (December 9, 2024), accessible here: <https://www.federalregister.gov/documents/2024/12/09/2024-28794/melamine-from-japan-final-affirmative-determination-of-sales-at-less-than-fair-value-and-final>; "Melamine From the Netherlands: Final Affirmative Determination of Sales at Less Than Fair Value," 89 FR 97590 (December 9, 2024), accessible here: <https://www.federalregister.gov/documents/2024/12/09/2024-28795/melamine-from-the-netherlands-final-affirmative-determination-of-sales-at-less-than-fair-value>; "Melamine From Qatar: Final Negative Determination of Sales at Less Than Fair Value and Final Negative Determination of Critical Circumstances," 89 FR 97592 (December 9, 2024), accessible here: <https://www.federalregister.gov/documents/2024/12/09/2024-28796/melamine-from-qatar-final-negative-determination-of-sales-at-less-than-fair-value-and-final-negative>; "Melamine From Trinidad and Tobago: Final Affirmative Determination in the Countervailing Duty Investigation," 89 FR 97599 (December 9, 2024), accessible here: <https://www.federalregister.gov/documents/2024/12/09/2024-28798/melamine-from-trinidad-and-tobago-final-affirmative-determination-in-the-countervailing-duty>; "Melamine From Qatar: Final Affirmative Countervailing Duty Determination and Final Negative Critical Circumstances Determination," 89 FR 97593 97599 (December 9, 2024), accessible here: <https://www.federalregister.gov/documents/2024/12/09/2024-28797/melamine-from-qatar-final-affirmative-countervailing-duty-determination-and-final-negative-critical>; "Melamine From Trinidad and Tobago: Final Affirmative Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances, in Part," 89 FR 97598 (December 9, 2024), accessible here: <https://www.federalregister.gov/documents/2024/12/09/2024-28799/melamine-from-trinidad-and-tobago-final-affirmative-determination-of-sales-at-less-than-fair-value>; "Melamine From Germany: Final Affirmative Determination of Sales at Less Than Fair Value," 89 FR 97584 (December 9, 2024), accessible here: <https://www.federalregister.gov/documents/2024/12/09/2024-28800/melamine-from-germany-final-affirmative-determination-of-sales-at-less-than-fair-value>; "Melamine From Germany: Final Affirmative



---

Trinidad and Tobago is being, or is likely to be, sold in the United States at less than fair value, while imports from Qatar are not. For the CVD investigations, Commerce found that countervailable subsidies are being provided to melamine producers and exporters from Germany, Trinidad and Tobago, and Qatar. The concurrent final ADD and CVD investigations of melamine from India were postponed.

### **Covered product**

The merchandise subject to these investigations is melamine (Chemical Abstracts Service (CAS) registry number 108-78-01, molecular formula C<sub>3</sub>H<sub>6</sub>N<sub>6</sub>). Melamine is also known as 2,4,6-triamino-s-triazine; 1,3,5-Triazine-2,4,6-triamine; Cyanurotriamide; Cyanurotriamine; Cyanuramide; and by various brand names. Melamine is a crystalline powder or granule. All melamine is covered by the scope of these investigations irrespective of purity, particle size, or physical form. Melamine that has been blended with other products is included within this scope when such blends include constituent parts that have been intermingled, but that have not been chemically reacted with each other to produce a different product. For such blends, only the melamine component of the mixture is covered by the scope of these investigations. Melamine that is otherwise subject to these investigations is not excluded when commingled with melamine from sources not subject to these investigations. Only the subject component of such commingled products is covered by the scope of these investigations.

The subject merchandise is listed in Harmonized Tariff Schedule of the United States (HTSUS) subheading 2933.61.0000. Although the HTSUS subheading and CAS registry number are provided for convenience, the written description of the scope is dispositive.

### **Commerce Maintains ADD and CVD Orders Following Sunset Reviews of Glycine from Japan, India, China, and Thailand**

On January 28, 2024, Commerce published the notice for the continuation of the ADD orders on glycine from India, Japan, and Thailand, and the CVD orders on glycine from China and India.<sup>72</sup> CBP will continue to collect cash deposits at the rates in effect at time of entry.

The notice follows the ITC's determination that revocation of the ADD orders on glycine from India, Japan, and Thailand, and CVD orders on glycine from China and India would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time on November 29, 2024.<sup>73</sup> Commerce previously published its finding, from its parallel five-year review, that revocation of the ADD orders on glycine from India, Japan, and Thailand would likely lead to the continuation or recurrence of dumping on September 12, 2024.<sup>74</sup> The finding maintains the weighted-average dumping margins of up to 13.61% for India, 86.22% for Japan, and 227.17% for Thailand. Commerce issued the final results of the expedited sunset review of the CVD on glycine from China and India separately on September 13, 2024.<sup>75</sup> Commerce found that revocation of the CVD would be likely to lead to continuation or recurrence of countervailable subsidies at subsidy rates of up to 15.13% for India and a rate of 144.01% for China.

---

Countervailing Duty Determination," 89 FR 97586 (December 9, 2024), <https://www.federalregister.gov/documents/2024/12/09/2024-28801/melamine-from-germany-final-affirmative-countervailing-duty-determination>.

<sup>72</sup> "Glycine from India, the People's Republic of China, Japan, and Thailand: Continuation of Antidumping and Countervailing Duty Orders," 90 FR 8275 (January 28, 2024), accessible here: <https://www.federalregister.gov/documents/2025/01/28/2025-01795/glycine-from-india-the-peoples-republic-of-china-japan-and-thailand-continuation-of-antidumping-and>.

<sup>73</sup> "Glycine From China, India, Japan, and Thailand," 89 FR 94761 (November 29, 2024), accessible here: <https://www.federalregister.gov/documents/2024/11/29/2024-28018/glycine-from-china-india-japan-and-thailand>.

<sup>74</sup> "Glycine From India, Japan, and Thailand: Final Results of the Expedited First Sunset Reviews of the Antidumping Duty Orders," 89 FR 74206 (September 12, 2024), accessible here: <https://www.federalregister.gov/documents/2024/09/12/2024-20671/glycine-from-india-japan-and-thailand-final-results-of-the-expedited-first-sunset-reviews-of-the>.

<sup>75</sup> "Glycine From India and the People's Republic of China: Final Results of the Expedited First Sunset Reviews of the Countervailing Duty Orders," 89 FR 74898 (September 13, 2024), accessible here: <https://www.federalregister.gov/documents/2024/09/13/2024-20754/glycine-from-india-and-the-peoples-republic-of-china-final-results-of-the-expedited-first-sunset>.

---

### Covered product

The product covered by the original orders is glycine at any purity level or grade. This includes glycine of all purity levels, which covers all forms of crude or technical glycine including, but not limited to, sodium glycinate, glycine slurry and any other forms of amino acetic acid or glycine. Subject merchandise also includes glycine and precursors of dried crystalline glycine that are processed in a third country, including, but not limited to, refining or any other processing that would not otherwise remove the merchandise from the scope of this order if performed in the country of manufacture of the in-scope glycine or precursors of dried crystalline glycine. Glycine has the Chemical Abstracts Service (CAS) registry number of 56–40–6.

Glycine and glycine slurry are classified under HTSUS subheading 2922.49.43.00. Sodium glycinate is classified in the HTSUS under 2922.49.80.00. The HTSUS subheadings are provided for convenience and customs purposes only; the written description of the scope is dispositive.

### Commerce Issues Final Results of Five-Year Sunset Review of ADD Order on Diffusion-Annealed, Nickel-Plated Flat-Rolled Steel Products from Japan; ITC Conducting Expedited Review

On January 7, 2025, Commerce issued the final affirmative results of its second sunset review of the ADD order on diffusion-annealed, nickel-plated flat-rolled steel products (nickel-plated steel) from Japan, finding that revocation of the ADD order would be likely to lead to the continuation or recurrence of dumping at the dumping margins up to 77.70%.<sup>76</sup> Commerce conducted the review on an expedited basis after not receiving a substantive response from any respondent interested parties. The ITC published the scheduling for its expedited five-year review on December 31, 2024.<sup>77</sup> The ITC's current deadline for reporting its views to Commerce is March 21, 2025.

Commerce and the ITC published initiation notices for the second five-year (sunset) review on September 3, 2024.<sup>78</sup> The ITC reviews seek to determine whether revocation of the ADD order would likely lead to continuation or recurrence of material injury while the Commerce reviews examine whether revocation of the ADD order would likely lead to the continuation or recurrence of dumping. Commerce originally instituted the ADD order on certain welded large diameter line pipe from Japan in May 2014. The order was renewed following the first five-year review in 2019.

### Covered product

The products covered by this order are flat-rolled, cold-reduced steel products, regardless of chemistry; whether or not in coils; either plated or coated with nickel or nickel-based alloys and subsequently annealed (*i.e.*, "diffusion-annealed"); whether or not painted, varnished or coated with plastics or other metallic or non-metallic substances; and less than or equal to 2.0 mm in nominal thickness. For purposes of this order, "nickel-based alloys" include all nickel alloys with other metals in which nickel accounts for at least 80% of the alloy by volume.

Imports of merchandise included in the scope of this order are classified primarily under HTSUS codes 7212.50.0000 and 7210.90.6000, but may also be classified under HTSUS codes 7210.70.6090, 7212.40.1000, 7212.40.5000, 7219.90.0020, 7219.90.0025, 7219.90.0060, 7219.90.0080, 7220.90.0010, 7220.90.0015, 7225.99.0090, or

---

<sup>76</sup> "Diffusion-Annealed, Nickel-Plated Flat-Rolled Steel Products from Japan: Final Results of Expedited Second Sunset Review of Antidumping Duty Order," 90 FR 1079 (January 7, 2025), accessible here: <https://www.federalregister.gov/documents/2025/01/07/2025-00019/diffusion-annealed-nickel-plated-flat-rolled-steel-products-from-japan-final-results-of-expedited>.

<sup>77</sup> "Diffusion-Annealed, Nickel-Plated Flat-Rolled Steel Products from Japan; Scheduling of an Expedited Five-Year Review," 89 FR 107163 (December 31, 2024), accessible here: <https://www.federalregister.gov/documents/2024/12/31/2024-31417/diffusion-annealed-nickel-plated-flat-rolled-steel-products-from-japan-scheduling-of-an-expedited>.

<sup>78</sup> "Diffusion-Annealed, Nickel-Plated Flat-Rolled Steel Products From Japan; Institution of a Five-Year Review," 89 FR 71424 (September 3, 2024), accessible here: <https://www.federalregister.gov/documents/2024/09/03/2024-19640/diffusion-annealed-nickel-plated-flat-rolled-steel-products-from-japan-institution-of-a-five-year>; and "Initiation of Five-Year (Sunset) Reviews," 89 FR 71252 (September 3, 2024), accessible here: <https://www.federalregister.gov/documents/2024/09/03/2024-19716/initiation-of-five-year-sunset-reviews>.

---

7226.99.0180. HTSUS codes are provided for convenience and customs purposes and the written description of the scope is dispositive.

## **Commerce Issues Final Results of Five-Year Sunset Review of ADD Order on Welded Large Diameter Line Pipe from Japan; ITC Conducting Full Review**

On January 3, 2025, Commerce issued the final affirmative results of its second sunset review of the ADD order on welded large diameter line pipe (line pipe) from Japan, finding that revocation of the ADD order would be likely to lead to the continuation or recurrence of dumping at the dumping margins up to 30.80%.<sup>79</sup> Commerce conducted the review on an expedited basis after not receiving a substantive response from any respondent interested parties. Following the Commerce determination, the ITC issued notice that it would conduct a full five-year review of the order.<sup>80</sup> The ITC will announce a schedule for its review at a later date.

Previously, Commerce and the ITC published initiation notices for the review on September 3, 2024.<sup>81</sup> The ITC reviews seek to determine whether revocation of the ADD order would likely lead to continuation or recurrence of material injury while the Commerce reviews examine whether revocation of the ADD order would likely lead to the continuation or recurrence of dumping. Commerce originally instituted the ADD order on certain welded large diameter line pipe from Japan in December 2001. The order has been renewed in three successive five-year reviews since then.

### **Covered product**

The product covered by this order is certain welded carbon and alloy line pipe, of circular cross section and with an outside diameter greater than 16 inches, but less than 64 inches, in diameter, whether or not stenciled. This product is normally produced according to American Petroleum Institute (API) specifications, including Grades A25, A, B, and X grades ranging from X42 to X80, but can also be produced to other specifications. The product is classified under HTSUS codes 7305.11.1030, 7305.11.1060, 7305.11.5000, 7305.12.1030, 7305.12.1060, 7305.12.5000, 7305.19.1030, 7305.19.1060, and 7305.19.5000. HTSUS codes are provided for convenience and customs purposes and the written description of the scope is dispositive.

Not included within the scope of this investigation is American Water Works Association (AWWA) specification water and sewage pipe and the following size/grade combinations of line pipe:

- Having an outside diameter greater than or equal to 18 inches and less than or equal to 22 inches, with a wall thickness measuring 0.750 inch or greater, regardless of grade;
- Having an outside diameter greater than or equal to 24 inches and less than 30 inches, with wall thickness measuring greater than 0.875 inches in grades A, B, and X42, with wall thickness measuring greater than 0.750 inches in grades X52 through X56, and with wall thickness measuring greater than 0.688 inches in grades X60 or greater;
- Having an outside diameter greater than or equal to 30 inches and less than 36 inches, with wall thickness measuring greater than 1.250 inches in grades A, B, and X42, with wall thickness measuring greater than 1.000

---

<sup>79</sup> "Welded Large Diameter Line Pipe From Japan: Final Results of the Expedited Fourth Sunset Review of the Antidumping Duty Order," 90 FR 303 (January 3, 2025), accessible here: <https://www.federalregister.gov/documents/2025/01/03/2024-31593/welded-large-diameter-line-pipe-from-japan-final-results-of-the-expedited-fourth-sunset-review-of>.

<sup>80</sup> "Certain Welded Large Diameter Line Pipe From Japan; Notice of Commission Determination To Conduct a Full Five-Year Review," 90 FR 6010 (January 17, 2025), accessible here: <https://www.federalregister.gov/documents/2025/01/17/2025-01146/certain-welded-large-diameter-line-pipe-from-japan-notice-of-commission-determination-to-conduct-a>.

<sup>81</sup> "Certain Welded Large Diameter Line Pipe From Japan; Institution of a Five-Year Review," 89 FR 71417 (September 3, 2024), accessible here: <https://www.federalregister.gov/documents/2024/09/03/2024-19665/certain-welded-large-diameter-line-pipe-from-japan-institution-of-a-five-year-review>; and "Initiation of Five-Year (Sunset) Reviews," 89 FR 71252 (September 3, 2024), accessible here: <https://www.federalregister.gov/documents/2024/09/03/2024-19716/initiation-of-five-year-sunset-reviews>.

---

inches in grades X52 through X56, and with wall thickness measuring greater than 0.875 inches in grades X60 or greater;

- Having an outside diameter greater than or equal to 36 inches and less than 42 inches, with wall thickness measuring greater than 1.375 inches in grades A, B, and X42, with wall thickness measuring greater than 1.250 inches in grades X52 through X56, and with wall thickness measuring greater than 1.125 inches in grades X60 or greater;
- Having an outside diameter greater than or equal to 42 inches and less than 64 inches, with a wall thickness measuring greater than 1.500 inches in grades A, B, and X42, with wall thickness measuring greater than 1.375 inches in grades X52 through X56, and with wall thickness measuring greater than 1.250 inches in grades X60 or greater;
- Having an outside diameter equal to 48 inches, with a wall thickness measuring 1.0 inch or greater, in grades X-80 or greater;
- In API grades X100 or above, having an outside diameter of 48 inches to and including 52 inches, and with a wall thickness of 0.54 inch or more; and
- An API grade X-80 having an outside diameter of 21 inches and wall thickness of 0.625 inch or more.