

US & Multilateral Trade and Policy Developments

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Contents

Trade Policy Developments..... 1

Trade Policy Bills Begin Emerging in New US Congress 1

President Trump Orders Investigations to Calculate and Impose “Reciprocal Tariffs” 6

USTR Calls for Public Input on Reciprocal Tariff Plan 9

President Trump Orders Intensified Digital Trade Market Access Efforts 11

Trade Actions 15

USTR Proposes Export and Shipping Restrictions in its China Shipbuilding Section 301 Investigation 15

President Trump Expands Section 232 Steel and Aluminum Tariffs 20

Section 232 Steel and Aluminum Tariff Action Significantly Expands Product Coverage..... 23

President Trump Orders Section 232 Investigation of Copper Imports 26

President Trump Orders Section 232 Investigation of Timber, Lumber, and Wood Products Imports..... 27

US Tariffs on Canada and Mexico Enter into Effect; Tariff on China Rises from 10% to 20% 29

Trade Agreements 32

Review of the Four-Year Operation of the USMCA Labor Enforcement Mechanism..... 32

Petitions & Investigations..... 39

No developments 39

Trade Policy Developments

Trade Policy Bills Begin Emerging in New US Congress

The 119th Congress convened on January 3, 2025, and lawmakers have started introducing the first trade policy bills of the new session. That said, significant action on these bills is unlikely in the near future. Congress will prioritize the reconciliation legislative package over the next few months, expected to include extensions of expiring provisions of the Tax Cuts and Jobs Act (TCJA), immigration restrictions, energy policy measures, and defense spending increases. Congress also faces challenging negotiations over the federal budget and the debt ceiling. With a focus on these domestic policy priorities, congressional leadership is unlikely to prioritize trade policy legislation in the first half of 2025.

After Republicans complete the budget and tax debates, some observers predict that Congress could return to considering trade policy legislation towards the end of 2025. However, legislative action will remain challenging: the Republican majority in the House is slim, and their majority in the Senate is too small to overcome a Democrat filibuster. Beyond reconciliation bills and other special measures not subject to the filibuster, advancing partisan legislation will be an uphill battle.

Major tariff and trade bills that were recently introduced include proposals for customs *de minimis* reform, a bill that would increase the president's power to retaliate against countries that impose certain taxes on US companies, revocation of Permanent Normal Trade Relations (PNTR) with China, and the Reciprocal Trade Act. These bills are detailed below. Republicans are also beginning to consider what Biden administration regulations they may repeal through the Congressional Review Act (CRA). Republican leadership on the House Ways and Means Committee (which is responsible for revenue and trade bills in the House of Representatives) also intends to pursue renewal of trade preference programs despite several failed attempts in recent years.

Customs *de minimis* reform

On January 28, 2025, Rep. Greg Murphy (R-NC, member of the House Ways and Means Committee) reintroduced his End China's *De Minimis* Abuse Act as H.R.805.¹ The bill would establish new exceptions to *de minimis* entry for any article that would be subject to import restrictions under Section 201 (safeguards), Section 301, or Section 232 actions. Such articles would have to enter through standard channels and would also become subject to any tariffs imposed under those Section 201, Section 301, or Section 232 actions. The bill also includes new civil penalties for violating *de minimis* entry rules and establishes new data collection and data transparency rules, intended to increase enforcement powers.

Murphy had introduced the bill as H.R.7979 in the 2023-2024 Congress, with Rep. Jeff Duncan (R-NC) cosponsoring.² The House Ways and Means Committee quickly approved the bill by a vote of 24 to 18 along partisan lines during an April 17, 2024 markup session, making it the only *de minimis* reform bill that progressed past committee during the 2023-2024 Congress. The bill is similar to the two notices of proposed rulemaking that the Biden administration published in the last days of its term.³ The similarities between Biden's proposals and the Republican Ways and Means Committee proposals have reportedly drawn appreciation from committee leadership and may provide a pathway to a bipartisan resolution.

Although there is bipartisan support for measures resembling Biden's proposals, more significant restrictions are also being considered. Domestic industry groups, such as the Alliance for American Manufacturing and the National

¹ H.R.805 - To amend section 321 of the Tariff Act of 1930 to modify the administrative exemptions under that Act, 119th Congress (2025-2026), accessible here: <https://www.congress.gov/bill/119th-congress/house-bill/805>.

² H.R.7979 - End China's *De Minimis* Abuse Act, 118th Congress (2023-2024), accessible here: <https://www.congress.gov/bill/118th-congress/house-bill/7979>.

³ "Entry of Low-Value Shipments," 90 FR 3048 (January 14, 2025), accessible here: <https://www.federalregister.gov/documents/2025/01/14/2025-00551/entry-of-low-value-shipments>; "Trade and National Security Actions and Low-Value Shipments," 90 FR 6852 (January 21, 2025), accessible here: <https://www.federalregister.gov/documents/2025/01/21/2025-01074/trade-and-national-security-actions-and-low-value-shipments>.

Council of Textile Organizations, are lobbying Trump to take more aggressive action than Biden has proposed. These groups are advocating for either excluding all Chinese imports from the *de minimis* entry program or eliminating the program entirely.

The 10% tariff that Trump imposed on imports from China on February 4 briefly included instructions to completely suspend China-origin shipments from *de minimis* entry. Trump revoked the *de minimis* suspension on February 7 until “adequate systems are in place to fully and expediently process and collect tariff revenue” from *de minimis* entries. Supporters of permanently excluding Chinese goods from *de minimis* entry are continuing to call for long-term policy changes. Ways and Means Republicans praised Trump for prohibiting Chinese-origin products from *de minimis* entry but continue to advocate for the End China’s *De Minimis* Abuse Act, which would only partially exclude China from the *de minimis* program.⁴ Several bills that would exclude China from the *de minimis* program were introduced in the 2023-2024 Congress and are likely to emerge in the current Congress. These proposals include the bipartisan Import Security and Fairness Act, sponsored by Marco Rubio, Trump’s Secretary of State, and the *De Minimis* Reciprocity Act, sponsored by J.D. Vance, Trump’s vice president.⁵ It is unclear whether Trump would endorse a permanent China exclusion, as doing so may reduce his leverage in negotiations.

Defending American Jobs and Investment Act

On January 21, 2025, Republicans on the House Ways and Means Committee introduced H.R.591, the Defending American Jobs and Investment Act, which would provide new powers to the Department of the Treasury to charge retaliatory taxes on investors and corporations from countries that impose allegedly extraterritorial or discriminatory taxes on US companies.⁶ The bill would direct the Department of the Treasury to “identify extraterritorial taxes and discriminatory taxes enacted by foreign countries that attack U.S. businesses.” If Treasury identifies such a tax, the US tax rates on the US income of individual investors and corporations from the countries will increase by 5 percentage points per year, up to 20 percentage points. The punitive taxes would remain in effect until the target country repeals the designated tax.

If passed into law, Republicans intend to use the bill’s authority to deter implementation of the global minimum tax system negotiation under Pillar Two of the OECD/G20 Inclusive Framework on Base Erosion and Profit Shifting Two-Pillar Solution, particularly the undertaxed profits rule (UTPR).⁷ The re-introduction of the bill (which had also been introduced in the 2023-2024 Congress) was coordinated with Trump’s January 20 memorandum distancing the United States from the OECD Pillar Two agreement on global minimum taxes and the America First Trade Policy memorandum.⁸ Both memoranda called for action against countries that apply discriminatory or extraterritorial taxes on US companies (or any other taxes that or disproportionately affect American companies). Treasury Secretary

⁴ “Trump Administration Closes the Door on China Skirting U.S. Tariffs Through De Minimis Shipments,” House Ways A Means Committee, February 4, 2025, accessible here: <https://waysandmeans.house.gov/2025/02/04/trump-administration-closes-the-door-on-china-skirting-u-s-tariffs-through-de-minimis-shipments/>.

⁵ S.2004 - Import Security and Fairness Act, 118th Congress (2023-2024), accessible here: <https://www.congress.gov/bill/118th-congress/senate-bill/2004>; S.1969 - *De Minimis* Reciprocity Act of 2023, 118th Congress (2023-2024), accessible here: <https://www.congress.gov/bill/118th-congress/senate-bill/1969>.

⁶ “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/bill/119th-congress/house-bill/591>.

⁷ 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/>.

⁸ “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/>; and “America First Trade Policy,” White House, January 20, 2024, accessible here: <https://www.whitehouse.gov/presidential-actions/2025/01/america-first-trade-policy/>.

Scott Bessent has echoed this stance on retaliatory tax policy, 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.”⁹ The America First Trade Policy memorandum also suggested that retaliation could 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.¹⁰ However, Section 891 is not referenced in Trump’s OECD memo. House Ways and Means Republicans appear to prefer the approach the approach they have proposed in their bill over Section 891.

Revoking China Permanent Normal Trade Relations

Republican China hawks have routinely introduced bills to suspend PNTR with China at the beginning of every legislative session. Attempts to pass trade-restricting measures this extreme have been highly unlikely to succeed in the past. The politics around US-China trade have become more negative in recent years, increasing the odds of a PNTR revocation bill succeeding, though it remains unlikely in the near term.

As PNTR revocation gains popularity, the proposed bills are also becoming more trade restrictive. The new bills introduced by Republican China hawks go beyond simply ending PNTR; they propose increasing tariffs on imports from China and to creating new non-tariff barriers. Following this new approach, Rep. John Moolenaar (R-MI) introduced H.R.10127, the Restoring Trade Fairness Act,¹¹ on November 14, 2024. The same bill was introduced to the Senate in September 2024 by Sens. Tom Cotton (R-AR), Josh Hawley (R-MO), and Marco Rubio (R-FL) as S.5264, the Neither Permanent Nor Normal Trade Relations Act.¹² Upon the start of the new 2025-2026 Congress, the sponsors reintroduced the bill to both chambers as H.R.694 and S.206.¹³

The bills would:

- Revoke PNTR with China;
- Impose new minimum tariff rates of at least 35% on all imports from China, new minimum tariffs of at least 100% on imports in strategic sectors, and equivalent increases to specific (fixed fee) tariffs (all of which would phase in over five years, and with an implementation delay for goods that are only available from China);
- Grant the president discretion to raise tariffs higher and to impose import prohibitions and quotas;
- Change customs valuation methodologies for products imported from China, requiring importers to report the “United States value” of the merchandise instead of the standard transaction value;
- Change the US WTO tariff bound rates to allow the United States to exclude any country from MFN treatment at its own discretion;
- Prohibit use of *de minimis* entry for imports from China, North Korea, Russia, and Iran; and

⁹ “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>.

¹⁰ 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>.

¹¹ H.R.10127 - Restoring Trade Fairness Act, 118th Congress (2023-2024), accessible here: <https://www.congress.gov/bill/118th-congress/house-bill/10127>.

¹² S.5264 - Neither Permanent Nor Normal Trade Relations Act, 118th Congress (2023-2024), accessible here: <https://www.congress.gov/bill/118th-congress/senate-bill/5264>.

¹³ H.R.694 - To suspend normal trade relations with the People’s Republic of China and to increase the rates of duty applicable with respect to articles imported from the People’s Republic of China, and for other purposes, 119th Congress (2025-2026), accessible here: <https://www.congress.gov/bill/119th-congress/house-bill/694>; and S.206 - A bill to suspend normal trade relations with the People’s Republic of China and to increase the rates of duty applicable with respect to articles imported from the People’s Republic of China, and for other purposes, 119th Congress (2025-2026), accessible here: <https://www.congress.gov/bill/119th-congress/senate-bill/206>.

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- Use the revenue raised from the tariffs to subsidize US exporters injured by Chinese retaliation and to buy munitions “as the President and the Secretary of Defense determine necessary to defend Taiwan [...]”

Trade policy leaders on critical committees, such as House Ways and Means, have not yet endorsed the bill. Notably, neither has President Trump. Trump’s America First Trade Policy memo simply instructs USTR to “assess” proposals by members of Congress to repeal China PNTR. Supporters of PNTR suspension likely reintroduced the bill to ensure it will be considered when USTR conducts its review (which the bill’s sponsors reference¹⁴); but, there is no guarantee of an endorsement.

Despite strong campaign rhetoric against China, Trump appears to be starting his administration by seeking to negotiate with China. He invited Chinese officials to attend his inauguration, delayed enforcement of the TikTok prohibition, and imposed significantly lower tariffs on imports from China than he had previously called for. Trump likely views severe actions, such as PNTR revocation, as a backup option in case negotiations fail, or as an escalation threat he can use to compel China to negotiate.

Reciprocal Trade Act

On January 24, 2025, Rep. Riley Moore (R-WV) reintroduced the United States Reciprocal Trade Act as H.R.735.¹⁵ The bill would delegate to the president discretion to set US tariffs to match the tariff rates of each individual trade partner. The bill would also allow the president to lower tariffs reciprocally with tariff reductions offered by trade partners. When running for president, Trump endorsed the Reciprocal Trade Act as part of his strategy to make trade fairer for the United States.¹⁶ Republicans had previously introduced the Reciprocal Trade Act to the House and Senate during the 2019-2020 Congress, which Trump (as president at the time) supported, but the bill did not move forward.¹⁷

To use the bill’s tariff modification authorities, the president must first determine that either:

- “the rate of duty imposed by a foreign country with respect to a particular good, when imported from the United States, is significantly higher than the rate of duty imposed by the United States with respect to that good, when imported from that country;” or
- “the nontariff barriers applied by a foreign country with respect to a particular good, when imported from the United States, impose significantly higher burdens, alone or in combination with any tariffs imposed by that country on that good, than the burdens of the nontariff barriers applied by the United States with respect to that good, alone or in combination with any tariffs imposed by the United States on that good, when imported from that country.”

If the president determines that such a non-reciprocal trade barrier exists, the bill states the president may take one or both of the following actions:

¹⁴ “Moolenaar Introduces First Bipartisan Bill to Revoke China’s Permanent Normal Trade Relations,” House Select Committee on the CCP, January 23, 2025, accessible here: <https://selectcommitteeontheccp.house.gov/media/press-releases/moolenaar-introduces-first-bipartisan-bill-revoke-chinas-permanent-normal>.

¹⁵ H.R.735 - To authorize the President to take certain actions relating to reciprocal trade, and for other purposes, 119th Congress (2025-2026), accessible here: <https://www.congress.gov/bill/119th-congress/house-bill/735>.

¹⁶ See “Agenda47: Cementing Fair and Reciprocal Trade with the Trump Reciprocal Trade Act” for Trump’s endorsement of the bill, accessible here: <https://www.donaldjtrump.com/agenda47/agenda47-cementing-fair-and-reciprocal-trade-with-the-trump-reciprocal-trade-act>.

¹⁷ H.R.764 - United States Reciprocal Trade Act, 116th Congress (2019-2020), accessible here: <https://www.congress.gov/bill/116th-congress/house-bill/764>; and S.2409 - United States Reciprocal Trade Act, 116th Congress (2019-2020), accessible here: <https://www.congress.gov/bill/116th-congress/senate-bill/2409>.

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- “Negotiate and seek to enter into an agreement with the foreign country that commits the country to reduce the rate of duty or reduce or eliminate nontariff barriers with respect to the good that is the subject of the determination.”
 - Impose a rate of duty on the subject good that is equal to (or lower than) the rate of duty imposed by the foreign country or the effective rate of duty of the nontariff barriers applied by the foreign country.

If a target country raises its tariffs in retaliation for the US tariff increase, the bill authorizes the president to further increase the new US tariff. The president may also terminate an imposed duty at any time if the other country lifts the original trade barrier, or if the president determines that continuation of the dispute is no longer in the US interest.

The bill’s approach to reciprocity examines each specific tariff line individually, seeking full mirror-image reciprocity in tariff rates for each individual trading partner. approach contrasts sharply with the traditional WTO approach of allowing countries to negotiate across all tariff lines to achieve MFN-based first-difference reciprocity. The bill’s sponsors have not explained why they want the United States to switch to such a narrower approach to tariff negotiations. Trump himself appears to believe that if tariff rates do not exactly match, then the United States will appear to have “lost” the negotiations.¹⁸ In addition to endorsing the bill, Trump has also suggested in recent days that he may impose reciprocal tariffs through executive branch authorities. The details and legal basis of his plan are unclear.

Congressional Review Act

Republicans are considering which regulatory actions issued by President Biden at the end of his term could be quickly repealed by Congress. The Congressional Review Act (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 switches parties. The current 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 procedures until late May or early June 2025.

The CRA repeal process is faster than regulatory repeal because Congress does not need to follow the administrative rulemaking processes. In 2017, Republicans used the CRA to repeal 14 Obama administration-era regulations. A few months later (under a different CRA procedure), Congressional Republicans repealed two more regulations that were finalized under the Trump administration by agency officials appointed under Obama. In 2021, Democrats used the CRA to repeal three Trump administration-era regulations.

In the current term, Republicans have submitted around 23 CRA joint resolutions to Congress. Most of the proposals relate to domestic environmental protection regulations, including the new Environmental Protection Agencies (EPA) limits for trichloroethylene (TCE) and hydrofluorocarbons; Energy Conservation Program rules for commercial water heating equipment, gas-fired water heaters, and walk-in coolers and freezers; and the EPA’s latest update to the greenhouse gas emissions standards for heavy-duty vehicles as well as lead and copper regulations for drinking water. Additionally, the Commodity Futures Trading Commission (CFTC) guidance on carbon credit derivative contracts is targeted. Non-environmental regulations targeted include changes made by the IRS to revenue reporting rules for cryptocurrencies, a rule that allows students to borrow Wi-Fi hotspots from their schools, and an immigration rule that extends the automatic extension period for Employment Authorization Documents. Financial system

¹⁸ See, e.g., Trump’s comments on “reciprocal trade” at a 2017 press conference in Japan, accessible here: <https://trumpwhitehouse.archives.gov/briefings-statements/remarks-president-trump-prime-minister-abe-japan-joint-press-conference-tokyo-japan/>.

regulations are also likely targets, including the Consumer Financial Protection Bureau's new rules that exclude medical debt from credit reports, caps on bank overdraft fees, and other bank supervision rules.

So far, no CRA proposals have been introduced that seek the repeal of any foreign trade or economic security regulations adopted at the end of the Biden administration.

President Trump Orders Investigations to Calculate and Impose “Reciprocal Tariffs”

On February 13, 2025, President Trump issued a memorandum instructing the executive branch to begin a process to design new “reciprocal tariffs” on US trade partners, which he called the “Fair and Reciprocal Plan.”¹⁹ The memorandum does not impose any immediate tariffs or other trade barriers. It also does not initiate any specific legal proceedings or trade investigations. Instead, the memorandum appears to be creating a centralized process to develop tariffs and negotiate with trade partners over those tariffs at the White House level. To do this, the memorandum instructs the Department of Commerce (Commerce) and Office of the United States Trade Representative (USTR) to prepare inquiries into the trade barriers of specific trade partners and then develop proposals for eventually imposing “the equivalent of a reciprocal tariff with respect to each foreign trading partner.” The timeline and legal basis for these potential actions are not explained in the memorandum. If implemented aggressively, the proposed actions could eventually lead to the imposition of tariffs on most countries. Trump also said he is open to negotiating over the threatened tariffs with the target countries.

Establishing a management process for implementing tariffs

The investigations and potential tariff actions directed under the “Fair and Reciprocal Plan” would build on the reports Trump ordered executive branch agencies to deliver under the “America First Trade Policy Memorandum” of January 20, 2025.²⁰ The “America First Trade Policy Memorandum” directed the government to begin considering a wide variety of trade policy options (potentially including new Section 232 and Section 301 investigations, escalating the existing Section 301 tariff dispute with China, universal tariffs, and regulation changes) and to report to the president by April 1, 2025.

Under the new “Fair and Reciprocal Plan,” Commerce and USTR would review the April 1 reports and “initiate, pursuant to their respective legal authorities, all necessary actions to investigate the harm to the United States from any non-reciprocal trade arrangements adopted by any trading partners.” This second round of reports would detail “proposed remedies in pursuit of reciprocal trade relations with each trading partner.” The timeline for these second-phase reports to the president is unclear. Speaking to reporters at the unveiling of the memorandum, Howard Lutnick (whose nomination to be Secretary of Commerce will likely be confirmed by the Senate in the next few days) said the reviews could be completed as soon as April 2. After the submission of those reports to the president, the memorandum implies that the president would begin to impose trade restrictions, while also leaving open the possibility of negotiated settlements with the target countries.

Potential tariff rates

To create the final “reciprocal tariff” rates for each product and country, Commerce and USTR will have to estimate the *ad valorem* equivalent (AVE) of the targeted non-tariff barriers and add those to the country's most-favored nation (MFN) applied duty rate for the specific good to derive the total reciprocal tariff rate. The memorandum defers to Commerce and USTR for determining how to handle these calculations.

Since most tariffs are already very low, any attempt to introduce high tariffs for most goods under this policy would have to focus on non-tariff barriers. The simple average of the United States' applied MFN rates is 3.3%, compared to 17% for India, 9.4% for Vietnam, 9.8% for Thailand, 7.5% for China, 6.5% for Taiwan, 5% for the EU, 3.7% for

¹⁹ Presidential Memorandum of February 13, 2025: “Reciprocal Trade and Tariffs,” accessible here: <https://www.whitehouse.gov/articles/2025/02/reciprocal-trade-and-tariffs/>.

²⁰ Presidential 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>.

Japan, and 3.8% for the UK.²¹ Agriculture product tariffs are usually higher than non-agriculture product tariffs. Globally, the average rate is 14.8% for agricultural products and 8.0% for non-agricultural products. The simple average of applied MFN agriculture tariffs is 5% for the United States and 3.1% for non-agricultural goods. If the Trump administration were to simply increase its tariff rates to match the tariff rates of other countries, the average tariff increase would be 9.8 percentage points for agriculture products and 1.9 percentage points for non-agriculture products.

Targeted foreign tariff and non-tariff trade barriers

The memorandum indicates the tariffs will target a broad range of market access limits, including tariffs; non-tariff trade barriers; “any unfair limitation on market access or any structural impediment to fair competition;” and any other “measures that disadvantage the United States as applied, regardless of what they are called or whether they are written or unwritten.”

The memorandum lists the following general policy areas as investigation priorities:

- “tariffs imposed on United States products;”
- “unfair, discriminatory, or extraterritorial taxes imposed by our trading partners on United States businesses, workers, and consumers, including a value-added tax [VAT];”
- “costs to United States businesses, workers, and consumers arising from nontariff barriers or measures and unfair or harmful acts, policies, or practices, including subsidies, and burdensome regulatory requirements on United States businesses operating in other countries;”
- “policies and practices that cause exchange rates to deviate from their market value, to the detriment of Americans; wage suppression; and other mercantilist policies that make United States businesses and workers less competitive;” and
- “any other practice that, in the judgment of the United States Trade Representative, in consultation with the Secretary of the Treasury, the Secretary of Commerce, and the Senior Counselor to the President for Trade and Manufacturing, imposes any unfair limitation on market access or any structural impediment to fair competition with the market economy of the United States.”

The memorandum defines “non-tariff barriers” to include “any government-imposed measure or policy or nonmonetary barrier that restricts, prevents, or impedes international trade in goods, including import policies, sanitary and phytosanitary measures, technical barriers to trade, government procurement, export subsidies, lack of intellectual property protection, digital trade barriers, and government-tolerated anticompetitive conduct of state-owned or private firms.”

The memorandum’s references to nondiscriminatory policies like consumption taxes suggest the investigations may target a broad range of market interventions not typically viewed as within the domain of trade policy. The references to VAT are particularly unusual and have sparked confusion among US trade partners. Trump reiterated this belief that VATs are equivalent to tariffs in a Truth Social post following the memorandum’s publication, saying “we will consider Countries that use the VAT System, which is far more punitive than a Tariff, to be similar to that of a Tariff.”²²

²¹ WTO tariff databases, accessible here: https://www.wto.org/english/tratop_e/tariffs_e/tariff_data_e.htm.

²² Truth Social post, February 13, 2025, accessible here: <https://truthsocial.com/@realDonaldTrump/posts/113998250121701192>.

In a fact sheet accompanying the memorandum's publication,²³ the White House mentions other specific examples of policies the reciprocal tariffs would target:

- Brazil's 18% tariff on ethanol, which it contrasts the US ethanol tariff rate of 2.5%;
- India's average applied MFN tariff on agricultural products of 39%, in contrast with the US average applied MFN tariff on agricultural products of 5%;
- India's tariff of 100% on motorcycle imports, in contrast with the US tariff rate of 2.4%;
- The EU health certification standards for raw and processed shellfish;
- The EU's 10% tariff on US cars, in contrast with the US tariff of 2.5%; and
- The United States' generally lower MFN duty rates than most other countries.

The investigations will also target Digital Services Taxes (DST), which Washington and US technology companies believe are designed to target US companies. The fact sheet names Canada and France specifically as potential targets. USTR pursued Section 301 investigations targeting foreign DSTs during Trump's first term, which lead to threats to impose tariffs on France and several other countries (Canada introduced its DST in 2024).

Target countries

Though the memorandum describes the action as targeting all countries, the investigations would target one country at a time. Given the scale of the task, the government will likely have to set priorities. At the memorandum's signing, Lutnick stated that the investigation would "address each country one by one." Trump and other White House staff have also suggested that Japan, the EU, Canada, and India would be early targets. The memorandum itself is heavily focused on the United States' goods trade deficit, which the Trump administration appears to believe is caused by unfair market access terms. Senior Counselor to the President for Trade and Manufacturing Peter Navarro has also stated the investigation will prioritize countries with high bilateral trade deficits, saying in a February 11 interview, "what's going to happen is we're going to look at all of our trading partners, starting with the ones with which we run the biggest deficits with, find out if they're cheating the American people, and if they are we're going to take measures to correct that wrong."²⁴

The United States' ten largest bilateral trade deficits are with (in order based on 2024 goods trade): China, Mexico, Vietnam, Ireland, Germany, Taiwan, Japan, South Korea, Canada, and India. The United States has a \$45.6 billion goods trade deficit with Thailand, the 11th largest. The United States usually has large services trade surpluses with these countries, which Trump and his trade policy staff have a history of disregarding.

Legal basis for eventual action

The memorandum does not provide any legal basis for the potential tariff actions, which makes the implementation timeline and methods uncertain. Some sources have suggested that the proposed tariffs could eventually be implemented by the president through the International Emergency Economic Powers Act (IEEPA) or by USTR through Section 301 investigations. IEEPA would allow the president to implement his desired tariffs quickly, as he did with the 10% IEEPA tariff on imports from China in early February. Section 301 tariffs would require USTR to first conduct investigations of the foreign government practices that are allegedly "unjustifiable and burdens or restricts United States commerce," before taking appropriate action to remedy the burdensome practice. Discretionary Section 301 investigations can take as long as a year and require public notice and comment processes.

²³ Fact Sheet: "President Donald J. Trump Announces 'Fair and Reciprocal Plan' on Trade," February 13, 2025, accessible here: <https://www.whitehouse.gov/fact-sheets/2025/02/fact-sheet-president-donald-j-trump-announces-fair-and-reciprocal-plan-on-trade/>.

²⁴ CNN interview, February 11, 2025, accessible here: <https://x.com/PamelaBrownCNN/status/1889394329925333220>.

Meaning of “reciprocity”

Trump’s definition of reciprocity appears to examine each specific tariff line individually, seeking full mirror-image tariff rates for each individual trading partner. He appears to believe that if tariff rates do not exactly match, then the United States will appear to have “lost” the negotiations.²⁵ The approach contrasts sharply with the traditional WTO approach of allowing countries to negotiate across all tariff lines to achieve MFN-based first difference (also called “marginal”) reciprocity. The WTO does not require countries to completely eliminate trade barriers or to set identical trade barriers. Negotiators from all members try to balance tariff concessions across all tariff lines for any given member in a way that creates new trading opportunities at the margin for all involved, relative to the previous tariff rates.

Under mirror image reciprocity, a country would match its rates to every other country’s rates exactly, which prioritizes setting equivalent tariff barriers over maximizing actual trade opportunities. However, Trump’s memorandum makes no reference to lowering US trade barriers in situations where the US trade barriers are higher than the corresponding foreign trade barriers, suggesting Trump intends to apply this mirror-image principle in one direction only. Besides creating higher tariffs, widespread adoption of mirror-image tariffs would make the US tariff schedule significantly more complex. The United States would have to create separate tariff columns for every trade partner and mirror the HTS-8 or HTS-10 digit codes set by other countries, complicating the planning of international supply chains, requiring the creation of new customs classification procedures, and increasing the likelihood of trade diversion.

Reciprocal Trade Act

On January 24, 2025, Rep. Riley Moore (R-WV) reintroduced the United States Reciprocal Trade Act as H.R.735.²⁶ The bill would delegate to the president discretion to set US tariffs to match the tariff rates of each individual trade partner, including by allowing the president to lower tariffs reciprocally with tariff reductions offered by trade partners. When running for president, Trump endorsed the Reciprocal Trade Act as part of his strategy to make trade fairer for the United States.²⁷ Republicans had previously introduced the Reciprocal Trade Act to the House and Senate during the 2019-2020 Congress, which Trump (as president at the time) supported.²⁸ When advocating for the bill in 2019, Peter Navarro published a report describing the logic of how a reciprocal tariff could work, though it did not provide specific tariff rates.²⁹ Trump has not explained why he has switched from waiting for Congressional authorization to acting under (still undefined) executive branch authorities.

USTR Calls for Public Input on Reciprocal Tariff Plan

On February 20, 2025, the Office of the United States Trade Representative (USTR) issued a call for public input seeking information on “unfair and non-reciprocal foreign trade practices.”³⁰ Feedback gathered from the call for input will inform the country-by-country investigations USTR is conducting under President Trump’s orders to prepare

²⁵ See, e.g., Trump’s comments on “reciprocal trade” at a 2017 press conference in Japan, accessible here: <https://trumpwhitehouse.archives.gov/briefings-statements/remarks-president-trump-prime-minister-abe-japan-joint-press-conference-tokyo-japan/>.

²⁶ H.R.735 - To authorize the President to take certain actions relating to reciprocal trade, and for other purposes, 119th Congress (2025-2026), accessible here: <https://www.congress.gov/bill/119th-congress/house-bill/735>.

²⁷ See “Agenda47: Cementing Fair and Reciprocal Trade with the Trump Reciprocal Trade Act” for Trump’s endorsement of the bill, accessible here: <https://www.donaldjtrump.com/agenda47/agenda47-cementing-fair-and-reciprocal-trade-with-the-trump-reciprocal-trade-act>.

²⁸ H.R.764 - United States Reciprocal Trade Act, 116th Congress (2019-2020), accessible here: <https://www.congress.gov/bill/116th-congress/house-bill/764>; and S.2409 - United States Reciprocal Trade Act, 116th Congress (2019-2020), accessible here: <https://www.congress.gov/bill/116th-congress/senate-bill/2409>.

²⁹ “The United States Reciprocal Trade Act: Estimated Job & Trade Deficit Effects,” White House Office of Trade and Manufacturing Policy, May 2019, accessible here: <https://www.wsj.com/public/resources/documents/RTAReport.pdf>.

³⁰ “USTR Seeks Comment from the Public on Unfair and Non-Reciprocal Foreign Trade Practices,” USTR, February 20, 2025, accessible here: <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2025/february/ustr-seeks-comment-public-unfair-and-non-reciprocal-foreign-trade-practices-0>; and “Request for Comments to Assist in Reviewing and Identifying Unfair Trade Practices and Initiating All Necessary Actions to Investigate Harm From Non-Reciprocal Trade Arrangements,” (advance copy of the *Federal Register* notice), accessible here: https://ustr.gov/sites/default/files/files/Press/Releases/2025/USTRAFRRecipPMsFRN_PDF.pdf.

reciprocal tariffs targeting unfair foreign trade practices. In the notice, USTR highlights 21 economies as priority targets for the investigations, including Japan.

Implementing Trump's Reciprocal Tariff Order

President Trump issued a memorandum on February 13, 2025, instructing the executive branch to begin a process to design new “reciprocal tariffs” on US trade partners, which he called the “Fair and Reciprocal Plan.”³¹ The memorandum instructs the Department of Commerce (Commerce) and USTR to prepare inquiries into the trade barriers of specific trade partners and then develop proposals for eventually imposing “the equivalent of a reciprocal tariff with respect to each foreign trading partner.” The memorandum indicates the tariffs will target a broad range of market access limits, including tariffs; non-tariff trade barriers; “any unfair limitation on market access or any structural impediment to fair competition;” and any other “measures that disadvantage the United States as applied, regardless of what they are called or whether they are written or unwritten.” The timeline and legal basis for these potential actions are not explained in the memorandum. Though the memorandum describes the action as targeting all countries, the investigations would target one country at a time. At the memorandum’s signing, Secretary of Commerce Howard Lutnick stated that the investigation would “address each country one by one.”

The investigations and potential tariff actions directed under the Fair and Reciprocal Plan would build on the reports Trump ordered executive branch agencies to deliver under the “America First Trade Policy Memorandum” of January 20, 2025.³² The America First Trade Policy memo instructs USTR to “undertake a review of, and identify, any unfair trade practices by other countries and recommend appropriate actions to remedy such practices under applicable authorities” to the president by April 1, 2025.

Overview of the call for input

USTR’s notice states the call for input will assist the agency in “reviewing and identifying any unfair trade practices by other countries, and in initiating all necessary actions to investigate the harm to the United States from any non-reciprocal trade arrangements.” The information would help USTR develop the remedy recommendations that it plans to make to the president. The call for input provides no further information on the timeline or legal basis for the eventual tariff actions.

The notice is seeking to gather information on a broad range of unfair or non-reciprocal trade practices. USTR states that such measures may include “policies, measures, or barriers that undermine or harm U.S. production, or exports, or a failure by a country to take action to address a non-market policy or practice in a way which harms the United States.”

The notice also states that USTR is especially interested in receiving comments focused on the United States’ largest trading partners and countries with which the United States has a high goods trade deficit. The notice specifically lists Argentina, Australia, Brazil, Canada, China, the European Union, India, Indonesia, Japan, Korea, Malaysia, Mexico, Russia, Saudi Arabia, South Africa, Switzerland, Taiwan, Thailand, Turkey, United Kingdom, and Vietnam. The notice does not explain in detail why USTR selected these economies as priorities. The list appears to be a mix of economies with which the United States has a high bilateral goods trade deficit and countries that are members of the G20 (excluding specific EU member states).

³¹ Presidential Memorandum of February 13, 2025: “Reciprocal Trade and Tariffs,” 90 FR 9837, accessible here: <https://www.federalregister.gov/documents/2025/02/19/2025-02872/reciprocal-trade-and-tariffs>.

³² Presidential 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>.

Participation in the public comments

Interested stakeholders may submit comments through the public docket on the USTR Comments Portal.³³ Comments are due by March 11, 2025. The notice provides additional instructions on how to participate and submit comments, requesting that commenters provide their input “on a country-by-country basis.” Information provided should include “the foreign country or economy concerned, the practice or trade arrangement of concern, a brief explanation of the operation of the practice or trade arrangement, and an explanation of the impact or effect of the practice or trade arrangement on the interested party or on U.S. interests.” USTR will consider and respond to public comments as part of each country-specific investigation, which may influence the outcome.

Monitoring the public comments could help observers identify which trade measures and economies are of greatest concern for US stakeholders. USTR already publishes reports on foreign trade barriers in the annual National Trade Estimate (NTE). Much like the new call for input, the NTE compiles market access challenges that US business have raised with USTR. Given the similarities between the two projects, reviewing past NTEs may also be helpful for anticipating what issues could be raised in USTR’s new review.³⁴

President Trump Orders Intensified Digital Trade Market Access Efforts

On February 21, 2025, President Trump issued a memorandum on digital trade policy,³⁵ instructing the executive branch to investigate various foreign regulations and tax practices that threaten to limit the competitiveness of US technology companies. The memorandum declares that it is the general policy stance of the Trump administration to retaliate against any “fine, penalty, tax, or other burden that is discriminatory, disproportionate, or designed to transfer significant funds or intellectual property from American companies to the foreign government.” The Trump administration is taking aim specifically at digital economy regulations and taxes, including digital services taxes (DSTs), cross-border data flow limits, content moderation standards, local content requirements for media streaming services, network usage fees, and antitrust rules.

Though the memorandum does not impose any immediate tariffs, initiation of retaliatory measures targeting the covered policies are likely in the next few months. The memorandum instructs the Secretaries of Treasury and Commerce, as well as the United States Trade Representative (USTR), to recommend retaliatory actions in line with the America First Trade Policy memo, with reports due by April 1, 2025.

Setting a general policy stance on digital trade

The memorandum covers a broad range of policy measures, including many that are not typically seen as trade measures or as discriminatory, asserting the United States has a broad right to retaliate against any foreign technology regulation or tax viewed as objectionable. The memorandum specifically mentions the following foreign measures as falling under this policy stance: DSTs; other taxes imposed on US companies; burdensome digital services regulations; cross-border data flow limits; threats to US intellectual property; requirements for US media streaming companies to fund local media productions; network usage and termination fees; and “any other act,

³³ Public Docket: “Request for Comments to Assist in Reviewing and Identifying Unfair Trade Practices and Initiating All Necessary Actions to Investigate Harm From Non-Reciprocal Trade Arrangements,” USTR, accessible here: <https://comments.ustr.gov/s/docket?docketNumber=USTR-2025-0001>.

³⁴ See, “2020 National Trade Estimate Report on Foreign Trade Barriers,” USTR, March 31, 2020 (the last NTE prepared under the first Trump administration), accessible here: https://ustr.gov/sites/default/files/2020_National_Trade_Estimate_Report.pdf. Though USTR continued to publish NTEs under the Biden administration, political interference in the publication process made the content less reliable. For the latest edition, see, “2024 National Trade Estimate Report on Foreign Trade Barriers,” USTR, March 29, 2024, accessible here: https://ustr.gov/sites/default/files/2024%20NTE%20Report_1.pdf. USTR is currently preparing the 2025 NTE, for which it requested public comments in September 2024. See, “Request for Comments on Significant Foreign Trade Barriers for the 2025 National Trade Estimate Report,” 89 FR 71775 (September 3, 2024), accessible here: <https://www.federalregister.gov/documents/2024/09/03/2024-19694/request-for-comments-on-significant-foreign-trade-barriers-for-the-2025-national-trade-estimate>.

³⁵ Presidential Proclamation of February 21, 2025: “Defending American Companies and Innovators From Overseas Extortion and Unfair Fines and Penalties,” accessible here: <https://www.whitehouse.gov/presidential-actions/2025/02/defending-american-companies-and-innovators-from-overseas-extortion-and-unfair-fines-and-penalties/>.

policy, or practice of a foreign government that serves to undermine the global competitiveness of United States companies.”

Besides setting a more aggressive stance on unilaterally combating foreign digital economy regulations, the memorandum also appears to mark a return to the United States’ historical support for open cross-border data flows (which the Biden administration had backed away from in 2024). The memorandum also calls for making the World Trade Organization’s (WTO) moratorium on customs duties on electronic transmissions permanent, in another sign that the memorandum is seeking (at least in part) to return to pre-Biden administration policy stances. That said, the memorandum does not specifically reference the ongoing negotiations at the WTO, which the Biden administration’s USTR had de-emphasized. It is unclear whether the Trump administration intends to use the WTO ministerial conferences and the plurilateral Joint Statement Initiative agreement on e-commerce to advocate for cross-border data flows and the moratorium, or if the United States would pursue these policies unilaterally. USTR’s April 1 reports may help clarify the matter. US business associations that represent the US technology industry, including the National Foreign Trade Council (NFTC), Coalition of Services Industries (CSI), and the Information Technology Industry Council (ITI), all issued statements welcoming the policy change.

Specific activities for the next few months

After establishing the general policy stance, the memorandum provides specific instructions to USTR and other relevant agencies to begin considering retaliatory action on several issues. The memorandum lists the following:

- Consider renewing its Section 301 investigations of DSTs imposed by France, Austria, Italy, Spain, Turkey, and the United Kingdom;
- Consider initiating new Section 301 investigations targeting other countries that have introduced DSTs in recent years;
- Consider either pursuing a Section 301 investigation targeting Canada’s new DST (effective from June 28, 2024) or continue pursuing dispute settlement under the United States-Mexico-Canada Agreement (USMCA);
- Identify foreign trade and regulatory practices “that discriminate against, disproportionately affect, or otherwise undermine the global competitiveness or intended operation of United States companies, in the digital economy and more generally, and recommend to [Trump] appropriate actions to counter such practices under applicable authorities;”
- “Investigate whether any act, policy, or practice of any country in the European Union or the United Kingdom has the effect of requiring or incentivizing the use or development of United States companies’ products or services in ways that undermine freedom of speech and political engagement or otherwise moderate content, and recommend appropriate actions to counter such practices under applicable authorities;”
- “Determine whether any foreign country subjects United States citizens or companies, including, without limitation, in the digital economy, to discriminatory or extraterritorial taxes, or has any tax measure in place that otherwise undermines the global competitiveness of United States companies, is inconsistent with any tax treaty of the United States, or is otherwise actionable under section 891 of title 26, United States Code, or other tax-related legal authority;”³⁶ and
- “Identify tools the United States can use to secure among trading partners a permanent moratorium on customs duties on electronic transmissions.”

³⁶ Section 891 is 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. See, 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>.

A factsheet accompanying the memorandum adds that, as part of these investigations into foreign regulatory practices, the administration will scrutinize “regulations that dictate how American companies interact with consumers in the European Union, like the Digital Markets Act and the Digital Services Act[.]”³⁷

The memorandum also instructs the government to gather private sector input for these investigations, stating the government will “establish a process that allows American businesses to report to the United States Trade Representative foreign tax or regulatory practices that disproportionately harm United States companies.”

Trump’s past targeting of DSTs

US businesses and the US government argue that DSTs are – though universal in theory – targeted at US companies in practice. During Trump’s first term, USTR conducted a series of investigations under Section 301 of the Trade Act of 1974 targeting countries that were adopting DSTs.³⁸ The use of Section 301 investigations and threats of tariffs began in July 2019 with USTR’s initiation of an investigation of France’s DST. As other jurisdictions began adopting similar DSTs, USTR launched additional investigations into Austria, Brazil, the Czech Republic, the European Union, India, Indonesia, Italy, Spain, Turkey, and the United Kingdom. The investigations found DSTs implemented by Austria, France, India, Italy, Spain, Turkey, and the United Kingdom discriminated against US business, and USTR announced retaliatory tariffs. USTR delayed imposing these retaliatory tariffs as it negotiated with the target countries.

The United States and subject countries reached a compromise in 2021 to seek a negotiated outcome, which led to the withdrawal of the retaliatory tariffs.³⁹ Under the Biden administration, the United States pursued a negotiated settlement through Pillar I of the OECD/G20 Inclusive Framework on Base Erosion and Profit Shifting Two-Pillar Solution for DSTs and global minimum taxes. However, the Biden administration was unable to finalize negotiations and secure Senate ratification for the Pillar One Multilateral Convention, which would have replaced DSTs with a new system that would have relocated rights to market jurisdictions. Republican opposition to the plan has been strong. On his first day in office on January 20, 2025, Trump issued a memorandum distancing the United States from the OECD negotiations.⁴⁰ The February 21 digital trade memorandum signals a return to the aggressive, unilateral approach of Trump’s first term, though Trump does not appear to have completely rejected the possibility of continued negotiations at the OECD.

USTR’s decision to terminate the Section 301 actions was based on a provision of Section 301 allowing USTR to modify or terminate such actions if the action is no longer considered appropriate.⁴¹ These Section 301 suspension rules also require USTR to monitor implementation of the agreement and to consider further actions under Section

³⁷ Fact Sheet: “President Donald J. Trump Issues Directive to Prevent the Unfair Exploitation of American Innovation,” White House, February 21, 2025, accessible here: <https://www.whitehouse.gov/fact-sheets/2025/02/fact-sheet-president-donald-j-trump-issues-directive-to-prevent-the-unfair-exploitation-of-american-innovation/>.

³⁸ 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>.

³⁹ “Termination of Actions in the Section 301 Digital Services Tax Investigations of Austria, France, Italy, Spain, and the United Kingdom and Further Monitoring,” 86 FR 64590 (November 18, 2021), accessible here: <https://www.federalregister.gov/documents/2021/11/18/2021-25199/termination-of-actions-in-the-section-301-digital-services-tax-investigations-of-austria-france>; “Termination of Action in the Section 301 Digital Services Tax Investigation of Turkey and Further Monitoring,” 86 FR 68295 (December 1, 2021), accessible here: <https://www.federalregister.gov/documents/2021/12/01/2021-26116/termination-of-action-in-the-section-301-digital-services-tax-investigation-of-turkey-and-further>; and “Termination of Action in the Digital Services Tax Investigation of India and Further Monitoring,” 86 FR 68526 (December 2, 2021), accessible here: <https://www.federalregister.gov/documents/2021/12/02/2021-26198/termination-of-action-in-the-digital-services-tax-investigation-of-india-and-further-monitoring>.

⁴⁰ Presidential Memorandum of January 20, 2025: “The Organization for Economic Co-Operation and Development (OECD) Global Tax Deal (Global Tax Deal),” 90 FR 8483, accessible here: <https://www.federalregister.gov/documents/2025/01/30/2025-02043/the-organization-for-economic-co-operation-and-development-oecd-global-tax-deal-global-tax-deal>.

⁴¹ 19 U.S.C. 2417 - Modification and termination of actions, accessible here: <https://www.govinfo.gov/app/details/USCODE-2022-title19/USCODE-2022-title19-chap12-subchapIII-sec2417>.

301 if the agreements are not implemented to USTR's satisfaction.⁴² As a result, should USTR determine that other countries have failed to satisfactorily implement their commitments, USTR could consider resuming the Section 301 investigations.

Trump's trade policy memoranda and tariff threats

The digital trade memorandum is the latest in a series of memoranda directing the government to begin planning to implement tariffs. On January 20, 2025 (his first day in office), Trump instructed executive branch agencies to submit reports to the White House by April 1 outlining potential trade policy actions and market access concerns (including whether any country "subjects United States citizens or corporations to discriminatory or extraterritorial taxes").⁴³

A second memorandum, issued on February 13, instructed USTR and the Department of Commerce to begin a process to design new "reciprocal tariffs" on US trade partners, building on the results of the April 1 reports.⁴⁴ A White House fact sheet that accompanied the reciprocal tariffs memorandum mentioned Canada and France's DSTs as potential targets for the reciprocal tariff actions.⁴⁵ The digital trade memorandum continues this pattern, though in more detail. USTR, Treasury, and Commerce will include the results of the digital trade memorandum's reviews of foreign digital market regulations in the April 1 reports. Other than highlighting the Trump administration's interest in eventually acting against foreign digital trade barriers, the memorandum makes no apparent changes to the overall policy stance or timing of potential tariffs.

While the executive branch is proceeding with these investigations, Trump has acted several times to impose tariffs ahead of the schedules outlined in his memoranda. First, on January 26, Trump threatened to impose tariffs on Colombia, which he backed away from on the same day. A few days later, on February 1, Trump ordered the imposition of tariffs on Canada, Mexico, and China. The China tariffs entered effect on schedule on February 4, but Trump put the Mexico and Canada tariffs on hold. Trump then ordered a significant expansion of the existing Section 232 steel and aluminum tariffs on February 10, which are scheduled to take effect in March.

Trump is continuing to make these separate tariff threats, saying in recent weeks that he intends to impose 25% tariffs on all imports of automotive products, semiconductors, pharmaceuticals, and lumber in April. Speaking to press ahead of the signing of the digital trade memorandum, Trump joked that he would probably impose these tariffs on April 2 instead of April 1, so that no one would think the tariffs are an April Fools' Day prank. The White House has not provided any further details on these prospective tariffs.

⁴² 19 U.S.C. 2416 - Monitoring of foreign compliance, accessible here: <https://www.govinfo.gov/app/details/USCODE-2022-title19/USCODE-2022-title19-chap12-subchapIII-sec2416>.

⁴³ Presidential 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>.

⁴⁴ Presidential Memorandum of February 13, 2025: "Reciprocal Trade and Tariffs," 90 FR 9837, accessible here: <https://www.federalregister.gov/documents/2025/02/19/2025-02872/reciprocal-trade-and-tariffs>.

⁴⁵ Fact Sheet: "President Donald J. Trump Announces 'Fair and Reciprocal Plan' on Trade," February 13, 2025, accessible here: <https://www.whitehouse.gov/fact-sheets/2025/02/fact-sheet-president-donald-j-trump-announces-fair-and-reciprocal-plan-on-trade/>.

Trade Actions

Section 301

USTR Proposes Export and Shipping Restrictions in its China Shipbuilding Section 301 Investigation

On February 21, 2025, the Office of the United States Trade Representative (USTR) announced its proposed Section 301 actions in response to China's shipbuilding subsidy programs.⁴⁶ While USTR's proposals are preliminary and important implementation details are missing, the actions as outlined would create significant new barriers to all trade (imports and exports) carried by vessel. First, USTR is proposing to impose new docking fees on Chinese carriers and non-Chinese carriers that operate or purchase Chinese-built vessels, which would lead to millions of dollars in new costs for every port of call. Second, USTR is proposing to require carriers to transport certain shares of US vessel-born export cargo on US-flagged, US-operated, and US-built vessels.

The proposals follow USTR's January 16 determination in its Section 301 investigation of "China's Targeting of the Maritime, Logistics, and Shipbuilding Sectors for Dominance," in which USTR determined China's practices in the maritime, logistics, and shipbuilding sectors sector are unjustifiable and burden or restrict US commerce. USTR is accepting stakeholder feedback on the proposals until March 24. USTR will also hold public hearings on March 24.

Investigation and final determination

Section 301 of the Trade Act of 1974 authorizes USTR to investigate any foreign government practice that is "unjustifiable and burdens or restricts United States commerce" and to take appropriate action to obtain remediation of the practice. USTR has broad discretion on how it approaches Section 301 investigations and remedies.

USTR initiated the Section 301 investigation of China's acts, policies, and practices supporting its maritime, logistics, and shipbuilding sectors in April 2024.⁴⁷ The investigation responds to a petition filed on March 12, 2024 by a group of US labor unions.⁴⁸ The petitioners called for USTR to restrict Chinese-built commercial ships through various policy actions, arguing that such restrictions would aid the development of the US commercial shipbuilding industry (and the steel industry that supplies it).

USTR announced its final determination in the investigation on January 16, 2025, a few days before the presidential transition.⁴⁹ USTR determined that "China's targeting of the maritime, logistics, and shipbuilding sectors for dominance is unreasonable and burdens or restricts U.S. commerce[.]" The report discusses China's shipbuilding practices and the growth of its industry. The report does not discuss proposed remedies, which are handled in a subsequent process.

⁴⁶ "USTR Seeks Public Comment on Proposed Actions in Section 301 Investigation of China's Targeting of the Maritime, Logistics, and Shipbuilding Sectors for Dominance," USTR, February 21, 2025, accessible here: <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2025/february/ustr-seeks-public-comment-proposed-actions-section-301-investigation-chinas-targeting-maritime>; and "Proposed Action in Section 301 Investigation of China's Targeting of the Maritime, Logistics, and Shipbuilding Sectors for Dominance," 90 FR 10843 (February 27, 2025), accessible here: <https://www.federalregister.gov/documents/2025/02/27/2025-03134/proposed-action-in-section-301-investigation-of-chinas-targeting-of-the-maritime-logistics-and-shipbuilding-sectors-for-dominance>.

⁴⁷ "Initiation of Section 301 Investigation: China's Acts, Policies, and Practices Targeting the Maritime, Logistics, and Shipbuilding Sectors for Dominance," 89 FR 29424 (April 22, 2024), accessible here: <https://www.federalregister.gov/documents/2024/04/22/2024-08515/initiation-of-section-301-investigation-chinas-acts-policies-and-practices-targeting-the-maritime-logistics-and-shipbuilding-sectors-for-dominance>.

⁴⁸ Documents for "Section 301 Petition: China – Maritime, Logistics, and Shipbuilding Sector" are accessible here: <https://ustr.gov/issue-areas/enforcement/section-301-investigations/section-301-petition-china-maritime-logistics-and-shipbuilding-sector>.

⁴⁹ "Notice of Determination Pursuant to Section 301: China's Targeting of the Maritime, Logistics, and Shipbuilding Sectors for Dominance," 90 FR 8089 (January 23, 2025), accessible here: <https://www.federalregister.gov/documents/2025/01/23/2025-01540/notice-of-determination-pursuant-to-section-301-chinas-targeting-of-the-maritime-logistics-and-shipbuilding-sectors-for-dominance>; and "Section 301 Investigation Report on China's Targeting of the Maritime, Logistics, and Shipbuilding Sectors for Dominance," USTR, January 16, 2025, accessible here: <https://ustr.gov/sites/default/files/enforcement/301Investigations/USTRReportChinaTargetingMaritime.pdf>.

USTR's report found that China has targeted the "the maritime, logistics, and shipbuilding sectors for dominance and has employed increasingly aggressive and specific targets in pursuing dominance." This targeting led to China's shipbuilding market share increasing from less than five percent of global tonnage in 1999, to over 50 percent in 2023; China's ownership of the commercial world fleet growing to 19 percent as of January 2024; Chinese port operators expanding to own stakes or operating terminals at 96 overseas ports; and China becoming the source of production of 95 percent of shipping containers and 86 percent of intermodal chassis (USTR's proposed action does not reference any potential measures targeting containers, chassis, or overseas port ownership).

Based on the identified industrial policies and the rapid growth of the Chinese shipbuilding sector, USTR concludes that China's large presence in the shipbuilding sector is "severely disadvantaging U.S. companies, workers, and the U.S. economy generally through lessened competition and commercial opportunities" and that China's large presence in the shipbuilding sector has created "economic security risks from dependencies and vulnerabilities."

Section 301 remedies

The affirmative finding by USTR of a burden or restriction on US commerce allows the President to take actions to obtain the elimination of the acts, policies, or practices identified in the investigation. Section 301 generally favors a tariff in proportion to the injury as the remedy, but also allows for a broader set of import and service provision restrictions "that are within the power of the President with respect to trade in any goods or services, or with respect to any other area of pertinent relations with the foreign country." Many Section 301 investigations have resulted in settlements through trade agreements, which have included remedies as diverse as commitments to a certain market share for US exporters within the target country; minimum prices in the US market; revision of intellectual property (IP), tax, and investment laws in the target country; and voluntary export restraints.

Since the creation of the World Trade Organization's (WTO) dispute settlement system in 1995, USTR has typically only used Section 301 processes to develop cases for WTO dispute settlement. Unilateral Section 301 actions resumed under the President Trump's first term. The first Trump administration and the Biden administration after it used Section 301 to impose unilateral tariffs on imports from China and threaten to impose tariffs on countries adopting digital services taxes (DSTs). The Biden administration's USTR initiated three new discretionary Section 301 investigations at the end of its term of office, targeting Chinese shipbuilding, Chinese legacy-node semiconductors, and Nicaraguan labor practices. The final decisions on all three investigations now fall to the Trump administration.

Proposed actions

On February 21, 2025, USTR issued the remedy proposal and a call for public comments for the shipbuilding investigation, which initiates the remedy determination phase of the 301 proceeding. The proposal includes several options for USTR's policy response. USTR's decision is not yet final, and important details of how the proposed measures would work are absent. The proposals involve (i) docking fees on ships owned by Chinese shipping companies or shipping companies which operate or order Chinese-built ships; (ii) requirements that US exports be carried on US-built ships; (iii) restrictions on the use of China's National Transportation and Logistics Public Information Platform (LOGINK); and (iv) negotiations for a joint response to Chinese practices with US allies and partners. The notice does not explain the legal or administrative mechanisms USTR would rely on for implementing the proposed actions.

Assessing fees on Chinese shipping companies and any shipping companies that use or order Chinese-built vessels.

USTR proposes a set of three fees it could impose on international shipping companies, targeting Chinese-owned shippers, shippers that use Chinese-built ships, and shippers that order new Chinese built ships. The proposals do not define the types of shipping companies to which these terms apply, and do not explain how to handle subsidiaries, other related entities, ship charters, or special purpose vehicles (SPVs) that may own the vessels. The

proposal also does not explain the intended outcome of these policy actions and does not provide any economic assessment of their effects, other than claiming the restrictions would dissuade China from supporting its shipbuilding industry. The fees would likely lead to significantly increased shipping costs and fragmentation of global shipping networks, which would be economically equivalent to a global import and export tariff.

The three fee proposals are summarized below:

- First, any “vessel operator of China” would be charged a fee every time one of its vessels enter a US port of either (i) up to \$1 million per entry or (ii) up to \$1,000 per net ton of the entered vessel’s capacity. The proposal does not define “vessel operator of China” or explain how capacity tonnage would be calculated.
- Second, maritime transport operators would be assessed a fee every time they enter a Chinese-built ship into a US port. The size of the fee will scale with the share of the operator’s fleet comprised of Chinese-built ships. To calculate this fee, USTR proposes three possible formulas:
 - (i) a flat rate of up to \$1.5 million; or
 - (ii) “for operators with 50 percent or greater of their fleet comprised of Chinese-built vessels, the operator will be charged up to \$1,000,000 per vessel entrance to a U.S. port; for operators with greater than 25 percent and less than 50 percent of their fleet comprised of Chinese-built vessels, the operator will be charged a fee up to \$750,000 per vessel entrance to a U.S. port; for operators with greater than 0 percent and less than 25 percent of their fleet comprised of Chinese-built vessels, the operator will be charged a fee up to \$500,000 per vessel entrance to a U.S. port;” or
 - (iii) “an additional fee of up to \$1,000,000 will be charged to a vessel operator per vessel entrance to a U.S. port if the number of Chinese-built vessels in the operator’s fleet is equal to or greater than 25 percent.”
- Third, the United States would impose fees on maritime transport operators that have ordered new vessels from Chinese shipyards to be delivered in the next two years, which the United States would assess every time a ship operated by such a company enters a US port. Similar to the proposed fees on maritime transport operators that have Chinese-built ships in their current fleet, the new orders-based fee includes two possible formulas:
 - (i) “for operators with 50 percent or greater of their vessel orders in Chinese shipyards or vessels expected to be delivered by Chinese shipyards over the next 24 months, the operator will be charged up to \$1,000,000 per vessel entrance to a U.S. port; for operators with greater than 25 percent and less than 50 percent of their vessel orders in Chinese shipyards or expected to be delivered by Chinese shipyards over the next 24 months, the operator will be charged up to \$750,000 per vessel entrance to a U.S. port; for operators with greater than 0 percent and less than 25 percent of their vessel orders in Chinese shipyards or expected to be delivered by Chinese shipyards over the next 24 months, the operator will be charged up to \$500,000 per vessel entrance to a U.S. port;” or
 - (ii) “a fee of up to \$1,000,000 per vessel entrance to a U.S. port will be charged to a vessel operator if 25 percent or more of the total number of vessels ordered by that operator, or expected to be delivered to that operator, are ordered or expected to be delivered by Chinese shipyards over the next 24 months.”

USTR also proposes that it may partially refund the fees, returning up to \$1 million every time one of the subject maritime transport operators enters a US-built ship into a US port.

The proposal does not explain the administrative or legal process by which USTR would assess the fees. The proposal’s language and reliance on fees of \$1 million may imply that USTR is referencing the Federal Maritime

Commission's (FMC) laws on actions to remedy unfavorable conditions and action against foreign carriers.⁵⁰ These laws allow the FMC to apply fees of up to \$1 million per vessel voyage (among other actions) under certain circumstances. If USTR intends to rely on the FMC regulations to implement its proposals, the FMC would have to undertake a subsequent investigation and rulemaking process to implement the actions. The FMC has not commented publicly on USTR's proposals.

Requiring maritime shipping companies to carry certain shares of US export cargo on US-flagged, US-operated, and US-built vessels.

In addition to imposing port fees on maritime transport operators, USTR is proposing that certain shares of vessel-born exports of US cargo would be required to be carried on vessels that are US-flagged, US-operated, and US-built. First, beginning in the rule's first year in force, 1 percent of US exports would be required to be carried on vessels that are US-flagged and US-operated. In the rule's third year in force, at least 3 percent of US maritime cargo would be required to be carried on US-operated, US-flagged vessels. The requirement that these vessels also be built in the United States would enter into effect after three years. Effective as of three years after the rule enters into force, "at least 5 percent of U.S. goods, per calendar year, that is exported by vessel, is restricted to export on U.S.-flagged vessels by U.S. operators, of which 3 percent must be U.S.-flagged, U.S.-built vessels, by U.S. operators." Finally, after 7 years, 15 percent of US maritime cargo must be carried by US-flagged, US-operated vessels, of which 5 percent must also be US-built.

USTR also appears to propose an alternative form of the export restriction, which would require all US goods to be exported on US-flagged, US built vessels. Under this rule, a shipping operator may continue carrying US cargo on non-US-built vessels if that operator can demonstrate that "at least 20 percent of U.S. products, per calendar year, that the operator will transport by vessel, will be transported on U.S.-flagged, U.S.-built ships."

It is unclear how USTR intends to enforce these export restrictions; how the requirements would affect any individual shipment; whether US-operated vessels are available to meet the immediate requirements; what would happen if shipping companies were unable to meet the targets; or which companies would be responsible for ordering, paying for, and operating the required ships. It is also unclear what obligations US exporters would face to ensure their cargos are carried on compliant vessels. The requirement that some exporters use US-owned and US-flagged ships would likely lead to significantly higher export shipping prices, given the high cost and small size of US shipping services (all major container carriers are based in Europe and Asia). The US flag merchant fleet comprises 185 ships, which includes 59 container ships, 31 vehicle carriers, 74 oil tankers, and 4 dry bulkers.⁵¹

Additionally, the United States builds few large modern container, tanker, and bulk carrier vessels. The Jones Act eligible fleet (the subset of the US merchant fleet that consists of ships that are US-built, US-crewed, and US-owned) comprises 92 ships. These ships are generally medium-sized cargo ships and oil tankers focused on servicing domestic shipping routes between the continental United States and Alaska, Hawaii, and Puerto Rico (the Jones Act's cabotage restrictions require that transport between US ports be provided by US-built, US-crewed, US-owned ships). USTR does not explain how it expects the United States to build new shipyards and deliver new ships to the international shipping market within three years. If USTR intends to enforce the US-built ships share requirement aggressively and qualifying ships are unavailable, the rule could amount to a prohibition of all US maritime exports.

Reducing use of China's National Transportation and Logistics Public Information Platform (LOGINK).

⁵⁰ 46 U.S.C. §42106 and 46 U.S.C. §42304, accessible here: <https://uscode.house.gov/view.xhtml?path=/prelim@title46/subtitle4/partB&edition=prelim>; and 46 CFR Chapter IV Subchapter C, accessible here: <https://www.ecfr.gov/current/title-46/chapter-IV/subchapter-C>.

⁵¹ Ship data from US Maritime Administration Vessel Inventory Report, January 2024 edition, accessible here: <https://www.maritime.dot.gov/data-reports/data-statistics/vessel-inventory-reports-july-1990>.

LOGINK is a Chinese government-supported global logistics management and tracking software suite. In recent years, Washington has become concerned that the Chinese government could use its influence over the system to provide anticompetitive support to Chinese shipping companies and exert influence over international shipping.⁵² According to USTR's investigation, LOGINK "controlled data associated with at least half of global container volume in 2020." Congress already banned certain US ports and logistics services providers from using LOGINK in the 2024 National Defense Authorization Act.⁵³ USTR's proposal suggests the United States may consider investigating alleged anticompetitive practices, restricting LOGINK's access to US shipping data, and banning the software from the United States.

Negotiating with allies and partners to develop strategies that would counter China's activities.

USTR also proposes that it may enter into negotiations with US allies and partners to develop a joint strategy, though the proposal includes no details. The Biden administration (which initiated the Section 301 investigation) had begun creating new partnerships with US allies to improve shipbuilding and maintenance capabilities, including through new US Navy ship maintenance agreements with shipyards in Korea and Japan, new foreign investments in US shipyards, and the Icebreaker Collaborative Effort Pact. President Trump has suggested he intends to continue with these partnerships, saying to the Korean government during a November 2024 phone call that he wants to enhance shipbuilding cooperation. However, Trump has also shown a willingness to withdraw from shipbuilding cooperation over unrelated disputes, making the sustainability of cooperation programs uncertain. In a January 7, 2025 press briefing, Trump threatened to cancel the Icebreaker Collaborative Effort Pact over an unclear policy dispute with Canada.⁵⁴

Legislative alternatives and subsidies

While USTR considers actions the executive branch could undertake on its own, Congress has also considered several bills in recent years to support US shipbuilding. Mike Waltz, who is now National Security Advisor to the Trump administration, sponsored the SHIPS for America Act at the end of the 2023-2024 legislative term as a member of the House of Representatives.⁵⁵ The bipartisan bill merges various proposals to support US shipbuilding and limit market access for foreign ships. Among the bill's proposals are measures to establish new subsidies and tax credits to fund the US shipbuilding industry; target increasing the size of the US-flagged international fleet by 250 ships over 10 years; increase the competitiveness of US vessel flagging rules; require US government-funded cargo and some shipments from China to be carried on US-built ships; support shipbuilding innovation; and support workforce development.

Unlike the legislative proposal, USTR is not proposing that the United States provide new subsidies to the domestic shipbuilding industry. Without the support of significant new production subsidies, it is unlikely that policies discriminating against Chinese ships would lead to increased US shipbuilding. US shipbuilding activity declined significantly in the 1980s following the withdrawal of most US subsidy programs.⁵⁶ The United States has produced few ships since then. In 2022, the United States had 5 large ocean-going ships under construction, in contrast with

⁵² See, e.g., "LOGINK: Risks from China's Promotion of a Global Logistics Management Platform," US-China Economic and Security Review Commission, September 20, 2022, accessible here: <https://www.uscc.gov/research/logink-risks-chinas-promotion-global-logistics-management-platform>.

⁵³ US Department of Transportation Prohibited Platforms, accessible here: <https://www.transportation.gov/mission/office-secretary/office-chief-information-officer/prohibited-platforms>.

⁵⁴ "Trump: 'Canada And The U.S. -- That Would Really Be Something -- You Get Rid Of That Artificially Drawn Line'," RealClear Politics, January 7, 2025, accessible here: https://www.realclearpolitics.com/video/2025/01/07/trump_canada_and_the_us_-_that_would_really_be_something_-_you_get_rid_of_that_artificially_drawn_line.html.

⁵⁵ "Garamendi, Kelly, Senators Young and Kelly, Introduce SHIPS for America Act to Revitalize US Shipbuilding and Commercial Maritime Industries," Rep. John Garamendi (D-CA), December 19, 2024, accessible here: <https://garamendi.house.gov/media/press-releases/garamendi-kelly-senators-young-and-kelly-introduce-ships-america-act>.

⁵⁶ "U.S. Commercial Shipbuilding in a Global Context," Congressional Research Service, 15 November 2023, accessible here: <https://crsreports.congress.gov/product/pdf/IF/IF12534>.

1,794 in China, 734 in Korea, 587 in Japan, and 319 in Europe. If the United States does impose measures discriminating against Chinese-built ships, the most likely beneficiaries would be Korea and Japan, China's main shipbuilding competitors. In theory, Trump could conclude the Section 301 action by calling on Congress to create a new subsidy system.

Public comments and hearing

USTR is now seeking public feedback on the proposals and is planning public hearings. The notice provides additional instructions on how to participate and submit comments. USTR is specifically interested in comments addressing (i) the level of burden on US commerce created by the Chinese practices; (ii) the appropriate trade to be covered by the responsive actions; and (iii) whether USTR's proposed fees and shipping restrictions are appropriate.

The deadline for submission of comments is March 24, 2025. Comments should be submitted through the public docket on the USTR Comments Portal.⁵⁷ USTR will also hold a public hearing about the proposed actions on March 24. The deadline to submit a request to appear at the hearing is March 10.⁵⁸ USTR will consider and respond to public comments as part of its investigation, which may influence the outcome.

After USTR makes its recommendations, the president will make the final decision on moving forward with the action. Depending on the action selected and its legal basis, additional rulemaking processes and public comment opportunities may follow.

Section 232

President Trump Expands Section 232 Steel and Aluminum Tariffs

On February 10, 2025, President Trump issued two proclamations - *Adjusting Imports of Aluminum into the United States* and *Adjusting Imports of Steel into the United States*⁵⁹ - modifying the steel and aluminum tariffs that he had originally imposed in 2018 under Section 232 of the Trade Expansion Act of 1962. The new actions expand the current Section 232 tariffs by (i) ending all country exemptions, terminating the product exclusion process, and terminating all existing General Approved Exclusions (GAEs) (granted specific product exclusions will remain in place until their expiration date or until excluded product volume is imported); (ii) raising the aluminum tariffs from 10% to 25%; (iii) adding more derivative products to the tariffs' coverage and creating a process to add other products in the future; (iv) and creating a more restrictive exemption process for steel products "melted and poured" and aluminum products "smelted and cast" in the United States. The steel tariff will remain set at 25%.

The tariff adjustments apply to products that are entered for consumption, or withdrawn from warehouse for consumption, on or after 12:01 a.m. Eastern Standard Time on March 12, 2025. President Trump appears to be suggesting that he is open to negotiating new national exemptions before the tariffs enter into force. For example, following a call with Australian Prime Minister Anthony Albanese on February 11, Trump said he would give "great consideration" to exempting Australia from the tariffs.

If Trump follows through with implementing the tariffs, US businesses should expect retaliatory tariff increases from US trade partners. Several economies targeted by the tariff expansion – including Canada and the EU – have vowed

⁵⁷ Public Docket: Request for Comments Concerning Proposed Action Pursuant to the Section 301 Investigation of China's Targeting of the Maritime, Logistics, and Shipbuilding Sectors for Dominance, USTR, accessible here: <https://comments.ustr.gov/s/docket?docketNumber=USTR-2025-0002>.

⁵⁸ Public Docket: Request to Appear Concerning Proposed Action Pursuant to the Section 301 Investigation of China's Targeting of the Maritime, Logistics, and Shipbuilding Sectors for Dominance, USTR, accessible here: <https://comments.ustr.gov/s/docket?docketNumber=USTR-2025-0003>.

⁵⁹ Presidential Proclamation of February 10, 2025: "Adjusting Imports of Steel into The United States," accessible here: <https://www.whitehouse.gov/presidential-actions/2025/02/adjusting-imports-of-steel-into-the-united-states/>; and Presidential Proclamation of February 10, 2025: "Adjusting Imports of Aluminum into The United States," accessible here: <https://www.whitehouse.gov/presidential-actions/2025/02/adjusting-imports-of-aluminum-into-the-united-states/>.

retaliation. Some economies are also considering introducing global metals tariffs of their own to protect domestic manufacturers from foreign products diverted from the United States.

The existing Section 232 tariffs on steel and aluminum

Since 2018, the United States has maintained a 25% tariff on imports of steel (later expanding to certain steel derivative articles) and a 10% tariff on imports of aluminum (later expanding to certain aluminum derivative articles) under Section 232 of the Trade Expansion Act of 1962.⁶⁰ The original tariffs imposed in 2018 only covered steel and aluminum. In 2020, Trump expanded the tariffs to cover certain derivative products including, for steel, nails and car body and bumper stampings, and, for aluminum, wires and car body and bumper stampings (described in the annexes to the *Federal Register* notice).⁶¹

The steel tariffs apply to products under Harmonized Tariff Schedule of the United States (HTS) codes 7206.10-7216.50, 7216.99-7301.10, 7302.10, 7302.40-7302.90, and 7304.10-7306.90 (which include flat-rolled products; bars and rods; tubes, pipes, and hollow profiles; ingots; and certain stainless steel products). The aluminum tariffs apply to products under HTS codes 7601, 7604-7609, 7616.99.5160, and 7616.99.5170 (which include unwrought aluminum; bars, rods, and profiles; plates, sheets, and strip; tubes, pipes, and fittings; and castings and forgings).

The White House is justifying the expansion of the tariffs based on falling domestic capacity utilization in the two industries. The original Section 232 tariffs had targeted increasing domestic capacity utilization to 80%.⁶² In recent quarters, the Census Bureau's Plant Capacity Utilization survey reports that steel mill utilization has been around 70%, while aluminum industry utilization has been slightly above 80%.⁶³

Specific changes in the February 10 action

□ Raising the aluminum tariff from 10% to 25%

Trump's proclamation on aluminum increases the tariff rate on aluminum articles and derivative aluminum articles from 10% to 25% for all countries, except Russia. Imports of derivative aluminum articles from Russia, or those using primary aluminum (defined as new aluminum metal produced from alumina (or aluminum oxide) by the electrolytic Hall-Heroult process) smelted or cast in Russia, will be subject to a 200% *ad valorem* duty rate (the separate process for Russian aluminum was established in February 2023⁶⁴).

□ Ending all current quotas, tariff-rate quotas, national exemptions, general approved exclusions, and phasing out the exclusions application process

Both proclamations end all current quotas, tariff-rate quotas, national exemptions, GAEs, and the product-specific exclusions application process. As a result, the Secretary of Commerce is directed to not consider or renew any product exclusion requests in effect as of 11:59 p.m. Eastern Standard Time on February 10, 2025, and to rescind the product exclusion process. Granted specific product exclusions will remain effective until either their

⁶⁰ Proclamation 9704 of March 8, 2018: "Adjusting Imports of Aluminum Into the United States," 83 FR 11619, accessible here: <https://www.federalregister.gov/documents/2018/03/15/2018-05477/adjusting-imports-of-aluminum-into-the-united-states>; and Proclamation 9705 of March 8, 2018: "Adjusting Imports of Steel Into the United States," 83 FR 11625, accessible here: <https://www.federalregister.gov/documents/2018/03/15/2018-05478/adjusting-imports-of-steel-into-the-united-states>.

⁶¹ Proclamation 9980 of January 24, 2020: "Adjusting Imports of Derivative Aluminum Articles and Derivative Steel Articles Into the United States," 85 FR 5281, accessible here: <https://www.federalregister.gov/documents/2020/01/29/2020-01806/adjusting-imports-of-derivative-aluminum-articles-and-derivative-steel-articles-into-the-united>.

⁶² For a detailed discussion of the utilization targets and the supporting analysis, see the Bureau of Industry and Security's (BIS) Section 232 investigations website, accessible here: <https://www.bis.doc.gov/index.php/other-areas/office-of-technology-evaluation-ote/section-232-investigations>.

⁶³ US Census Bureau, Quarterly Survey of Plant Capacity Utilization (QPC), accessible here: <https://www.census.gov/programs-surveys/qpc.html>.

⁶⁴ Proclamation 10522 of February 24, 2023: "Adjusting Imports of Aluminum Into the United States," 88 FR 13267, accessible here: <https://www.federalregister.gov/documents/2023/03/02/2023-04470/adjusting-imports-of-aluminum-into-the-united-states>.

expiration date or the specified excluded product volume is imported, whichever comes first. The Department of Commerce will issue *Federal Register* notices to provide further guidance on these changes.

Until now, the tariffs were subject to a product exclusion application process, as well as several GAEs, which are product exclusions that received no previous objections.⁶⁵

Various countries had also negotiated alternatives to the tariffs, a practice that accelerated under the Biden administration. The US government had negotiated exceptions, quotas, and tariff-rate quotas for many major trading partners: Brazil and South Korea have quotas for steel; Argentina has quotas for steel and aluminum; Australia, Canada, and Mexico have exemptions for steel and aluminum subject to informal agreements to manage export volumes; Ukraine has a temporary exemption; and the EU countries, the United Kingdom, and Japan have tariff-rate quotas.

The proclamation on steel terminates existing exemptions on imports from Argentina, Australia, Brazil, Canada, the EU, Japan, Mexico, South Korea, Ukraine, and the United Kingdom. Imports of steel articles and derivative steel articles from these economies will be subject to the additional 25% duty as of March 12, 2025.

The proclamation on aluminum terminates existing exemptions on imports from Argentina, Australia, Brazil, Canada, the EU countries, Japan, Mexico, South Korea, and the United Kingdom. Imports of aluminum articles and derivative aluminum articles from these economies will be subject to the new 25% ad valorem duty as of March 12, 2025.

□ **Expansion of tariffs to cover more downstream products**

Update (February 19, 2025): The White House has published the full lists of covered derivative products. Please see the next section for further details.

The proclamations extend the tariffs to additional steel and aluminum derivative articles, but the White House has not identified what articles the expansion applies to. The proclamations refer to “additional derivative [steel and aluminum] articles covered by this proclamation, as set out in Annex I to this proclamation,” which will be subject to the duties. Neither proclamation circulated by the White House on February 11 included an Annex I. The annexes will likely be included when the proclamations are formally published to the Federal Register in a few days.

The proclamations also create a new process at the Department of Commerce to expand the coverage of the tariffs to apply to more downstream products. The proclamations state that within 90 days, the Secretary of Commerce must create a process to add more types of derivative steel and aluminum articles to the list of those subject to the duties. This process will allow producers or industry groups to request the inclusion of additional products if they can demonstrate that increased imports of such products threaten national security or undermine the goals of the Secretary’s January 11, 2018 report or any related proclamation. Once a request is received, there is a 60-day timeline for the Secretary of Commerce to decide whether to include the additional products.

□ **Limited exclusion of derivative articles produced from steel “melted and poured” and aluminum “smelted and cast” in the United States**

The proclamations contain a new exclusion from the tariffs for imports of covered steel and aluminum articles that were processed outside the United States using inputs that were, respectively, “melted and poured” or “smelted

⁶⁵ For the exclusions application process, see the Department of Commerce webpage, accessible here: <https://www.commerce.gov/page/section-232-investigations>; and for the GAEs, see Supplements No. 2 and No. 3 of 15 CFR part 705, accessible here: <https://www.ecfr.gov/current/title-15/subtitle-B/chapter-VII/subchapter-A/part-705>.

and cast” in the United States. To implement this exemption, CBP will have to issued more detailed guidance on how importers should document supply chains.

The new exception is similar to (but narrower than) a system that had been established for imports from Mexico in 2024, which it would replace. In July 2024, the United States narrowed Mexico’s exemption from the tariff, seeking to prevent transshipment of tariffed substrate materials to the United States through Mexican manufacturers. The system required that steel be melted and poured in Mexico, the United States, or Canada to be eligible for the tariff exemption. For Mexican aluminum products, the modification required the primary country of smelt, secondary country of smelt, or country of most recent cast of the primary aluminum may not be China, Russia, Belarus, or Iran.

Background on Section 232 tariff actions

Section 232 of the Trade Expansion Act of 1962 allows the president to impose import restrictions if the Department of Commerce’s Bureau of Industry and Security (BIS) determines that an import threatens to impair national security. Before the steel and aluminum tariff action, no US president had imposed import restrictions through Section 232 since the 1980s. The Trump administration conducted six other investigations (automobiles and certain automotive parts, uranium ore, titanium sponge, grain-oriented electrical steel for transformers, mobile cranes, and vanadium), but declined to apply import restrictions in any of those cases.

The Biden administration conducted only one Section 232 investigation, into neodymium-iron-boron permanent magnets (NdFeB permanent magnets). The investigation determined imports threatened national security but did not recommend global import restrictions. The Biden administration ultimately chose to raise tariffs on Chinese NdFeB and other permanent magnets through Section 301 tariffs instead, including them in the September 2024 Section 301 tariff expansion.

When signing the steel and aluminum tariff expansions on February 10, Trump said the White House is also considering tariffs on automotive products, pharmaceuticals, semiconductors, and potentially other products.

Section 232 Steel and Aluminum Tariff Action Significantly Expands Product Coverage

On February 14, 2025, the Trump administration published the full versions of the proclamations increasing the steel and aluminum Section 232 tariffs, including the technical annexes that were missing from the original versions.⁶⁶ As the original White House statements suggested, the annexes confirm that the proclamations significantly expanded the range of steel and aluminum derivative products covered by the tariffs. The tariffs on steel and aluminum derivative products within HTS Chapters 73 and 76 take effect on March 12, 2025. The entry into effect date for the rest of the derivative products tariffs is to be determined by the Department of Commerce. The presidential proclamations state the tariffs will enter effect “upon public notification by the Secretary of Commerce, that adequate systems are in place to fully, efficiently, and expediently process and collect tariff revenue for covered articles.”

On March 3, 2025, the Department of Commerce Bureau of Industry and Security (BIS) issued the implementing guidance and HTS Chapter 99 special tariff codes for the tariff changes.⁶⁷ The guidance confirms the delay for the implementation of the tariffs on derivative products that are not in HTS Chapter 73 or 76, for which the tariff “shall be effective upon public notification of the Secretary of Commerce.”

⁶⁶ Proclamation 10896 of February 10, 2025: “Adjusting Imports of Steel Into the United States,” 90 FR 9817, accessible here: <https://www.federalregister.gov/documents/2025/02/18/2025-02833/adjusting-imports-of-steel-into-the-united-states>; and Proclamation 10895 of February 10, 2025: “Adjusting Imports of Aluminum Into the United States,” 90 FR 9807, accessible here: <https://www.federalregister.gov/documents/2025/02/18/2025-02832/adjusting-imports-of-aluminum-into-the-united-states>.

⁶⁷ “Implementation of Duties on Steel Pursuant to Proclamation 10896 Adjusting Imports of Steel into the United States,” 90 FR 11249 (March 5, 2025), accessible here: <https://federalregister.gov/d/2025-03598>; “Implementation of Duties on Aluminum Pursuant to Proclamation 10895 Adjusting Imports of Aluminum into the United States,” 90 FR 11251 (March 5, 2025), accessible here: <https://federalregister.gov/d/2025-03596>.

The United States imported \$149.8 billion under the newly included codes in 2024.⁶⁸ In contrast, the original Section 232 HTS codes (disregarding the country and product exemptions) would have covered about \$52.6 billion of 2024 imports. HTS codes covering \$0.3 billion of imports are on both the original and new lists.

Trump's Section 232 tariff expansion

Since 2018, the United States has maintained a 25% tariff on imports of steel (later expanding to certain steel derivative articles) and a 10% tariff on imports of aluminum (later expanding to certain aluminum derivative articles) under Section 232 of the Trade Expansion Act of 1962.⁶⁹ The original tariffs imposed in 2018 only covered steel and aluminum. In 2020, Trump expanded the tariffs to cover certain derivative products including, for steel, nails and car body and bumper stampings, and, for aluminum, wires and car body and bumper stampings.⁷⁰

On February 10, 2025, President Trump signed two proclamations - *Adjusting Imports of Aluminum into the United States* and *Adjusting Imports of Steel into the United States* - modifying the steel and aluminum tariffs that he had originally imposed in 2018. The new actions expand the current Section 232 tariffs by (i) ending all country exemptions, terminating the product exclusion process, and terminating all existing General Approved Exclusions (GAEs) (granted specific product exclusions will remain in place until their expiration date or until excluded product volume is imported); (ii) raising the aluminum tariffs from 10% to 25%; (iii) adding more derivative products to the tariffs' coverage and creating a process to add other products in the future; (iv) and creating a more restrictive exemption process for steel products "melted and poured" and aluminum products "smelted and cast" in the United States. The steel tariff will remain set at 25%.

The tariff adjustments apply to products that are entered for consumption, or withdrawn from warehouse for consumption, on or after 12:01 a.m. Eastern Standard Time on March 12, 2025.

The new derivative products lists

The proclamations extend the tariffs to additional steel and aluminum derivative articles, but the original versions of the proclamations did not include the full lists of the covered products. The full proclamations issued for publication in the Federal Register on February 14 included the annexes of derivative articles:

- The **aluminum derivative products** list includes 123 HTS-8 and HTS-10 codes within the following HTS chapters:
 - **Chapter 66:** umbrellas, sun umbrellas, walking sticks, seatsticks, whips, riding-crops and parts thereof.
 - **Chapter 76:** aluminum and articles thereof.
 - **Chapter 83:** miscellaneous articles of base metal.
 - **Chapter 84:** nuclear reactors, boilers, machinery and mechanical appliances; parts thereof.
 - **Chapter 85:** electrical machinery and equipment and parts thereof; sound recorders and reproducers, television image and sound recorders and reproducers, and parts and accessories of such articles.
 - **Chapter 87:** vehicles other than railway or tramway rolling stock, and parts and accessories thereof.

⁶⁸ All data from USITC DataWeb, general imports, accessed February 19, 2025.

⁶⁹ Proclamation 9704 of March 8, 2018: "Adjusting Imports of Aluminum Into the United States," 83 FR 11619, accessible here: <https://www.federalregister.gov/documents/2018/03/15/2018-05477/adjusting-imports-of-aluminum-into-the-united-states>; and Proclamation 9705 of March 8, 2018: "Adjusting Imports of Steel Into the United States," 83 FR 11625, accessible here: <https://www.federalregister.gov/documents/2018/03/15/2018-05478/adjusting-imports-of-steel-into-the-united-states>.

⁷⁰ Proclamation 9980 of January 24, 2020: "Adjusting Imports of Derivative Aluminum Articles and Derivative Steel Articles Into the United States," 85 FR 5281, accessible here: <https://www.federalregister.gov/documents/2020/01/29/2020-01806/adjusting-imports-of-derivative-aluminum-articles-and-derivative-steel-articles-into-the-united>.

- **Chapter 88:** aircraft, spacecraft, and parts thereof.
- **Chapter 90:** optical, photographic, cinematographic, measuring, checking, precision, medical or surgical instruments and apparatus; parts and accessories thereof.
- **Chapter 94:** furniture; bedding, mattresses, mattress supports, cushions and similar stuffed furnishings; lamps and lighting fittings, not elsewhere specified or included; illuminated sign illuminated nameplates and the like; prefabricated buildings.
- **Chapter 95:** toys, games and sports requisites; parts and accessories thereof.
- **Chapter 96:** miscellaneous manufactured articles.
- The **steel derivative products** list includes 167 HTS-8 codes within the following HTS chapters:
 - **Chapter 73:** articles of iron or steel.:
 - **Chapter 84:** nuclear reactors, boilers, machinery and mechanical appliances; parts thereof.
 - **Chapter 85:** electrical machinery and equipment and parts thereof; sound recorders and reproducers, television image and sound recorders and reproducers, and parts and accessories of such articles.
 - **Chapter 94:** furniture; bedding, mattresses, mattress supports, cushions and similar stuffed furnishings; lamps and lighting fittings, not elsewhere specified or included; illuminated sign illuminated nameplates and the like; prefabricated buildings.

It is unclear how the derivative products that are included in the two appendices were selected. The original derivative products list from 2020 included a strict set of criteria for inclusion: “(a) the aluminum article or steel article represents, on average, two-thirds or more of the total cost of materials of the derivative article; (b) import volumes of such derivative article increased year-to-year since June 1, 2018 [...], in comparison to import volumes of such derivative article during the 2 preceding years; and (c) import volumes of such derivative article following the imposition of the tariffs exceeded the 4 percent average increase in the total volume of goods imported into the United States during the same period since June 1, 2018.” As a result, the 2020 derivative products lists were relatively short. For steel, the list included various nails and car body and bumper stampings, and, for aluminum, the list included various wires and car body and bumper stampings. In contrast, the new (and significantly longer) derivative products lists are not accompanied by any criteria for a product’s inclusion.

Special procedures for entering the listed derivative products

Many of these products are outside of Chapter 76 (which covers most derivative articles made from aluminum) and Chapter 73 (which covers most derivative articles made from steel) and are not composed entirely of steel and aluminum. For these products, the proclamations state that “for any derivative [steel or aluminum] article identified in Annex I that is not in [Chapter 73 or Chapter 76] of the HTSUS, the additional ad valorem duty shall apply only to the [steel or aluminum] content of the derivative [steel or aluminum] article.

The original 2020 derivative products lists did not include this partial, share of value-based tariff. US Customs and Border Protection (CBP) will likely provide further guidance on how to document steel and aluminum content and file for these partial tariffs in the next few weeks. Though there is precedent for using computed value methods and net cost calculations in US customs procedures, there are no systems identical to the one described in the proclamations. Free trade agreement rules of origin and tariff preference programs often include detailed valuation formulas for specific product components, for example. Certain Chapter 98 tariff rules for articles exported for alteration also include provisions for partial tariffs. HS 9802.00.60, in particular, allows importers to pay “duty upon the value of such processing outside the United States” for “any article of metal [...] manufactured in the United States or subjected to a process of manufacture in the United States, if exported for further processing, and if the

exported article as processed outside the United States, or the article which results from the processing outside the United States, is returned to the United States for further processing.”

Covered derivative products that are manufactured using steel that was “melted and poured” or aluminum that was “smelted and cast” in the United States will be exempted from the tariffs. CBP will also have to issue guidance for using this exemption in the next few weeks. The guidance would likely resemble that provided in 2024 for the Mexico melt and pour and smelt and cast exclusion, and in 2023 for the Russia aluminum smelt and cast tariff increase.⁷¹

Potential for further additions

The proclamations also direct the Department of Commerce to expand the coverage of the tariffs to apply to more downstream products by establishing a new petition process. The proclamations state that within 90 days (*i.e.*, May 11, 2025), the Secretary of Commerce must create a process to add more derivative steel and aluminum articles to the lists subject to the tariffs. This process will allow domestic producers or industry groups to request the inclusion of additional products if they can demonstrate that increased imports of such products threaten national security or undermine the goals of the Secretary's January 11, 2018 report or any related proclamation. Once a request is received, there is a 60-day timeline for the Secretary of Commerce to decide whether to include the additional products. Commerce has not yet issued guidance for the system.

President Trump Orders Section 232 Investigation of Copper Imports

On February 25, 2025, President Trump signed an executive order directing the US Department of Commerce to investigate potential national security risks of copper imports, which could eventually lead to the imposition of tariffs on all copper imports.⁷² The investigation will encompass all forms of copper imports, including raw mined copper, copper concentrates, refined copper, copper alloys, scrap copper, and certain derivative products and will cover all import sources. The United States imports about half of the copper it consumes, with the largest sources of imports being Canada, Mexico, Chile, Peru, and Germany.⁷³

The Department of Commerce Bureau of Industry and Security (BIS) will conduct the investigation under Section 232 of the Trade Expansion Act of 1962,⁷⁴ a law that empowers the president to restrict imports of products that are found to threaten to impair national security.

Next steps for the investigation

The BIS investigation will take up to 270 days to complete and will seek to determine “whether the importation of the article in question is in such quantities or under such circumstances as to threaten to impair the national security.”⁷⁵ Since a Section 232 action is based on national security concerns rather than economic concerns, the government is not required to establish a market access violation or injury to use Section 232. As part of the investigation, BIS may gather public comments and hold hearings, providing opportunities for stakeholders to share input on the

⁷¹ CSMS # 62582900 - GUIDANCE: Section 232 Melt and Pour Requirements, CBP, October 9, 2024, accessible here: <https://content.govdelivery.com/accounts/USDHSCBP/bulletins/3baf074>; CSMS # 62063449 - GUIDANCE: Section 232 Additional Duties on Certain Aluminum Imports from Mexico, CBP, September 4, 2024, accessible here: <https://content.govdelivery.com/accounts/USDHSCBP/bulletins/3b30359>; and CSMS # 55438432 - (UPDATED) GUIDANCE: Section 232 Aluminum Smelt and Cast Requirements, CBP, March 10, 2023, accessible here: <https://content.govdelivery.com/accounts/USDHSCBP/bulletins/34dec60>.

⁷² Executive Order of February 25, 2025: “Addressing the Threat to National Security from Imports of Copper,” accessible here: <https://www.whitehouse.gov/presidential-actions/2025/02/addressing-the-threat-to-nationalsecurity-from-imports-of-copper/>; and Fact Sheet: “President Donald J. Trump Addresses the Threat to National Security from Imports of Copper,” accessible here: <https://www.whitehouse.gov/fact-sheets/2025/02/fact-sheet-president-donald-j-trump-addresses-the-threat-to-national-security-from-imports-of-copper/>.

⁷³ For background, see the US Geological Survey, Mineral Commodity Summary for copper, accessible here: <https://pubs.usgs.gov/periodicals/mcs2025/mcs2025-copper.pdf>.

⁷⁴ 19 U.S.C. §1862, accessible here: <https://www.govinfo.gov/app/details/USCODE-2023-title19/USCODE-2023-title19-chap7-subchapII-partIV-sec1862>; and 15 C.F.R. part 705, accessible here: <https://www.ecfr.gov/current/title-15/subtitle-B/chapter-VII/subchapter-A/part-705>.

⁷⁵ See the BIS website for more information on the Section 232 investigation process and previous investigations, accessible here: <https://www.bis.doc.gov/index.php/other-areas/office-of-technology-evaluation-ote/section-232-investigations>.

investigation. BIS would provide more information about its plans for the investigation in a future *Federal Register* notice.

Upon receiving BIS' determination, the president may then take action to "adjust the imports of an article and its derivatives" or take other non-trade actions as deemed appropriate. Trump administration officials are suggesting the intended outcome of the investigation is to enable the imposition of tariffs, though an official decision will not be made until after BIS completes its investigation. The executive order also suggests that imposition of export controls and the creation of new domestic production incentives could be part of the policy response. A statement by Trump issued after the executive order signing compared the new copper action to the Section 232 steel and aluminum tariffs, which Trump significantly expanded in two February 10 proclamations. In his statement, Trump said that all copper used in the United States should be produced in the United States, without exception.⁷⁶

President Trump Orders Section 232 Investigation of Timber, Lumber, and Wood Products Imports

On March 1, 2025, President Trump signed an executive order directing the US Department of Commerce to investigate potential national security risks of imports of timber, lumber, and their derivative products, which could eventually lead to the imposition of tariffs or other trade restricting measures on all such imports.⁷⁷ The Department of Commerce Bureau of Industry and Security (BIS) will conduct the investigation under Section 232 of the Trade Expansion Act of 1962, a law that empowers the president to restrict imports of products that are found to threaten to impair national security.⁷⁸

President Trump's Executive Order

The Executive Order (EO), "Addressing the Threat to National Security from Imports of Timber, Lumber," instructs the Department of Commerce to initiate a Section 232 investigation. The EO does not implement any tariffs on its own, though tariffs appear to be the intended outcome. Trump has said repeatedly in recent weeks that he wants to impose a universal 25% import tariff on wood products, often referencing the date of April 2 for when he would implement the tariffs. In addition to investigating potential tariffs, the EO also directs the Secretary of Commerce to consider whether other measures may be necessary. These may include quotas, export controls, incentives to increase domestic production, or permitting reforms.

In the EO, Trump asserts that wood products are a "critical manufacturing industry essential to the national security, economic strength, and industrial resilience of the United States" and that the United States should have "reliable, secure, and resilient domestic supply chains of timber, lumber, and their derivative products." The EO notes that, since 2016, the United States has been a net importer of lumber, despite the US industry's capacity to "supply 95 percent of the United States' 2024 softwood consumption." Because Section 232 is a national security-related authority, the EO highlights the US military's use of lumber in its annual "10 billion dollars [spent] on construction." President Trump states that, due to the United States' reliance on imported lumber and timber, it is exposed to "significant vulnerabilities in the wood supply chain." The EO does not explain these assertions in any further detail. Additionally, it does not highlight any defense need that is not currently being met by domestic supply. The US Navy only has one wooden-hulled sailing ship left in service, which is supplied with replacement timber by a Navy-owned forest reserve in Indiana.

Scope of the investigation

⁷⁶ Truth Social post, February 25, 2025, accessible here: <https://truthsocial.com/@realDonaldTrump/posts/114067029529937308>.

⁷⁷ Executive Order of March 1, 2025: "Addressing The Threat To National Security from Imports of Timber, Lumber," accessible here: <https://www.whitehouse.gov/presidential-actions/2025/03/addressing-the-threat-to-national-security-from-imports-of-timber-lumber/>.

⁷⁸ 19 U.S.C. §1862, accessible here: <https://www.govinfo.gov/app/details/USCODE-2023-title19/USCODE-2023-title19-chap7-subchapII-partIV-sec1862>; and 15 C.F.R. part 705, accessible here: <https://www.ecfr.gov/current/title-15/subtitle-B/chapter-VII/subchapter-A/part-705>.

The EO instructs BIS to include “timber, lumber, and their derivative products” in the investigation. “Timber” is defined as “wood that has not been processed,” and “lumber” is defined as “wood that has been processed, including wood that has been milled and cut into boards or planks.” “Derivative products” is not defined, though the EO’s statement of policy refers to “derivative products (such as paper products, furniture, and cabinetry).”

The EO does not mention specific countries; Section 232 investigations are global in scope. In comments to journalists during the order’s announcement, White House trade adviser Peter Navarro said the investigation would initially focus on Canada, Germany, and Brazil, accusing those countries of subsidizing production and dumping products in the United States. When discussing the investigation’s inclusion of derivative products, a White House official accused South Korea and China of subsidizing kitchen cabinet production, suggesting those countries may also be targets. Canada accounts for about one third of US imports of timber and wood products.⁷⁹ Vietnam is the second largest source, followed by China, Mexico, Brazil, Indonesia, Germany, Malaysia, Italy, and India. These top 10 sources represent 79% of the total \$70 billion of imports in 2024. Japan was the 22nd largest import source in 2024, at \$0.4 billion. The United States also exported \$36.6 billion of the covered products in 2024.

Next steps for the investigation

The BIS investigation will take up to 270 days to complete and will seek to determine “whether the importation of the article in question is in such quantities or under such circumstances as to threaten to impair the national security.”⁸⁰ As a Section 232 action is based on national security concerns rather than economic concerns, the government is not required to establish a market access violation or injury to use Section 232. As part of the investigation, BIS may gather public comments and hold hearings, providing opportunities for stakeholders to share input on the investigation. BIS would provide more information about its plans for the investigation in a future *Federal Register* notice.

Upon receiving BIS’ report, the president may then take action to “adjust the imports of an article and its derivatives” or take other non-trade actions as deemed appropriate. Though President Trump has said the intended outcome of the investigation is to enable the imposition of tariffs, an official decision will not be made until after BIS completes its investigation.

If the investigation does lead to the imposition of tariffs, the tariff rate would be added on top of any other tariffs in force. The United States already has antidumping and countervailing duties in effect on products that are within the scope of the Section 232 investigation, including a 14.54% duty on Canadian softwood lumber. Though the Section 232 tariff would not affect the antidumping and countervailing duties directly, Section 232 duties paid will be subtracted from the starting price in the dumping calculation, possibly leading to higher dumping margins in future reviews. The Section 232 tariff would also be in addition to the 25% tariff Trump has already ordered on imports from Canada and Mexico (currently scheduled to enter into effect on March 4) and the 10% tariff on all imports from China (which Trump has said he intends to increase to 20%).

President Trump’s Executive Order calling for expansion of timber production

The White House issued a second EO calling for directed studies of regulatory improvements that would promote domestic lumber production.⁸¹ While the title of the EO refers to “immediate” expansion of American timber production, the government does not directly control production. Instead, the EO calls for various agencies to make recommendations that are intended to enable higher domestic production by reducing regulatory costs, waiving certain endangered species protections, and accelerating approval timelines for forestry projects. The reports and

⁷⁹ Data from US Census Bureau via USA Trade Online, general imports, NAICS codes 113, 321, 322, 33711, 337121, 337122, and 337211. Data accessed March 2, 2025.

⁸⁰ See the BIS website for more information on the Section 232 investigation process and previous investigations, accessible here: <https://www.bis.doc.gov/index.php/other-areas/office-of-technology-evaluation-ote/section-232-investigations>.

⁸¹ Executive Order of March 1, 2025: “Immediate Expansion of American Timber Production,” accessible here: <https://www.whitehouse.gov/presidential-actions/2025/03/immediate-expansion-of-american-timber-production/>.

recommendations are required to be made in intervals of 30, 60, 90, 120, 180, and 280 days. Without saying so directly, the EO creates a strong impression that: (i) current regulations inhibit and are responsible for the levels of domestic timber production, which the Trump administration considers to be inadequate and responsible for high levels of imports; and (ii) sets in motion a regulatory reform process aimed to facilitate domestic production.

US Tariffs on Canada and Mexico Enter into Effect; Tariff on China Rises from 10% to 20%

On March 3, 2025, the Trump administration made clear its intention to move forward with implementing tariffs on Canada and Mexico on March 4. The tariffs are an additional 25% on all imports from Canada and Mexico (except for Canadian energy resources and minerals, which will face a 10% tariff instead) and were originally scheduled to enter into effect on February 4. President Trump also issued a new Executive Order on March 3 to immediately increase the 10% tariff on all imports from China to 20%.

The Canada tariffs

The additional tariff for imports from Canada will be 25% for most products, with a 10% rate for “energy or energy resources.”⁸² The Trump administration has not provided a comprehensive list of HTS codes that would qualify as “energy or energy resources,” and the definition’s exact scope is unknown. The Executive Order defines “energy or energy resources” based on Trump’s January 20 National Energy Emergency Executive Order, which states that “the term ‘energy’ or ‘energy resources’ means crude oil, natural gas, lease condensates, natural gas liquids, refined petroleum products, uranium, coal, biofuels, geothermal heat, the kinetic movement of flowing water, and critical minerals.”⁸³ The term “critical minerals” is further defined as any non-fuel mineral, element, substance, or material designated as critical by the Secretary of the Interior. The Department of the Interior has published a list of specific minerals, but not HTS codes.⁸⁴

The new tariffs will apply in addition to any other duties, fees, exactions, and charges applicable to the covered imports. The tariffs apply to products that are entered for consumption, or withdrawn from warehouse for consumption, on or after 12:01 a.m. Eastern Standard Time, March 4, 2025.

The Mexico tariffs

The additional tariff for imports from Mexico will be 25% on all imports.⁸⁵ The new tariffs will apply in addition to any other duties, fees, exactions, and charges applicable to the covered imports. The tariffs apply to products that are

⁸² Executive Order 14193 of February 1, 2025: “Imposing Duties To Address the Flow of Illicit Drugs Across Our Northern Border,” 90 FR 9113, accessible here: <https://www.federalregister.gov/documents/2025/02/07/2025-02406/imposing-duties-to-address-the-flow-of-illicit-drugs-across-our-northern-border>; as amended by Executive Order 14197 of February 3, 2025: “Progress on the Situation at Our Northern Border,” 90 FR 9183, accessible here: <https://www.federalregister.gov/documents/2025/02/10/2025-02478/progress-on-the-situation-at-our-northern-border>; and Executive Order of March 2, 2025: “Amendment to Duties to Address the Flow of Illicit Drugs across our Northern Border,” accessible here: <https://www.whitehouse.gov/presidential-actions/2025/03/amendment-to-duties-to-address-the-flow-of-illicit-drugs-across-our-northern-border/>. See also the implementing guidance published by CBP at “Notice of Implementation of Additional Duties on Products of Canada Pursuant to the President’s Executive Order 14193, Imposing Duties to Address the Flow of Illicit Drugs Across Our Northern Border,” advance copy of the Federal Register notice, accessible here: <https://federalregister.gov/d/2025-03664>; and CSMS # 64297449 - GUIDANCE: Additional Duties on Imports from Canada, accessible here: <https://content.govdelivery.com/bulletins/gd/USDHSCBP-3d519e9>.

⁸³ Executive Order 14156 of January 20, 2025, “Declaring a National Energy Emergency,” 90 FR 8433, accessible here: <https://www.federalregister.gov/documents/2025/01/29/2025-02003/declaring-a-national-energy-emergency>.

⁸⁴ “2022 Final List of Critical Minerals,” 87 FR 10381 (February 24, 2022), accessible here: <https://www.federalregister.gov/documents/2022/02/24/2022-04027/2022-final-list-of-critical-minerals>.

⁸⁵ Executive Order 14194 of February 1, 2025: “Imposing Duties To Address the Situation at Our Southern Border,” 90 FR 9117, accessible here: <https://www.federalregister.gov/documents/2025/02/07/2025-02407/imposing-duties-to-address-the-situation-at-our-southern-border>; as amended by Executive Order 14198 of February 3, 2025: “Progress on the Situation at Our Southern Border,” 90 FR 9185, accessible here: <https://www.federalregister.gov/documents/2025/02/10/2025-02479/progress-on-the-situation-at-our-southern-border>; and Executive Order of March 2, 2025: “Amendment to Duties to Address the Situation at our Southern Border,” accessible here: <https://www.whitehouse.gov/presidential-actions/2025/03/amendment-to-duties-to-address-the-situation-at-our-southern-border/>. See also the implementing guidance published by CBP at “Notice of Implementation of Additional Duties on Products of Mexico Pursuant to the President’s Executive Order 14194, Imposing Duties to Address the Situation at Our Southern Border,” advance copy of the Federal Register notice, accessible here: <https://federalregister.gov/d/2025-03665>; and CSMS # 64297292 - GUIDANCE: Additional Duties on Imports from Mexico, accessible here: <https://content.govdelivery.com/bulletins/gd/USDHSCBP-3d5194c>.

entered for consumption, or withdrawn from warehouse for consumption, on or after 12:01 a.m. Eastern Standard Time, March 4, 2025.

The Mexico and Canada tariff orders are identical, except that the Mexico tariff order does not include a reduced tariff rate for “energy or energy resources” imports. Energy and energy resources imports from Mexico are subject to the full 25% tariff rate.

The China tariff increase

On March 3, President Trump issued an amendment to the Executive Order that imposed a 10% tariff on all imports from China (and Hong Kong), changing the tariff rate to 20%.⁸⁶ The tariff increase applies to products that are entered for consumption, or withdrawn from warehouse for consumption, on or after 12:01 a.m. Eastern Standard Time, March 4, 2025.

Status of *de minimis* entry

Imports from Canada, Mexico, and China that qualify for *de minimis* entry are temporarily exempt from the new tariffs. The original tariff orders had suspended 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.

On February 7, the White House acknowledged the challenges of suddenly ending *de minimis* entry, issuing an amendment to the original China tariff order that suspended the *de minimis* prohibition until the Secretary of Commerce sends notification to the president that “adequate systems are in place to fully and expediently process and collect tariff revenue [...] for covered articles otherwise eligible for *de minimis* treatment.”⁸⁷

On March 2, President Trump issued amendments to the Canada and Mexico tariff orders to suspend those orders’ *de minimis* entry bans, mirroring the amendment to the China tariff order. The Department of Commerce has not commented on when it may authorize the imposition of the *de minimis* entry suspension.

Other aspects of the tariff orders

The three tariff orders are written similarly, rely on the same legal basis, and apply the same technical measures, summarized below:

- **Required exclusions for certain personal, travel, charity, and media products:** The orders state that the tariffs will exclude any merchandise encompassed by 50 U.S.C. § 1702(b).⁸⁸ The provision prohibits 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 CBP 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.

⁸⁶ Executive Order of March 3, 2025: “Further Amendment to Duties Addressing the Synthetic Opioid Supply Chain in the People’s Republic of China,” accessible here: <https://www.whitehouse.gov/presidential-actions/2025/03/further-amendment-to-duties-addressing-the-synthetic-opioid-supply-chain-in-the-peoples-republic-of-china/>. See also, updated implementing guidance from CBP at “Further Amended Notice of Implementation of Additional Duties on Products of the People’s Republic of China Pursuant to the President’s Executive Order 14195, Imposing Duties to Address the Synthetic Opioid Supply Chain in the People’s Republic of China,” prepublication copy of the Federal Register notice, accessible here: <https://federalregister.gov/d/2025-03677>; and CSMS # 64299816 - UPDATE – Additional Duties on Imports from China and Hong Kong, accessible here: <https://content.govdelivery.com/bulletins/gd/USDHSCBP-3d52328>.

⁸⁷ Executive Order 14200 of February 5, 2025: “Amendment to Duties Addressing the Synthetic Opioid Supply Chain in the People’s Republic of China,” 90 FR 9277 (issued on February 7, the order was later backdated to February 5), accessible here: <https://www.federalregister.gov/documents/2025/02/11/2025-02512/amendment-to-duties-addressing-the-synthetic-opioid-supply-chain-in-the-peoples-republic-of-china>.

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

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- **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 tariffs do not apply to goods for which entry is properly claimed under a TIB provision of chapter 98, though in some cases tariffs will apply to certain foreign shares of a product’s value. The CBP 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 must 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 CBP guidance states that products that are otherwise eligible for temporary tariff exemptions or reductions under subchapter II to HTSUS chapter 99 (e.g., the Miscellaneous Tariff Bill) are also subject to the tariff.
 - **No exclusion application process (but potential for later establishment):** Unlike tariff actions during President 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 the Department of Homeland Security (DHS), it may be possible that the government will 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.
 - **Reliance on IEEPA:** President 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 here.

Expect retaliation and further tariff increases

The tariffs will remain in effect indefinitely, until the president decides to remove them. Further tariff increases – by the United States and the target countries – are possible over the next few weeks. The orders state that the president may raise the tariffs further if Canada, Mexico, and China retaliate. All three countries have signaled their intention to retaliate.

Trade Agreements

Review of the Four-Year Operation of the USMCA Labor Enforcement Mechanism

Since the first case in May 2021, the Facility-Specific Rapid Response Labor Mechanism (RRM) under the United States-Mexico-Canada Agreement (USMCA) has become increasingly active. There have been 33 cases involving Mexican facilities so far, with all but one initiated by the United States (the exception being one initiated by Canada). The outcomes show a high rate of successful resolution.

The USMCA, which replaced the North American Free Trade Agreement (NAFTA) in 2020, introduced several provisions aimed at ensuring fair labor practices in North American trade.⁸⁹ One notable feature is the RRM, an innovative enforcement mechanism designed to address violations of labor rights at the facility level. This mechanism seeks to ensure specifically that workers have the freedom to select a trade union of their choice and the ability to negotiate collective bargaining agreements with their employers (issues that had been questioned particularly by Mexican workers and companies for decades).

As the three parties to the USMCA begin their respective domestic consultations in preparation for the scheduled joint review of the agreement in 2026, they will likely take into account the experience gained from the operation of the RRM to date.

After a brief explanation of the RRM, this alert provides key highlights of the operation of the RRM and prospects for the joint review. A summary table of each of the 33 cases is included in the Annex (following this report).

About the procedure

The dispute settlement procedures of the USMCA are set out in Chapter 31, which includes two annexes. Annex 31-A applies between the United States and Mexico and details an RRM procedure for enforcement of labor rights in facilities in either country, while Annex 31-B applies between Canada and Mexico and details another RRM procedure to enforce labor rights in Mexican facilities.⁹⁰

Both annexes define the RRM as an expedited enforcement mechanism applicable to a “covered facility” in “a priority sector.”⁹¹ In addition, a “denial of rights” occurs when workers are being denied the rights of free association and collective bargaining under laws necessary to fulfill a Party’s obligations under the USMCA.

A basic description of the RRM is as follows:

- Under the RRM, the first step is for a complainant Party, which has a good faith basis to believe that a denial of rights is occurring at a covered facility, to submit a request that the respondent Party conduct its own review of whether such situation exists. The request can be made in response to a petition by interested parties or it can be self-initiated (*ex officio*). If the respondent Party determines that there is a denial of rights, it shall attempt to remedy any issues that it finds within 45 days of the request.

⁸⁹ The Labor Chapter of the USMCA (Chapter 23) is accessible here: <https://ustr.gov/sites/default/files/files/agreements/FTA/USMCA/Text/23-Labor.pdf>.

⁹⁰ USMCA Annex 31-A (Mexico and United States) is accessible here: <https://ustr.gov/sites/default/files/files/agreements/FTA/USMCA/Text/31%20Dispute%20Settlement.pdf>.

⁹¹ A “covered facility” means a facility in the territory of a Party that (i) produces a good or supplies a service traded between the parties; or (ii) produces a good or supplies a service that competes in the territory of a Party with a good or a service of the other Party; and is a facility in a “priority sector” (i.e., that produces manufactured goods, supplies services or involves mining). For greater certainty, manufactured goods include, but are not limited to, aerospace products and components, autos and auto parts, cosmetic products, industrial baked goods, steel and aluminum, glass, pottery, plastic, forgings, and cement.

- The complainant Party may request the establishment of a RRM Panel to conduct a separate verification and determination if (i) the respondent Party refuses to conduct a review, or (ii) the respondent Party conducts a review, but the Parties are not able to agree that this has resolved the issue.
- Any non-compliance with key labor obligations can lead to the suspension of USMCA tariff benefits, or the imposition of other penalties, such as the denial of entry of goods from businesses that are repeat offenders.

Key highlights

- Since 2021, the United States has requested Mexico to conduct reviews of facilities under the RRM 32 times: twice in 2021, four times in 2022, twelve times in 2023, thirteen times in 2024, and once so far in 2025.⁹² Canada has requested Mexico to conduct a review once, in 2023.⁹³
- Twenty requests concerned denials of rights in manufacturing facilities in the automotive sector (cars, auto parts, wheels and tires); three in mines; two in service provider companies (one air cargo and one call center), and the remaining eight disputes in facilities manufacturing garments, steel components, small arms ammunition, leather goods, glass inserts, avocado products, equipment for concrete batching and handling, and components for different uses.
- The alleged denials of rights were brought to the attention of the Office of the United States Trade Representative (USTR) directly by Mexican trade unions, in some cases with the support of US trade unions, or by the International Lawyers Assisting Workers Network (ILAW Network). In the case initiated by Canada, the alleged denial of rights was brought to the attention of the Canadian National Administrative Office (NAO) by a Mexican trade union, with the support of Unifor (Canada's largest private sector union).
- Twenty-four cases have been successfully resolved (23 initiated by the United States and 1 by Canada). In a Fact Sheet dated December 18, 2024 (prior to the resolution of another case in January 2025), the USTR explained that the first 22 successful cases benefited nearly 42,000 workers. They either entailed comprehensive remediation plans agreed between the United States and Mexico or were successfully resolved during the RRM review process. Of these, 15 cases resulted in backpay for workers, 12 included reinstatements of workers, 11 resulted in independent unions representing workers at the facility, and many resulted in successful negotiations for higher wages, workers' rights training, and improved policies at the facilities concerned.
- Two cases are still active (both initiated by the United States) of which the latest was initiated on January 8, 2025.
- One case was de facto terminated by the USTR as the company under investigation closed the facility and ended its operations in Mexico.⁹⁴ Although this particular review was successfully resolved at an early stage, the United States made a second request for review a few months later regarding the same matter as the denial of rights persisted.
- Six cases proceeded to the panel stage after Mexico determined that there had been no denial of rights. The only panel report so far was issued in the Grupo Mexico San Martin Mine case, where the panel rejected the

⁹² USTR's Fact-Sheet on the RRM dated December 18, 2024 is accessible here: <https://ustr.gov/sites/default/files/2024-12-18%20RRM%20Fact%20Sheet%20FINAL!.pdf>.

⁹³ The Canadian government press release is accessible here: <https://www.canada.ca/en/employment-social-development/news/2023/07/government-of-canada-closes-first-complaint-received-under-the-canadamexico-facility-specific-rapid-response-labour-mechanism.html>.

⁹⁴ Manufacturas VU (I) and (II) case.

complaint.⁹⁵ Another panel in the Atento Servicios, S.A. de C.V. case is currently ongoing. Four other RRM panels were requested by the United States on December 18, 2024 and are pending at the time of writing.⁹⁶

- A key holding in the “Grupo Mexico San Martin Mine” panel report concerned the U.S.-Mexico RRM’s temporal jurisdiction for cases regarding Mexican facilities. The panel held that it only had jurisdiction over events that took place after the entry into force of the USMCA on July 1, 2020 and that are also covered by the 2019 Mexican Federal Labor Law.⁹⁷ The panel’s decision included the table below to clarify its analysis regarding the application of the RRM across different periods and situations:⁹⁸

Panel’s temporal jurisdiction under the U.S.-Mexico Facility-Specific Rapid-Response Labor Mechanism

	Applicability of law to the events in question	
	<i>Events Legally Treated under Pre-2019 versions of Federal Labor Law</i>	<i>Events Legally Treated under 2019 Federal Labor Law</i>
Date of occurrence of the events in question		
<i>Events occurring pre-July 1, 2020</i>	Not Within the Jurisdiction of the Mechanism	Not Within Jurisdiction of the Mechanism ¹³⁹
<i>Events occurring post-July 1, 2020</i>	Not Within the Jurisdiction of the Mechanism	Within the Jurisdiction of the Mechanism

- In most cases involving trade in goods, USTR directed the Secretary of the Treasury to suspend liquidation of entries of goods from the facility that was being investigated as a provisional remedy until such time as USTR notified the Secretary that the denial of rights had been remedied. In all such cases, USTR ordered the immediate resumption of liquidation of entries of goods from the relevant facility as soon as it made a public announcement of the successful resolution of the case.
- Most reviews have been resolved or handled expeditiously, which confirms a great deal of cooperation between the governments concerned. Eighteen reviews (including the review brought by Canada) were successfully resolved within four months (many of them in less than two months). a few took longer, but in any case, less than in a year. The first panel took eight months.
- All but two of the disputes were formally initiated in response to a petition by labor unions or workers (i.e., a petition filed by the US or Canadian government and accepted by the Mexican government). USTR “self-initiated” two requests.⁹⁹

Comments

USTR under the Biden administration hailed the RRM in December 2024, stating that “the tool has been so effective in delivering real results to workers that the United States has seen a significant increase in petitions. The United

⁹⁵ The final determination of the first RRM Panel in the San Martin Mine case is accessible here: <https://ustr.gov/sites/default/files/San%20Martin%20-%20Panel%20Determination%20-%20For%20Posting.pdf>.

⁹⁶ USTR requested the establishment of RRM panels in the following cases: Camino Rojo mine, Pirelli Neumáticos, S.A. de C.V., Bader de Mexico S. en C. por A. de C.V., and Ammunition Manufacturer Industrias Tecnos, S. A. de C.V.

⁹⁷ The first RRM Panel in the San Martin Mine case found that the events under review, although having taken place after July 1, 2020, were still subject to the application of Mexican labor laws that were in force before the 2019 Federal Labor Law.

⁹⁸ See para. 118, p. 61 of the Panel’s decision.

⁹⁹ The two cases were: General Motors de Mexico S. de R.L. de C.V. (May 2021) and Draxton México, S. de R.L. de C.V. (May 2023).

States will continue to utilize the tool wherever necessary to address violations of workers' rights."¹⁰⁰ The Canadian government also highlighted the effectiveness of the RRM in the only case that was brought to its attention, including the cooperation with the Mexican government.

However, analysts have pointed out several areas that may require further review:

- **Scope limitations:** The RRM only applies to certain sectors and specific facilities, leaving other industries potentially unmonitored. The temporal limitation of the RRM could also be subject to review, after the ruling of the first panel. USTR found the panel's decision in the Grupo Mexico San Martin Mine case "both surprising and disappointing" and said that "although [it] did not deliver justice for the San Martin workers, we remain firm in our commitment to use the Rapid Response Labor Mechanism to protect freedom of association and collective bargaining rights in Mexico."¹⁰¹
- **Mexico's enforcement capacity:** Mexico has struggled with labor inspections and enforcement, raising concerns about its ability to effectively address complaints; in particular, the Mexican federal government has to coordinate with state authorities where they have jurisdiction over the facilities concerned. Future reform could increase funding for labor inspections in Mexico.
- **Potential for political influence:** Some stakeholders worry that the RRM could be used strategically to advance trade protectionism rather than address genuine labor rights concerns. Challenges remain in ensuring consistent enforcement and preventing political misuse.
- **Limited worker involvement:** Labor unions and workers may not always have the necessary resources or support to effectively utilize the complaint process. Future reform could also aim to enhance transparency in the complaint process.

The Trump administration, which initially negotiated the USMCA, emphasized the importance of robust labor enforcement mechanisms to protect American workers and industries. In January 2025, President Trump announced a 25% tariff on Canadian and Mexican goods (not yet implemented), citing concerns over unfair trade practices and asserting that the United States did not need imports from these countries. This move indicates a preference for leveraging tariffs to address perceived trade imbalances and protect domestic industries. While the administration has not yet criticized the USMCA's labor enforcement provisions, its broader trade policy actions suggest a focus on unilateral measures, such as tariffs, to address trade and labor concerns. This approach may reflect a belief that existing mechanisms like the RRM are insufficient or too slow in addressing issues related to labor rights and trade imbalances.

¹⁰⁰ See, USTR's Fact Sheet on the RRM dated December 18, 2024.

¹⁰¹ USTR's press release is accessible here: <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2024/may/usmca-rapid-response-labor-mechanism-panel-releases-determination-regarding-grupo-mexico-mine-biden>.

Annex¹⁰²

Active cases brought by the United States

#	Facilities	Location	Sector	Initiation	Resolution (**)
1	Akwel Juárez México, S.A. de C.	Chihuahua	Auto parts	Nov. 22, 2024 (*)	Pending
2	Compañía Hulera Tornel	Mexico City and Estado de Mexico	Car tires	Jan. 8, 2025 (*)	Pending

Note (*): Suspension of liquidation of entries of goods from the facility until the procedure is complete.

Note (**): Resumption of liquidation of entries of goods from the facility.

Case successfully resolved brought by the Canada

#	Facilities	Location	Sector	RRM Initiation	Resolution
1	Fräenkische Industrial Pipes (FIP) México	Guanajuato	Auto parts	March 2023	July 25, 2023

Cases successfully resolved brought by United States

#	Facilities	Location	Sector	RRM Initiation	Resolution (**)
1	General Motors de Mexico S. de R.L. de C.V.	Guanajuato	Cars	May 12, 2021 (*) (Self-initiated by USTR)	Sept. 22, 2021 (**)
2	Tridonex S. de R.L. de C.V.	Tamaulipas	Auto parts	June 9, 2021	Aug. 10, 2021
3	Panasonic Automotive Systems de Mexico, S.A. de C.V.	Tamaulipas	Auto parts	May 18, 2022 (*)	July 14, 2022 (**)
4	Teskid Hierro de Mexico, S.A. de C.V.	Coahuila	Auto parts	June 6, 2022 (*)	Aug. 16, 2022 (**)
5	Saint Gobain Mexico S.A. de C.V.	Morelos	Automotive glass	Sept. 27, 2022	Oct. 27, 2022
6	Unique Fabricating de Mexico, S.A.	Querétaro	Automotive components	March 6, 2023 (*)	April 24, 2023 (**)
7	Goodyear-SLP, S. de R.L. de C.V. (Goodyear-SLP)	San Luis Potosí	Car tires	May 22, 2023 (*)	Feb. 5, 2024 (**)
8	Draxton México, S. de R.L. de C.V.	Guanajuato	Auto parts	May 31, 2023 (*) (Self-initiated by USTR)	April 9, 2024 (**)
9	Industrias del Interior (INISA)	Aguascalientes	Garments	June 12, 2023 (*)	Dec. 11, 2023
10	Grupo Yazaki	Guanajuato	Auto components	Aug. 7, 2023 (*)	Oct. 4, 2023 (**)
11	Aerotransportes Mas de Carga (Mas Air)	Mexico City	Air cargo services	Aug. 30, 2023	Oct. 26, 2023
12	Teklas Automotive	Aguascalientes	Auto parts	Sept. 25, 2023 (*)	April 9, 2024 (**)
13	Asiaway Automotive Components Mexico	San Luis Potosí	Automotive components	Oct. 23, 2023 (*)	Feb. 16, 2024 (**)
14	Tecnología Modificada S.A. de C.V. Caterpillar	Tamaulipas	Remanufactured automotive parts	Oct. 26, 2023 (*)	Dec. 22, 2023 (**)

¹⁰² USTR's dedicated website on Chapter 31 Annex A, which contains the relevant information of all cases until December 18, 2024 is accessible here: <https://ustr.gov/issue-areas/enforcement/dispute-settlement-proceedings/fta-dispute-settlement/usmca/chapter-31-annex-facility-specific-rapid-response-labor-mechanism>. The information has not been updated since then. New developments will be indicated with relevant sources.

#	Facilities	Location	Sector	RRM Initiation	Resolution (**)
15	Autoliv Steering Wheels	Querétaro	Automotive wheels	Nov. 20, 2023 (*)	Jan. 22, 2024 (**)
16	Fujikura Automotive Mexico	Coahuila	Automotive components	Dec. 14, 2023 (*)	Feb. 13, 2024 (**)
17	RV Fresh Foods S.A. de C.V.	Michoacán	Avocado products	Feb. 16, 2024 (*)	July 15, 2024 (**)
18	Servicios Industriales González, S.A. de C.V. (SIG)	Nuevo León	Steel components	April 1, 2024 (*)	May 30, 2024 (**)
19	Minera Tizapa S.A. de C.V.	Estado de Mexico	Zinc, gold, silver and lead	April 3, 2024 (*)	May 30, 2024 (**)
20	Volkswagen de México, S.A. de C.V.	Puebla	Cars	May 28, 2024 (*)	Aug. 26, 2024 (**)
21	Impro Industries Mexico, S. de R.L. de C.V.	San Luis Potosí	Component parts for use in the energy, medical, automotive, and agricultural sectors	July 25, 2024 (*)	Sept. 17, 2024 (**)
22	Odisa Concrete Equipment, S.A. de C.V.	Hidalgo	Equipment for concrete batching and handling	Oct. 23, 2024 (*)	Dec. 20, 2024 (**)
23	Vidrio Decorativo Occidental, S.A. de C.V (VDO)	Tamaulipas	Glass inserts for doorframes, doors with insulated glass, and window blinds	Nov. 8, 2024 (*)	Jan. 20, 2025 (**) ¹⁰³

Note (*): Suspension of liquidation of entries of goods from the facility until the procedure is complete.

Note (**): Resumption of liquidation of entries of goods from the facility.

Note (***): The company closed the facility and ended operations in Mexico.

Case terminated by the United States

#	Facilities	Location	Sector	RRM Initiation	Resolution (**)
1	Manufacturas VU (I) and (II)	Coahuila	Automotive components	July 21, 2022 (I) (*) Jan. 30, 2023 (II) (*)	Sept. 14, 2022 (I) (**) Oct. 10, 2023 (II) (***)

Disputes brought to a RRM Panel by the United States

#	Facilities	Location	Sector	RRM / DS Panel request	Panel decision
1	Grupo Mexico San Martin Mine	Zacatecas	Lead, zinc, and copper mine	June 16, 2023 (*) (RRM) August 22, 2023 (DS)	April 26, 2024 (**) The panel found that the alleged violation fell outside the jurisdiction of the RRM
2	Atento Servicios, S.A. de C.V. facilities	Hidalgo	Call center services to a bank	January 19, 2024 (RRM) April 16, 2024 (DS)	Pending
3	Camino Rojo mine	Zacatecas	Gold and silver	August 29, 2024 (*) (RRM) December 12, 2024 (DS) ¹⁰⁴	Pending

¹⁰³ The USTR press release is accessible here: <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2025/january/united-states-announces-successful-resolution-rapid-response-labor-mechanism-matter-vidrio>.

¹⁰⁴ The USTR press release is accessible here: <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2024/december/united-states-requests-usmca-rapid-response-labor-mechanism-dispute-settlement-panel-minera-camino>.

#	Facilities	Location	Sector	RRM / DS Panel request	Panel decision
4	Pirelli Neumáticos, S.A. de C.V.	Guanajuato	Car tires	August 23, 2024 (*) (RRM) December 18, 2024 (DS) ¹⁰⁵	Pending
5	Bader de Mexico S. en C. por A. de C.V.	Guanajuato	Leather goods	Sept. 16, 2024 (*) December 18, 2024 (DS) ¹⁰⁶	Pending
6	Ammunition Manufacturer Industrias Tecnos, S. A. de C.V.	Morelos	Small arms ammunition	June 24, 2024 (*) December 18, 2024 (DS) ¹⁰⁷	Pending

Note (*): Suspension of liquidation of entries of goods from the facility until the procedure is complete.

Note (**): Resumption of liquidation of entries of goods from the facility.

¹⁰⁵ The USTR press release is accessible here: <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2024/december/united-states-requests-usmca-rapid-response-labor-mechanism-dispute-settlement-panel-pirelli>.

¹⁰⁶ The USTR press release is accessible here: <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2024/december/united-states-requests-usmca-rapid-response-labor-mechanism-dispute-settlement-panel-bader-de-mexico>.

¹⁰⁷ The USTR press release is accessible here: <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2024/december/united-states-requests-usmca-rapid-response-labor-mechanism-dispute-settlement-panel-industrias>.

Petitions & Investigations

No developments