

US & Multilateral Trade and Policy Developments

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Trade Policy Developments

Trump Administration Expands “Secondary Tariff” Authorities

In recent weeks, the Trump administration’s “secondary tariff” policy has expanded to include executive orders (EOs) creating systems to consider imposing tariffs on countries trading with Cuba and Iran. With these EOs, the system, which began as an attempt to deter oil trade with Venezuela in early 2025 and then expanded to pressure countries to halt imports of Russian oil a few months later, has now become an enforcement tool for four of the United States’ most expansive sanctions regimes. Despite the rapid expansion of the tariff system, how far the Trump administration intends to go in imposing the tariffs remains unclear. So far, the Trump administration has only used the system to impose tariffs on India, which were lifted on February 7, 2026 after India apparently pledged to stop importing Russian oil.

Update (February 20, 2026): President Trump has rescinded the tariff systems established under the “secondary tariff” executive orders following the Supreme Court’s decision that IEEPA does not grant the president authority to impose tariffs.¹

President Trump named this type of tariff a “secondary tariff” in a March 2025 Truth Social post, in which he first proposed the action as a strategy to enforce US sanctions on the Maduro regime of Venezuela.² The term links the tariffs at a policy level to the United States’ secondary sanctions system, which the US government uses to penalize entities in third countries that engage in activities with primary US sanctions targets that undermine or evade the purpose of the primary sanctions. As with many of the Trump administration’s other recent tariff orders, the secondary tariffs are based on national emergency declarations under the National Emergencies Act (NEA) and the International Emergency Economic Powers Act (IEEPA), although the secondary tariff orders often rely on national emergency declarations that were already issued to provide a legal basis for sanctions.

The Trump administration has also continued expanding and enforcing the underlying sanctions with increasing assertiveness. In recent months, the United States has begun interdicting sanctioned oil tankers in international waters and pressured the Venezuelan regime to export oil through a US-controlled system. The US Department of the Treasury Office of Foreign Assets Control (OFAC) has also sanctioned Lukoil and Rosneft to disrupt foreign sales of Russian oil and added numerous entities associated with the Iranian oil trade to sanctions lists.

System to impose tariffs on countries trading with Iran

On February 6, 2026, President Trump issued an EO to create a system to impose tariffs on US imports from countries that import goods or services from Iran.³ The EO builds on the national emergency declaration in EO 12957 of 1995 and ensuing IEEPA-based sanctions orders issued over the past 30 years. It establishes a new tariff system through which (i) the Department of Commerce determines whether a country directly or indirectly purchases, imports, or otherwise acquires any goods or services from Iran on or after February 7, 2026; (ii) the Departments of State, Commerce, Homeland Security, and the United States Trade Representative (USTR) determine whether and to what extent tariffs should be imposed on US imports from the country identified by the Department of Commerce; (iii) the Department of State presents the finding and tariff recommendation to the president; and (iv) the president determines whether to act to impose the tariffs.

The EO is broader in scope than previous secondary tariff orders, targeting countries that “directly or indirectly purchases, imports, or otherwise acquires any goods or services from Iran,” rather than targeting only the oil trade.

¹ Executive Order 14389 of February 20, 2026: “Ending Certain Tariff Actions,” 91 FR 9437, accessible here: <https://www.federalregister.gov/documents/2026/02/25/2026-03832/ending-certain-tariff-actions>.

² Truth Social post by Donald Trump, March 26, 2025, accessible here: <https://truthsocial.com/@realDonaldTrump/posts/114217914259825110>.

³ Executive Order 14382 of February 2, 2026: “Addressing Threats to the United States by the Government of Iran,” 91 FR 6493, accessible here: <https://www.federalregister.gov/documents/2026/02/11/2026-02813/addressing-threats-to-the-united-states-by-the-government-of-iran>.

“Goods and services,” in this context, refers to “goods or services for which United States persons are prohibited from trading in with respect to Iran” under the existing US sanctions regime.

The EO follows from a January 12, 2026 Truth Social post,⁴ in which President Trump stated he had imposed a 25% tariff on all US imports from all countries that trade with Iran, which he claimed had entered effect immediately upon his posting the note to Truth Social. As of the writing of this alert, the United States has not imposed the threatened secondary tariff on any countries.

System to impose tariffs on countries selling oil to Cuba

On January 29, 2026, President Trump issued an EO declaring a new national emergency and invoking IEEPA authorities to establish a system to impose tariffs on US imports from countries that sell oil to Cuba.⁵ It establishes a new tariff system through which (i) the Department of Commerce determines whether a country directly or indirectly sells or provides crude oil or petroleum products to Cuba on or after January 30, 2026; (ii) the Departments of State, Commerce, Homeland Security, and USTR determine whether and to what extent tariffs should be imposed on US imports from the country identified by the Department of Commerce; (iii) the Department of State presents the finding and tariff recommendation to the president; and (iv) the president determines whether to act to impose the tariff.

As of the writing of this alert, the United States has not imposed the threatened secondary tariff on imports of any countries. Media reports show the Trump administration is using the tariff threat to deter Mexico from exporting oil to Cuba. After the Trump administration began blockading Venezuelan oil exports to Cuba in December 2025, Mexico was left as Cuba’s only significant source of oil. In the past few weeks, has sent mixed messages about whether it will continue supplying oil to Cuba.

System to impose tariffs on countries importing Russian oil, including India

On August 6, 2025, President Trump signed an EO to create a system for imposing tariffs on countries that import oil from Russia, including specific instructions to immediately impose a 25% tariff on imports from India due to its imports of Russian oil.⁶ The EO is based on the 2021 and 2022 national emergency declarations issued by the Biden administration, which imposed IEEPA-based sanctions on Russia in response to the invasion of Ukraine.

The India tariff was structured similarly to the IEEPA reciprocal tariff, excepting products subject to Section 232 tariffs and mirroring the reciprocal tariff order’s Annex II exceptions list. When added together with the 25% reciprocal tariff on India, approximately half of US imports from India faced a 50% tariff in the second half of 2025. On February 6, 2026, President Trump amended the Russia EO to revoke the India tariff, stating that India “has committed to stop directly or indirectly importing Russian Federation oil, has represented that it will purchase United States energy products from the United States, and has recently committed to a framework with the United States to expand defense cooperation over the next 10 years.”⁷ To date, the short-lived India tariff is the only tariff the Trump administration has implemented under any of the secondary tariff systems.

Though President Trump has revoked the India tariff, the original EO’s tariff system remains in effect. Under the EO’s tariff system, (i) the Department of Commerce determines whether a country directly or indirectly imports Russian oil; (ii) the Departments of State, Commerce, Homeland Security, USTR, and certain White House advisors determine

⁴ Truth Social post of January 12, 2026, accessible here: <https://truthsocial.com/@realDonaldTrump/posts/115884319075881590>.

⁵ Executive Order 14380 of January 29, 2026: “Addressing Threats to the United States by the Government of Cuba,” 91 FR 5085, accessible here: <https://www.federalregister.gov/documents/2026/02/03/2026-02250/addressing-threats-to-the-united-states-by-the-government-of-cuba>.

⁶ Executive Order 14329 of August 6, 2025: “Addressing Threats to the United States by the Government of the Russian Federation,” 90 FR 38701, accessible here: <https://www.federalregister.gov/documents/2025/08/11/2025-15267/addressing-threats-to-the-united-states-by-the-government-of-the-russian-federation>.

⁷ Executive Order 14384 of February 6, 2026: “Modifying Duties to Address Threats to the United States by the Government of the Russian Federation,” (91 FR 6501), accessible here: <https://www.federalregister.gov/documents/2026/02/11/2026-02818/modifying-duties-to-address-threats-to-the-united-states-by-the-government-of-the-russian-federation>; and CSMS # 67702087 - UPDATED GUIDANCE – Modifying Additional Duties on Imports from India; February 9, 2026, accessible here: <https://content.govdelivery.com/accounts/USDHSCBP/bulletins/4090d47>.

whether to recommend to the president to impose the 25% tariff on US imports from the country identified by the Department of Commerce; and (iii) the president determines whether to act to impose the tariff. Through this system, the government may also reimpose the 25% tariff on imports from India if the Department of Commerce finds that India has resumed importing Russian oil.

President Trump had previously threatened to impose 100% secondary tariffs on US imports from certain third countries that trade with Russia if Russia did not agree to a ceasefire in Ukraine within a specified timeframe. He then followed the India tariff order by saying he intended to expand the secondary tariffs to cover other countries importing oil from Russia, stating that “[y]ou’re going to see a lot more. You’re going to see so much secondary sanctions.” As of the writing of this alert, the United States has not imposed the threatened secondary tariff on imports of any other countries.

In addition to the secondary tariff threat, OFAC imposed sanctions on the Russian oil companies Rosneft and Lukoil (though not Russian-origin oil generally) in October 2025. The European Union has also expanded its restrictions on Russian oil in recent months. Media reports indicate Indian refiners and other buyers of Russian oil (such as Chinese refineries) began looking to reduce their exposure to Russian oil in response to the sanctions and the risks of becoming subject themselves to secondary sanctions.

System to impose tariffs on countries that import Venezuelan oil

On March 24, 2025, President Trump issued an EO that empowers the Department of State to impose a 25% tariff on all US imports from any country that imports oil from Venezuela, beginning on or after April 2, 2025.⁸ The EO empowers the Department of State to “determine whether a country has imported Venezuelan oil, directly or indirectly” and then impose tariffs accordingly. Once the Department of State imposes a tariff, it would remain in effect for up to one year. The 25% tariff would be additive with any other applicable tariffs. The EO – President Trump’s first secondary tariff order – is based on existing Venezuela sanctions authorities under IEEPA and the NEA, which the Obama administration originally issued in 2015. In a press release following the EO, Secretary of State Marco Rubio stated, “any country that allows its companies to produce, extract, or export from Venezuela will be subject to new tariffs[.]”⁹ However, to date, the Trump administration has not imposed the threatened tariffs on any country.

In late 2025, the Trump administration intensified its stance against the Venezuelan regime and sought to exert direct control of Venezuela’s oil exports and revenue. In December 2025, the United States adopted a strategy of interdicting sanctioned Venezuelan oil tankers, which briefly escalated into a partial naval blockade. Following the US seizure of regime President Nicolas Maduro, and regime Vice President Delcy Rodríguez’s assumption of the role of Acting President, the Trump administration has negotiated an arrangement to allow Venezuela to resume oil exports under a US-controlled export, marketing, and payment mechanism.¹⁰

Despite this escalation, Trump administration has not raised the secondary tariff threat in recent months. Instead, President Trump is now encouraging third countries to resume purchasing Venezuelan oil and to consider investments in the Venezuelan oil industry. In his account of the recent handshake agreement for a trade deal with

⁸ Executive Order 14245 of March 24, 2025: “Imposing Tariffs on Countries Importing Venezuelan Oil,” 90 FR 13829, accessible here: <https://www.federalregister.gov/documents/2025/03/27/2025-05440/imposing-tariffs-on-countries-importing-venezuelan-oil>.

⁹ “On Trump Administration Imposing Tariffs on Countries Importing Venezuelan Oil,” Department of State, March 24, 2025, accessible here: <https://www.state.gov/on-trump-administration-imposing-tariffs-on-countries-importing-venezuelan-oil/>.

¹⁰ “President Trump is Restoring Prosperity, Safety and Security for the United States and Venezuela,” US Department of Energy, January 7, 2026, accessible here: <https://www.energy.gov/articles/fact-sheet-president-trump-restoring-prosperity-safety-and-security-united-states-and-venezuela>.

India, President Trump stated that he encouraged India to substitute Russian oil with Venezuelan oil.¹¹ According to media reports, Indian refiners have resumed purchases of Venezuelan oil in recent days.

To facilitate the new US-controlled system, OFAC has begun issuing General Licenses (GLs) to allow certain transactions with the Venezuelan oil sector. The GLs, issued gradually over the past few weeks, first authorized export transactions and then expanded to cover upstream oilfield and transport services. US Secretary of Energy Chris Wright is scheduled to visit Venezuela soon to discuss investments in revitalizing the oil industry and enabling new foreign investments.

- GL 46, issued by OFAC on January 29, 2026, authorizes certain US entities to, among other things, export, market, sell, or store Venezuelan-origin oil, which has allowed traders to purchase and re-export Venezuela-origin oil to third countries in recent months.
- GL 47, issued by OFAC on February 3, 2026, authorizes the sale of US-origin diluents to the Venezuelan oil industry, which are critical to reducing the viscosity of Venezuela's tar-like, extra-heavy, high-sulfur crude oil.
- GL 48, issued by OFAC on February 10, 2026, authorizes certain transactions that are ordinarily incident and necessary to the provision from the United States or by a US person of goods, technology, software, or services for the exploration, development, or production of oil or gas in Venezuela, including for maintenance and repair of existing facilities.
- GL 30B, issued by OFAC on February 10, 2026, authorizes certain transactions for the use of ports and airports in Venezuela.
- GL 46A, issued by OFAC on February 10, 2026, authorizes certain transactions for the lifting, exportation, reexportation, sale, resale, supply, storage, marketing, purchase, delivery, or transportation of Venezuelan-origin oil, or the refining of Venezuelan-origin oil, by established US entities. It supersedes GL 46, removing the requirement that payments to blocked persons for local taxes, permits, or fees, must be made into the Foreign Government Deposit Funds.
- GL 49, issued by OFAC on February 13, 2026, authorizes the negotiation of and entry into contingent contracts for new investment in oil- or gas-sector operations in Venezuela.
- GL 50, issued by OFAC on February 13, 2026, authorizes oil- or gas-sector operations in Venezuela by certain listed entities

Efforts to Abolish the First Sale Rule for US Customs Valuation Intensify

On February 11, 2026, Senators Bill Cassidy (R-LA) and Sheldon Whitehouse (D-RI) introduced the Last Sale Valuation Act, a bill that would abolish the use of the "first sale rule" in calculating transaction values for US customs valuation.¹² Should the bill pass into law, importers with multi-tier supply chains would have to rely on the last price paid by the buyer in the United States for imported merchandise when calculating transaction values for customs purposes. As the last price paid would be the highest price in the sequence of transactions leading to importation, this change would lead to higher tariff assessments.

The first sale rule and US customs valuation

¹¹ Truth Social post of February 2, 2026, accessible here: <https://truthsocial.com/@realDonaldTrump/posts/116002095109616255>. See also the US-India Joint Statement on the prospective trade deal, published on February 6, 2026, accessible here: <https://www.whitehouse.gov/briefings-statements/2026/02/united-states-india-joint-statement/>.

¹² S.3841 – Last Sale Valuation Act, 119th Congress (2025-2026), accessible here: <https://www.congress.gov/bill/119th-congress/senate-bill/3841>. A copy of the bill as introduced is accessible here: <https://www.cassidy.senate.gov/wp-content/uploads/2026/02/ROS26048.pdf>.

The first sale rule is a legal principle in US customs valuation law that allows importers to base an imported product's transaction value on the price of the initial sale by the foreign producer to a separate party, rather than base the transaction value on the last purchase price paid by the importer.

The rule arose from the vague language in US customs valuation law, which defines "transaction value" as "the price actually paid or payable for the merchandise when sold for exportation to the United States" with certain specified adjustments.¹³ Congress left the meaning of "sold for exportation to the United States" to judicial interpretation, and the courts created the first sale rule as the solution.¹⁴

For an importer to use this approach for valuation, they must establish by sufficient evidence that the earlier transaction was an "arm's length sale" and that (at the time of the sale) the merchandise was clearly destined for exportation to the United States. Demonstrating compliance with these standards requires importers to maintain a detailed paper trail showing the structure of the entire chain of transactions.

A long-running debate

Debates about the first sale rule have been ongoing since its distillation by the courts. In 2008, US Customs and Border Protection (CBP) proposed clarifying "sold for exportation to the United States" and ending the first sale rule through administration action. The proposal was based on updates to US law and efforts of the World Trade Organization (WTO) to clarify the Valuation Agreement.¹⁵ Ultimately, strong opposition from retailers and importers prevented CBP from implementing its proposal.

Importers with complex supply chains rely on the first sale rule to minimize the impact of middlemen markups on tariffs owed, keeping costs down. Use of the first sale rule has reportedly expanded significantly in the past year, as the Trump administration's large tariff increases have incentivized companies to invest in tariff mitigation strategies. Given those large tariff increases, abolishing the first sale rule in 2026 would be significantly more impactful than it would under normal circumstances.

On the other hand, critics of the first sale rule call it a "loophole" in US customs law, because it allows importers to pay lower tariffs than the critics believe is fair. Critics also point out that other countries have adopted interpretations of the WTO Valuation Agreement that require use of the final sale for transaction value. Sen. Cassidy, in introducing the Last Sale Valuation Act, stated that it will "ensure reciprocal treatment" for US businesses, linking the bill's objectives to President Trump's "reciprocal" tariff policy.

The Last Sale Valuation Act's introduction and prospects

Sens. Cassidy on Whitehouse introduced the Last Sale Valuation Act on February 11, 2026, at which point it was referred to the Senate Committee on Finance. Both senators are members of the committee and so are positioned well to advocate for the bill's approval. However, no other senators have yet endorsed the bill, and no equivalent bill has been introduced to the House of Representatives.

Sens. Cassidy on Whitehouse have been leaders in developing customs reform legislation proposals in recent years (including the proposed Customs Modernization Act and Customs Facilitation Act), but their bills have made little progress amid the broader deadlock in Congressional trade policy. Despite those challenges, the bill is backed by

¹³ Section 402 of the Tariff Act of 1930 (19 U.S.C. 1401a), accessible here: <https://www.govinfo.gov/app/details/USCODE-2024-title19/USCODE-2024-title19-chap4-subtitleIII-partI-subparta-sec1401a>. The language in the US law is based on the language in General Agreement on Tariffs and Trade, Article VII (the Valuation Agreement).

¹⁴ See *E.C. McAfee Co. v. United States*, 842 F.2d 314 (Fed. Cir. 1988) and *Nissho Iwai American Corp. v. United States*, 982 F.2d 505 (Fed. Cir. 1992).

¹⁵ "Proposed Interpretation of the Expression "Sold for Exportation to the United States" for Purposes of Applying the Transaction Value Method of Valuation in a Series of Sales," 73 FR 4254 (January 24, 2008), accessible here: <https://www.federalregister.gov/documents/2008/01/24/E8-1140/proposed-interpretation-of-the-expression-sold-for-exportation-to-the-united-states-for-purposes-of>.

senior Trump administration officials as well as influential domestic industry groups, suggesting there may be enough political support for it to advance.¹⁶

Actions proposed in the Last Sale Valuation Act

The bill proposes two amendments to the US customs valuation law:

- **Defining “sold for exportation to the United States”:** The bill would define “sold for exportation to the United States” as either, (i) in the case of transactions involving one sale, the “the price actually paid or payable by the buyer in the United States to the seller located in another country for the merchandise;” or, (ii) in the case of transactions involving a series of sales, “the price actually paid or payable by the buyer in the United States for the merchandise in the last sale that introduces the merchandise into the United States.” In effect, the new definition would prohibit importers from using the first sale rule.
- **Explicitly authorizing CBP to access importer books and records for valuation enforcement:** The bill would amend the definition of the “sufficient information” requirement to note that valuation adjustments could be based on “access to books and records” of the importer by CBP. Making the statutory authority explicit is another signal of the United States’ broader shift to stricter customs enforcement.

United States Terminates IEEPA-Based Tariffs Following Supreme Court Ruling

All US tariffs imposed by the Trump administration under the International Emergency Economic Powers Act (IEEPA) will terminate at 12:00 am eastern time on February 24, 2026.¹⁷ This action follows the Supreme Court’s February 20, 2026 decision in *Learning Resources, Inc. v. Trump*, which found that IEEPA does not grant the president authority to impose tariffs.¹⁸ Though the IEEPA-based tariffs have been ruled unlawful, the Supreme Court remanded decisions on how to handle refunds of previously-paid tariffs to the lower courts. Further developments are likely in the next few weeks.

In response, the Trump administration is moving quickly to replace the IEEPA-based tariffs with tariffs based on other legal authorities. At the same time the IEEPA tariffs terminate, a temporary 10% tariff (which President Trump may increase to 15%) will enter into effect on imports from all countries.¹⁹ The Office of the United States Trade Representative (USTR) will also initiate new Section 301 investigations to provide a more robust legal basis for tariffs and maintain pressure on US trade partners to conclude trade deals with the Trump administration.²⁰

The Trump administration’s 2025 IEEPA tariffs challenged in court

The Supreme Court appeal consolidated a series of cases challenging the IEEPA tariffs filed in the first half of 2025 in several different courts by US businesses and governments. Collectively, the cases specifically address the so-

¹⁶ See the Senators’ media statements on the bill, which include endorsements from textile and shrimp industry groups, Trump administration-aligned advocacy groups, and White House officials, at “Cassidy Introduces Bill to Close Customs Loophole, Strengthen American Manufacturers,” Office of Sen. Cassidy, February 11, 2026, accessible here: <https://www.cassidy.senate.gov/newsroom/press-releases/cassidy-introduces-bill-to-close-customs-loophole-strengthen-american-manufacturers/>; and “Whitehouse, Cassidy Introduce Bipartisan Bill to Close “First Sale” Customs Loophole,” Office of Sen. Whitehouse, February 11, 2026, accessible here: <https://www.whitehouse.senate.gov/news/release/whitehouse-cassidy-introduce-bipartisan-bill-to-close-first-sale-customs-loophole/>.

¹⁷ CSMS # 67834313 - Ending Collection of International Emergency Economic Powers Act Duties, February 22, 2026, accessible here: <https://content.govdelivery.com/accounts/USDHSCBP/bulletins/40b11c9>.

¹⁸ *Learning Resources, Inc. v. Trump*, 24-1287, opinion accessible here: https://www.supremecourt.gov/opinions/25pdf/24-1287_4gcj.pdf.

¹⁹ Presidential Proclamation of February 20, 2026: “Imposing a Temporary Import Surcharge to Address Fundamental International Payments Problems,” accessible here: <https://www.whitehouse.gov/presidential-actions/2026/02/imposing-a-temporary-import-surcharge-to-address-fundamental-international-payments-problems/>; and CSMS # 67844987 - Imposing Temporary Section 122 Duties, February 23, 2026, accessible here: <https://content.govdelivery.com/accounts/USDHSCBP/bulletins/40b3b7b>.

²⁰ “Ambassador Greer Issues Statement on Supreme Court IEEPA Decision,” USTR, February 20, 2026, accessible here: <https://ustr.gov/about/policy-offices/press-office/press-releases/2026/february/ambassador-greer-issues-statement-supreme-court-ieepa-decision>.

called IEEPA “Trafficking Tariffs” on Canada, Mexico, and China, as well as the IEEPA “Reciprocal Tariffs” affecting nearly all US trading partners. The cases do not directly address other tariffs imposed by the Trump administration.

The litigation began with a consolidated action before the US Court of International Trade (CIT), *V.O.S. Selections Inc. v. United States* (No. 25-00066), where private business plaintiffs and twelve state plaintiffs challenged the tariffs. On May 28, 2025, the CIT granted summary judgment, holding that both the “Trafficking Tariffs” and “Reciprocal Tariffs” exceeded presidential authority under IEEPA. The CIT’s order to enjoin the operation of these tariffs was stayed pending appeal to the CAFC.

Coinciding with the CIT cases, the United States District Court for the District of Columbia (DDC) issued a preliminary injunction in *Learning Resources, Inc. v. Trump*. While also concluding that the Trump administration’s IEEPA tariffs are unlawful, the DDC found more broadly that IEEPA does not authorize the imposition of tariffs under any circumstances. The DDC order preliminarily enjoined the government from collecting tariffs from the plaintiffs, but it stayed the enforcement of its order pending appeal.²¹

On August 29, 2025, the US Court of Appeals for the Federal Circuit (CAFC) similarly found that IEEPA does not authorize the IEEPA tariffs in question.²² The CAFC’s Order withheld its mandate pending appeal to the Supreme Court, leaving the tariffs in place in the interim. The government then filed a petition for certiorari and a motion to expedite appeal with the Supreme Court, which promptly agreed to expedited hearings and consolidated the major cases under *Learning Resources*. The Supreme Court received briefs in September and October 2025 and held oral arguments in November 2025.²³

The Supreme Court’s opinion

Relying on the US Constitution and the statutory text of IEEPA, the majority of the Supreme Court justices held that IEEPA does not authorize the President to impose tariffs in any instance. Given the magnitude of this case, several justices wrote opinions. However, the majority opinion, which is binding precedent, is contained in Section I, II-A-1, and II-B of Chief Justice Roberts’ opinion.²⁴

The Court reaffirmed that the US Constitution grants Congress alone the power to impose taxes or tariffs on the people.²⁵ The Court noted that the president has no inherent authority to impose tariffs during peacetime and thus the president’s imposition of IEEPA tariffs must rely exclusively on a delegation of the tariff power from Congress through IEEPA.

Next, the Court analyzed the text of IEEPA and determined that Congress did not delegate its tariff authority to the president through IEEPA. The Court held that while IEEPA does authorize the president to “regulate ... importation,” the word “regulate” does not encompass the power to impose tariffs or taxes, as “the ‘power to regulate commerce’ is ‘entirely distinct from the right to levy taxes.’”²⁶ The Court also drew a distinction between IEEPA and other federal trade statutes that explicitly mention duties and thus grant the president the power to impose tariffs (e.g., the steel and aluminum tariffs imposed by the president under Section 232 of the Trade Expansion Act of 1962).²⁷

²¹ *Learning Resources, Inc. v. Trump*, DDC Opinion and Order, accessible here: https://ecf.dcd.uscourts.gov/cgi-bin/show_public_doc?2025cv1248-37.

²² *V.O.S. Selections, Inc. v. Trump*, CAFC Opinion, accessible here: https://www.cafc.uscourts.gov/opinions-orders/25-1812.OPINION.8-29-2025_2566151.pdf; and CAFC Order, accessible here: https://www.cafc.uscourts.gov/opinions-orders/25-1812.ORDER.8-29-2025_2566157.pdf.

²³ See the Supreme Court docket at *Learning Resources, Inc., et al., Petitioners v. Donald J. Trump, President of the United States, et al.*, accessible here: <https://www.supremecourt.gov/search.aspx?filename=/docket/docketfiles/html/public/24-1287.html>.

²⁴ *Learning Resources, Inc. v. Trump*, 24-1287 at 1–7, 14–21.

²⁵ *Learning Resources, Inc. v. Trump*, 24-1287 at 5–6.

²⁶ *Learning Resources, Inc. v. Trump*, 24-1287 at 15 (citing *Gibbons v. Ogden*, 9 Wheat. 1, 201–202 (1824)).

²⁷ *Learning Resources, Inc. v. Trump*, 24-1287 at 19 (citing *Federal Energy Administration v. Algonquin SNG, Inc.*, 426 U.S. 548, 571 (1976)).

Accordingly, the Court affirmed the CAFC's decision in *V.O.S. Selections Inc.* holding that the president cannot impose tariffs under IEEPA.

The Court separately vacated the DDC's decision in *Learning Resources et. al. v. United States* on procedural grounds, holding that the case fell within the exclusive jurisdiction of the CIT. This holding does not affect the Court's substantive decision regarding the illegality of the IEEPA tariffs.²⁸

Termination of the IEEPA tariffs

By its ruling, the Supreme Court has made it illegal for the US Customs and Border Protection (CBP) to continue collecting tariffs under IEEPA. As a practical matter, to carry out this obligation, President Trump issued an executive order on February 20, 2026 terminating all tariffs previously imposed by his administration under IEEPA-based authorities as soon as practicable.²⁹ CBP followed up on February 22 with guidance stating that it will halt collection of all tariffs imposed pursuant to IEEPA for goods entered for consumption or withdrawn from warehouse for consumption, on or after 12:00 am eastern time on February 24, 2026.

Although the plaintiffs in *Learning Resources* only challenged the IEEPA reciprocal tariffs and the fentanyl-trafficking related tariffs on Canada, China, and Mexico, the Trump administration opted to terminate all IEEPA-based tariffs in the February 20 executive order.

All tariff authorities established pursuant to the below executive orders are now revoked:

- **China fentanyl trafficking tariff:** The 10% (previously 20%) Trafficking Tariff on all imports from China, issued in Executive Order 14195 of February 1, 2025, as amended.³⁰
- **Canada fentanyl trafficking tariff:** The 35% (or 10% on certain energy, mineral, and fertilizer products) Trafficking Tariff on all imports from Canada that do not qualify for preferential treatment under the United States - Canada - Mexico Agreement (USMCA), issued in Executive Order 14193 of February 1, 2025, as amended.³¹
- **Mexico fentanyl trafficking tariff:** The 25% (or 10% on certain fertilizer products) Trafficking Tariff on all imports from Mexico that do not qualify for preferential treatment under the USMCA, issued in Executive Order 14194 of February 1, 2025, as amended.³²
- **Global reciprocal tariffs:** The Reciprocal Tariffs, which have a minimum rate of 10% and range as high as 41%, imposed on nearly all countries and most products that are not instead covered by Section 232 tariffs or are otherwise exempted, issued in Executive Order 14257 of April 2, 2025, as amended.³³

²⁸ The Supreme Court's opinion for the consolidated case is titled after *Learning Resources*, but the specific decision made on the *Learning Resources* case by the DDC is vacated.

²⁹ Executive Order of February 20, 2026: "Ending Certain Tariff Actions," accessible here: <https://www.whitehouse.gov/presidential-actions/2026/02/ending-certain-tariff-actions/>.

³⁰ Executive Order 14195 of February 1, 2025: "Imposing Duties To Address the Synthetic Opioid Supply Chain in the People's Republic of China," 90 FR 9121, accessible here: <https://www.federalregister.gov/documents/2025/02/07/2025-02408/imposing-duties-to-address-the-synthetic-opioid-supply-chain-in-the-peoples-republic-of-china>.

³¹ 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>.

³² 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>.

³³ Executive Order 14257 of April 2, 2025: "Regulating Imports With a Reciprocal Tariff To Rectify Trade Practices That Contribute to Large and Persistent Annual United States Goods Trade Deficits," 90 FR 15041, accessible here: <https://www.federalregister.gov/documents/2025/04/07/2025-06063/regulating-imports-with-a-reciprocal-tariff-to-rectify-trade-practices-that-contribute-to-large-and>.

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- **Brazil additional tariff:** The 40% additional IEEPA tariff on most imports from Brazil, issued in Executive Order 14323 of July 30, 2025.³⁴
 - **India Russia Oil tariff:** The 25% additional IEEPA tariff imposed on most imports from India, additive with the Reciprocal Tariff, which was in effect from August 27, 2025 to February 7, 2026, issued in Executive Order 14329 of August 6, 2025, as amended (*i.e.*, the Russia “Secondary Tariff” Order).³⁵
 - **“Secondary Tariff” orders:** President Trump has issued executive orders to create systems to potentially impose IEEPA-based tariffs on countries trading oil and certain other products with Cuba,³⁶ Venezuela,³⁷ Russia, and Iran.³⁸ The authority to impose tariffs pursuant to these orders are now revoked, though, at the time of the Supreme Court ruling, no tariffs were in effect under any of these systems.

Tariffs imposed by the Trump administration under other tariff authorities are unaffected, including the Section 301 tariffs on imports from China and Nicaragua and the global Section 232 tariffs on imports of steel and steel derivatives; aluminum and aluminum derivatives; passenger vehicles, light trucks, and parts; copper and copper derivative products; timber, lumber, and wood products; trucks, buses, and truck parts; and a small set of advanced semiconductors.

Status of the Agreements on Reciprocal Trade

The tariff commitments made by the Trump administration in the Agreements on Reciprocal Trade (ARTs) specifically pertain to tariffs imposed pursuant to the April 2 IEEPA tariff order, as amended. For example, the US-Cambodia ART states that “the United States shall not apply the additional ad valorem rate of duty applicable to those goods as provided for in Executive Order 14257 of April 2, 2025” (describing the additional product-specific tariff exceptions President Trump would grant) and that “the additional *ad valorem* rate of duty provided for in Executive Order 14257 of April 2, 2025, as amended, shall be no higher than 19 percent” (describing the arrangement to impose a 19% IEEPA reciprocal tariff on imports from Cambodia).³⁹

Similar language regarding the IEEPA tariffs appears in all ARTs concluded to date, though a few of the agreements (such as the preliminary agreements with the EU, Korea, and Japan) also include provisions that set a tariff ceiling on certain goods subject to Section 232 investigations. Following the Supreme Court decision and President Trump’s order to revoke all IEEPA-based tariffs, the IEEPA tariff rate ceilings and product specific exceptions described in the ARTs will provide no benefit.

The legal foundation for the ARTs is now uncertain, raising the possibility of renegotiations, modifications, or lapses in these agreements. It is unclear whether individual trade partners will seek to renegotiate their ARTs or leave them unchanged. Planned Section 301 investigations by USTR are likely intended to maintain leverage for potential tariff

³⁴ Executive Order 14323 of July 30, 2025: “Addressing Threats to the United States by the Government of Brazil,” 90 FR 37739, accessible here: <https://www.federalregister.gov/documents/2025/08/05/2025-14896/addressing-threats-to-the-united-states-by-the-government-of-brazil>.

³⁵ Executive Order 14329 of August 6, 2025: “Addressing Threats to the United States by the Government of the Russian Federation,” 90 FR 38701, accessible here: <https://www.federalregister.gov/documents/2025/08/11/2025-15267/addressing-threats-to-the-united-states-by-the-government-of-the-russian-federation>; as amended by Executive Order 14384 of February 6, 2026: “Modifying Duties To Address Threats to the United States by the Government of the Russian Federation,” 91 FR 6501, accessible here: <https://www.federalregister.gov/documents/2026/02/11/2026-02818/modifying-duties-to-address-threats-to-the-united-states-by-the-government-of-the-russian-federation>.

³⁶ Executive Order 14380 of January 29, 2026: “Addressing Threats to the United States by the Government of Cuba,” 91 FR 5085, accessible here: <https://www.federalregister.gov/documents/2026/02/03/2026-02250/addressing-threats-to-the-united-states-by-the-government-of-cuba>.

³⁷ Executive Order 14245 of March 24, 2025: “Imposing Tariffs on Countries Importing Venezuelan Oil,” 90 FR 13829, accessible here: <https://www.federalregister.gov/documents/2025/03/27/2025-05440/imposing-tariffs-on-countries-importing-venezuelan-oil>.

³⁸ Executive Order 14382 of February 6, 2026: “Addressing Threats to the United States by the Government of Iran,” 91 FR 6493, accessible here: <https://www.federalregister.gov/documents/2026/02/11/2026-02813/addressing-threats-to-the-united-states-by-the-government-of-iran>.

³⁹ Agreement Between the United States of America and the Kingdom of Cambodia on Reciprocal Trade, October 26, 2025, accessible here: <https://www.whitehouse.gov/briefings-statements/2025/10/agreement-between-the-united-states-of-america-and-the-kingdom-of-cambodia-on-reciprocal-trade/>.

increases, thereby pressuring countries to adhere to the ARTs. President Trump has also threatened further tariff increases if countries attempt to delay negotiations, although the legal basis for such threat remains unclear.⁴⁰

Status of the customs *de minimis* suspension

On August 29, 2025, President Trump suspended customs *de minimis* entry, eliminating duty-free entry into the United States for shipments valued at \$800 or less, and applying the IEEPA tariffs, along with all other applicable tariffs to low value shipments.⁴¹ Because the Supreme Court has held that IEEPA does not authorize the President to impose tariffs, any IEEPA tariffs imposed on low value shipments have been deemed unlawful. However, non-IEEPA tariffs (e.g., Section 232 tariffs, Section 301 tariffs, etc.) remain in effect and are not impacted by this decision.

The *de minimis* suspension order was based on IEEPA and tied to the IEEPA fentanyl-trafficking and reciprocal tariff executive orders. To keep the *de minimis* suspension in effect following the termination of the IEEPA fentanyl-trafficking and reciprocal tariff executive orders, President Trump issued a new executive order on February 20, 2026 that changes the legal basis for the suspension.⁴² The new order seeks to maintain the original *de minimis* suspension without modification.

Although the *Learning Resources* case did not terminate the *de minimis* suspension, other litigation may continue. *Axle of Dearborn, Inc. v. Department of Commerce*, a case challenging the *de minimis* suspension filed in May 2025, had been stayed pending the Supreme Court's ruling in *Learning Resources*. As the *Learning Resources* opinion did not address the *de minimis* suspension, the case is likely to resume.

Regardless of the litigation's outcome, the *de minimis* program will soon end. President Trump's centerpiece domestic policy bill, the "One Big Beautiful Bill Act," signed on July 4, 2025, permanently repeals the statutory basis for the *de minimis* exemption on July 1, 2027.⁴³

Efforts to secure access to refunds

The Supreme Court did not address the process for affected importers to receive refunds for past payments of unlawful tariffs, leaving this issue to the discretion of the lower courts. The case is now remanded to the CAFC, which will likely return it to the CIT to determine next steps for both collection and refunds.

Over the past several months, hundreds of importers have filed cases at the CIT, relying on CAFC's holding that IEEPA does not authorize the President to impose tariffs. These importers are seeking orders for CBP to refund any IEEPA tariffs paid and to halt further collection of such tariffs. On December 23, 2025, the CIT stayed all IEEPA refund cases, stating that "it expects to determine the appropriate next steps for resolution of the New IEEPA Tariff Cases following a final, unappealable decision" from the Supreme Court.⁴⁴

Now that the Supreme Court has decided this case, the CIT is expected to lead the refund process. The CIT has previously indicated that it has "the explicit power to order reliquidation and refunds where the government has unlawfully exacted duties."⁴⁵ It is unclear whether (i) CBP will create an administrative process to grant importers their

⁴⁰ Truth Social post of February 23, 2026, accessible here: <https://truthsocial.com/@realDonaldTrump/posts/116120439459742948>.

⁴¹ Executive Order 14324 of July 30, 2025: "Suspending Duty-Free *De Minimis* Treatment for All Countries," 90 FR 37775, accessible here: <https://www.federalregister.gov/documents/2025/08/05/2025-14897/suspending-duty-free-de-minimis-treatment-for-all-countries>.

⁴² Executive Order of February 20, 2026: "Continuing the Suspension of Duty-Free *De Minimis* Treatment for All Countries," accessible here: <https://www.whitehouse.gov/presidential-actions/2026/02/continuing-the-suspension-of-duty-free-de-minimis-treatment-for-all-countries/>; and CSMS # 67845486 - Continuing the Suspension of Duty-Free *De Minimis* Treatment for All Countries, February 23, 2026, accessible here: <https://content.govdelivery.com/accounts/USDHSCBP/bulletins/40b3d6e>.

⁴³ See Section 70531, Public Law 119–21, 119th Congress, accessible here: <https://www.congress.gov/119/plaws/publ21/PLAW-119publ21.pdf>.

⁴⁴ CIT Administrative Order 25-02 (December 23, 2025), accessible here: [https://www.cit.uscourts.gov/sites/cit/files/Administrative Order 25-02.pdf](https://www.cit.uscourts.gov/sites/cit/files/Administrative%20Order%2025-02.pdf).

⁴⁵ *AGS Co. Automotive Sols. v. U.S. Customs & Border Prot.*, Consol. Court No. 25-00255, Slip Op. 25-154 (Ct. Int'l Trade December 15, 2025) at 6 (citing *In re Section 301 Cases*, 524 F.Supp.3d 1363, 1373 (Ct. Int'l Trade 2021)), accessible here: <https://www.cit.uscourts.gov/sites/cit/files/25-154.pdf>.

refunds of its own accord, or (ii) importers will have to file their own court appeals at the CIT to have their refund claims processed. The CIT may also create a more efficient mechanism for processing importers' refund claims.

The Trump Administration's initial plan to replace the IEEPA tariffs

Trump administration officials have prepared alternatives to replace the IEEPA tariffs with tariffs under other legal authorities, which President Trump outlined in a speech and social media posts on February 20.⁴⁶ President Trump stated that he intends to immediately proceed with two complimentary actions:

- **Section 122 tariff order:** Impose a global 10% tariff on imports from all countries under Section 122 of the Trade Act of 1974.⁴⁷ President Trump issued the tariff order on February 20, 2025, then announced he intends to raise the tariff rate to 15% on February 21.
- **Section 301 investigations:** Directs USTR to initiate new Section 301 investigations targeting US trade partners.⁴⁸ USTR will issue formal initiation notices on these investigations, which would include opportunities for public input.

These alternative tariff actions will be slower, more constrained, and more complex to implement than the IEEPA tariff process. The Trump administration's two-stage strategy appears to use Section 122 for rapid, short-term action – since Section 122 tariffs can be implemented quickly, but are constrained in duration (no more than 150 days) and size (maximum 15%) – while utilizing the 150-day window to develop Section 301 tariff orders, which require more time but are not subject to practical time or size constraints once enacted.

President Trump and his allies have also discussed other options, including Section 232 of the Trade Expansion Act of 1962 (which he has used to impose sectoral tariffs) and Section 338 of the Tariff Act of 1930 (which no president has yet used). President Trump has also suggested he may consider using IEEPA to impose licensing regimes and embargoes, but he has not acted on those suggestions. Another option could be legislative action by Congressional Republicans to implement higher tariffs into the law, but President Trump dismissed that option as unnecessary in his February 20 remarks.

Trump Administration Unveils Maritime Industry Development Action Plan

In February 2026, the Trump administration published a "Maritime Action Plan" (MAP), detailing the administration's proposals to expand the US "Maritime Industrial Base."⁴⁹ The MAP sets out targeted steps the Trump administration believes the United States should take to expand its shipbuilding and maritime transport industries, building on initial proposals circulated by White House staff in 2025. In domestic policy, the MAP includes proposals for investment incentives, workforce development, improving government procurement processes, and reducing regulatory costs for the maritime industry. Other proposals would directly affect international trade and investment, with the MAP proposing new domestic preference requirements, a new service fee on foreign-built vessels, a new Land Port Maintenance Tax, and requirements to carry US-bound cargo on US vessels. The specific proposals described in the MAP would be implemented through separate rulemaking actions, and most of the significant proposals would likely require legislation.

Executive order for a Maritime Action Plan

⁴⁶ Truth Social post of February 20, 2026 by President Trump, accessible here: <https://truthsocial.com/@realDonaldTrump/posts/116104407604484915>.

⁴⁷ 19 U.S.C. §2132, accessible here: <https://www.govinfo.gov/app/details/USCODE-2024-title19/USCODE-2024-title19-chap12-subchapI-part2-sec2132>.

⁴⁸ 19 U.S.C. §§2411-2420, accessible here: <https://www.govinfo.gov/app/details/USCODE-2024-title19/USCODE-2024-title19-chap12-subchapIII-sec2411>.

⁴⁹ "America's Maritime Action Plan," White House, February 2026, accessible here: <https://www.whitehouse.gov/maritimemight/>.

President Trump issued an executive order (EO) on “Restoring America's Maritime Dominance” in April 2025 with various proposals to support the US maritime industry.⁵⁰ The EO instructed various relevant executive branch agencies to develop the proposals that President Trump laid out in greater detail and then combine the plans into a “Maritime Action Plan.” The EO includes proposals to support investment in the US shipbuilding sector, coordinate policies with allies, expand training for mariners, support shipbuilding through government procurement, expand the US flagged fleet, study Arctic maritime security challenges, and penalize importers that unload US-bound cargo in Canada or Mexico instead of the United States.

The EO also instructed USTR to continue developing its Section 301 proposals to impose fees and national origin restrictions on ocean carriers, mostly targeting vessels and cargo handling equipment linked to China. USTR implemented the Section 301 actions on October 14, 2025, but suspended them on November 10, 2025 as part of the one-year US-China trade war de-escalation agreement.

International trade-related actions in the MAP

The MAP lays out a four-pillar strategy focusing on expanding shipbuilding capacity, improving workforce development, protecting the maritime industrial base, and new national security measures, as well as a set of regulatory reform proposals. Most of these thematic areas include proposals that would have significant impacts on international trade and investment. The relevant sections are summarized below:

- **Encourage shipbuilders from US allies to invest in the US shipbuilding industry:** The MAP proposes a broad array of measures to expand government support for investment in US shipyards, such as new investment facilitation programs, tax breaks, and subsidies. The MAP states that these incentives should “encourage shipbuilders from allied nations to invest in the U.S. shipbuilding industry[.]”
- **Universal service fee on foreign-built vessels:** Most of the MAP’s investment proposals focus on supply-side support. At the same time, the MAP also proposes the creation of a new universal service fee “on all foreign-built commercial vessels calling at U.S. ports, to be assessed on the weight of the imported tonnage arriving on the vessel.” Proceeds would be allocated to the proposed “Maritime Security Trust Fund,” which would finance various initiatives proposed by the MAP. The fee is also intended to discourage the use of foreign-built vessels. The MAP does not specify the fee rate or clarify whether its application would align with US trade agreement obligations.
- **Agreements on Reciprocal Trade (ART) commitments:** The Office of the United States Trade Representative (USTR) is incorporating vague commitments to supporting shipbuilding in the United States and allied countries into the ARTs. The MAP states that these agreements “that link market access to joint industrial development” should continue, but it provides few details on what these commitments should include.
- **Requirement to carry certain US-bound commercial cargo on US-flagged vessels:** The MAP proposes establishing a “United States Maritime Preference Requirement” (USMPR), which would mandate that certain foreign countries transport a gradually increasing share of US-bound containerized cargo on qualifying US vessels. The MAP does not provide details on how the government would implement the requirement or identify who would be responsible for ensuring compliance. Similar cargo carriage rules proposed under the Section 301 China shipbuilding action were withdrawn by USTR following negative feedback from affected industries.
- **Expand requirement to carry US government-impelled cargo on US-flagged vessels:** The MAP proposes increasing the percentage of civilian US government agency cargoes required to be transported on US-flagged vessels, raising the threshold above the current 50%. As part of this effort, the MAP calls for immediate

⁵⁰ Executive Order of April 9, 2025: “Restoring America's Maritime Dominance,” 90 FR 15635 (April 15, 2025), accessible here: <https://www.federalregister.gov/documents/2025/04/15/2025-06465/restoring-americas-maritime-dominance>; and Fact Sheet: “President Donald J. Trump Restores America’s Maritime Dominance,” April 9, 2025, accessible here: <https://www.whitehouse.gov/fact-sheets/2025/04/fact-sheet-president-donald-j-trump-restores-americas-maritime-dominance/>.

implementation of reforms to the three-year eligibility rule for cargo preference programs, which were previously scheduled to enter effect in 2030.⁵¹ Under current law, the requirement that vessels be US-flagged for at least three years before becoming eligible can be waived if the vessel owner agrees to maintain the US-flag for at least three years and enrolls the vessel into an emergency preparedness agreement beginning in 2030.

- **Proposed “Land Port Maintenance Tax”:** The MAP proposes a new Land Port Maintenance Tax, which would subject entries at land ports to a 0.125% *ad valorem* tax imposed on the value of imported goods. Revenue collected by the fee would fund a new Land Port Maintenance Trust Fund (LPMTF) to support the improvement of land ports. Earlier versions of this proposal called for additional tariffs and new customs entry rules applied to maritime cargo unloaded in Canadian and Mexican ports and then entered into the United States at land ports, which the MAP appears to abandon.

The Trump administration intends for the proposed land port tax to be economically equivalent to the maritime Harbor Maintenance Tax (HMT). The HMT is a 0.125% *ad valorem* tax imposed on the value of imported goods entered into US ports and paid by the vessel operator, which the US government uses to fund port maintenance through the Harbor Maintenance Trust Fund (HMTF). Because the HMT is assessed at maritime ports but not land ports, certain port operators have complained that the fee puts them at a disadvantage relative to ports in Canada and Mexico.⁵²

- **The Section 301 China shipbuilding investigation:** The MAP acknowledges USTR’s Section 301 China shipbuilding investigation and ensuing measures targeting Chinese vessels, noting that the actions are suspended until at least November 2026 as part of President Trump’s one-year trade war de-escalation agreement with China. The Section 301 action had been central to the MAP strategy envisioned by the 2025 EO, but the MAP simply states that the “United States will consult with China on shipbuilding capacity issues[.]”
- **Increase domestic manufacturing capacity for critical components:** The MAP proposes a variety of measures to encourage onshoring of production for critical vessel components (including with expanded domestic content requirements), such as large marine engines, reduction gears, propulsion shafts, propellers, forgings and castings, high-strength steels, and advanced electronics.
- **Expand the US-flagged fleet:** The MAP aims to significantly increase the US-flagged fleet, initially by re-flagging foreign-built vessels and subsequently by commissioning more US-built vessels. To support this expansion, the MAP proposes establishing a “Strategic Commercial Fleet” (SCF) to complement the Maritime Security Program (MSP) and Tanker Security Program (TSP). The US government would subsidize both the construction and the operation of SCF vessels, enabling the desired capacity expansion. The MAP also proposes to increase funding for the MSP and TSP.

Need for Congressional action

The MAP concludes by urging Congress to enact legislation to implement the various proposals. In a few areas, the MAP references existing legal authorities and budget appropriations that the executive branch could apply towards accomplishing its objectives (such as leveraging defense industrial base programs to provide more direct support to shipyards), or it proposes reforms the Trump administration could adopt by revising existing regulations. However, most of the major initiatives proposed by the MAP, including the Maritime Security Trust Fund, Land Port Maintenance Tax, and the foreign vessel fees, would likely require new legislation and budget appropriations from Congress.

⁵¹ 46 U.S.C. § 55302.

⁵² In January 2026, two members of the Federal Maritime Commission issued a statement endorsing the proposal, calling the lack of an equivalent fee at land ports a “loophole.” See “Statement of Commissioners Max Vekich and Laura DiBella on Closing the Harbor Maintenance Tax Land-Border Loophole,” January 21, 2026, FMC, accessible here: <https://www.fmc.gov/ftdo/statement-of-commissioners-max-vekich-and-laura-dibella-on-closing-the-harbor-maintenance-tax-land-border-loophole/>.

The MAP states that the Trump administration is preparing a legislative package for Congress to provide the legal authorities necessary to implement the MAP's proposals. This package will include measures to establish the Land Port Maintenance Tax, the Maritime Security Trust Fund, shipbuilding investment incentives and tax subsidies, workforce development programs, and measures to expand the US-flagged fleet.

Congress has considered several bills in recent years to support US shipbuilding, and there is general bipartisan support for actions similar to the Trump administration's proposals. In the 2023-2024 legislative term, a group of legislators from both the House and Senate developed the SHIPS for America Act, a bipartisan bill that merged various proposals to support US shipbuilding and limit market access for foreign vessels.⁵³ The bill was reintroduced for the current legislative term in April 2025 to both the House and Senate, but there has been no progress towards passage.⁵⁴

Among the SHIPS for America Act'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 vessels 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 vessels, impose additional tariffs on cargo carried by non-US vessels, support shipbuilding innovation, and support workforce development. The Senate's 2025 version of the bill does not include the previous version's proposed tax credits, but a separate bipartisan Senate bill – the Building Ships in America Act of 2025 – focuses specifically on the proposed tax credits.⁵⁵

Following the release of the MAP on February 13, Senator Todd Young, one of the SHIPS for America Act's sponsors, posted a statement noting "substantial overlap between the President's vision and the plan we've proposed in the SHIPS for America Act" and called on Congress to approve his bill.⁵⁶ It remains uncertain whether the bill's sponsors will revise it to align with the MAP's proposals, or continue to pursue their original version.

⁵³ "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>.

⁵⁴ S.1541 - SHIPS for America Act of 2025, 119th Congress (2025-2026), accessible here: <https://www.congress.gov/bill/119th-congress/senate-bill/1541>; and H.R.3151 - SHIPS for America Act of 2025, 119th Congress (2025-2026), accessible here: <https://www.congress.gov/bill/119th-congress/house-bill/3151>.

⁵⁵ S.1536 - Building Ships in America Act of 2025, 119th Congress (2025-2026), accessible here: <https://www.congress.gov/bill/119th-congress/senate-bill/1536>.

⁵⁶ "Young Applauds White House Maritime Action Plan, Urges Passage of SHIPS for America Act," Office of Senator Young, February 13, 2026, accessible here: <https://www.young.senate.gov/newsroom/press-releases/young-applauds-white-house-maritime-action-plan-urges-passage-of-ships-for-america-act>.

Trade Actions

Section 122 / Section 301

Trump Administration Imposes 10% Section 122 Tariff to Replace IEEPA Tariffs

On February 24, 2026, the Trump administration implemented an additional 10% global tariff under Section 122 of the Trade Act of 1974.⁵⁷ At the same time, all tariffs previously established under the International Emergency Economic Powers Act (IEEPA) were revoked. The new Section 122 tariff is structured similarly to the IEEPA-based tariffs, including a comparable list of product-specific exceptions. Notably, it excludes products already subject to Section 232 tariffs and those qualifying for preferential treatment under the United States – Canada – Mexico Agreement (USMCA). Additional exceptions in the new tariff include a new global exemption for civil aircraft and parts as well as an exemption for apparel products eligible for preferential treatment under the Dominican Republic-Central America Free Trade Agreement (CAFTA-DR). Unlike the IEEPA-based tariffs, the Section 122 tariff applies uniformly to all countries and does not incorporate country-specific product exceptions or the differentiated IEEPA tariff rates previously negotiated in the Agreements on Reciprocal Trade (ARTs).

The transition from IEEPA to Section 122 reflects the Trump administration's plan to replace the IEEPA-based tariffs with new tariffs grounded in alternative statutory authorities, following the Supreme Court's determination that IEEPA does not grant the president authority to impose tariffs.

Termination of the IEEPA-based tariffs

All US tariffs imposed by the Trump administration under the International Emergency Economic Powers Act (IEEPA) terminated at 12:00 a.m. eastern time on February 24, 2026. This action follows the Supreme Court's February 20, 2026 decision in *Learning Resources, Inc. v. Trump*, which found that IEEPA does not grant the president authority to impose tariffs.⁵⁸ By its ruling, the Supreme Court has made it illegal for the US Customs and Border Protection (CBP) to continue collecting tariffs under IEEPA. As a practical matter, to carry out this obligation, President Trump issued an executive order on February 20, 2026 terminating all tariffs previously imposed by his administration under IEEPA-based authorities as soon as practicable.⁵⁹ Although the plaintiffs in *Learning Resources* only challenged the IEEPA reciprocal tariffs and the fentanyl-trafficking related tariffs on Canada, China, and Mexico, the Trump administration opted to terminate all IEEPA-based tariffs in the February 20 executive order.

CBP followed the executive order on February 22 with guidance stating that it will halt collection of all tariffs imposed pursuant to IEEPA for goods entered for consumption or withdrawn from warehouse for consumption, on or after 12:00 a.m. eastern time on February 24, 2026.⁶⁰

The Trump Administration's initial plan to replace the IEEPA tariffs

Trump administration officials have prepared alternatives to replace the IEEPA tariffs with tariffs under other legal authorities, which President Trump outlined in a speech and social media posts on February 20.⁶¹ President Trump stated that he intends to immediately proceed with two complimentary actions:

⁵⁷ Presidential Proclamation 11012 of February 20, 2026: "Imposing a Temporary Import Surcharge to Address Fundamental International Payments Problems," 91 FR 9339, accessible here: <https://www.federalregister.gov/documents/2026/02/25/2026-03824/imposing-a-temporary-import-surcharge-to-address-fundamental-international-payments-problems>; and CSMS # 67844987 - Imposing Temporary Section 122 Duties, February 23, 2026, accessible here: <https://content.govdelivery.com/accounts/USDHSCBP/bulletins/40b3b7b>.

⁵⁸ *Learning Resources, Inc. v. Trump*, 24-1287, opinion accessible here: https://www.supremecourt.gov/opinions/25pdf/24-1287_4gcj.pdf.

⁵⁹ Executive Order 14389 of February 20, 2026: "Ending Certain Tariff Actions," 91 FR 9437, accessible here: <https://www.federalregister.gov/documents/2026/02/25/2026-03832/ending-certain-tariff-actions>.

⁶⁰ CSMS # 67834313 - Ending Collection of International Emergency Economic Powers Act Duties, February 22, 2026, accessible here: <https://content.govdelivery.com/accounts/USDHSCBP/bulletins/40b11c9>.

⁶¹ Truth Social post of February 20, 2026 by President Trump, accessible here: <https://truthsocial.com/@realDonaldTrump/posts/116104407604484915>.

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- **Section 122 tariff order:** Impose a temporary, 10% global tariff on imports from all countries under Section 122 of the Trade Act of 1974 as a short-term measure.⁶² President Trump later announced his intention to increase the tariff rate to 15% in a February 21 Truth Social post, though he has not issued a legal order to implement the change.⁶³
 - **Section 301 investigations:** Directs USTR to initiate new Section 301 investigations targeting US trade partners.⁶⁴ USTR will issue formal initiation notices on these investigations, which are expected to come in the next few weeks.

These alternative tariff actions will be slower, more constrained, and more complex to implement than the IEEPA tariff process. The Trump administration's two-stage strategy appears to use Section 122 for rapid, short-term action – since Section 122 tariffs can be implemented quickly, but are constrained in duration (no more than 150 days) and size (maximum 15%) – while using the 150-day window to develop Section 301 tariff orders, which require more time but are not subject to practical time or size constraints once enacted.

Section 122 of the Trade Act of 1974

Congress established Section 122 of the Trade Act of 1974⁶⁵ to provide legal authority for imposing tariffs in response to a balance of payment crisis. The statute was intended to provide a formal framework for implementing temporary tariffs, similar to the tariffs imposed by President Nixon in 1971 to address concerns over declining US gold reserves and the potential for a currency crisis within the Bretton Woods system. However, by the time Congress passed Section 122 into law in 1974, the Bretton Woods system was effectively inoperative, and the United States had moved to the floating exchange rate system that remains in place today. Although Section 122 has remained in effect, it has never been invoked by any president.

Tariff authorities in Section 122

Section 122 authorizes the president to impose tariffs of up to 15% (or, in limited circumstances, quotas) for a maximum of 150 days, with an option to extend the measures past 150 days by an Act of Congress. The tariff and quota authorities under Section 122 are to be activated for situations where the president determines that “fundamental international payments problems require special import measures to restrict imports,” specifically to:

- Address substantial and persistent US balance-of-payments deficits;
- Prevent imminent and significant depreciation of the dollar in foreign exchange markets; or
- Cooperate with other countries in correcting an international balance-of-payments disequilibrium.

The statute generally mandates that trade restricting measures be non-discriminatory and have broad and uniform application. That said, it also includes flexibilities for the president to make product-specific exceptions or to focus measures on countries with relatively large trade imbalances. Crucial to President Trump's desire to impose tariffs immediately, Section 122 does not require any agency action or administrative procedures. The president may act unilaterally by determining that such measures are necessary and directing their implementation.

The president may also use Section 122 to reduce tariffs and quota volumes for 150 days in response to balance-of-payments surpluses or to prevent appreciation of the dollar.

⁶² 19 U.S.C. §2132, accessible here: <https://www.govinfo.gov/app/details/USCODE-2024-title19/USCODE-2024-title19-chap12-subchapl-part2-sec2132>.

⁶³ Truth Social post of February 21, 2025, accessible here: <https://truthsocial.com/@realDonaldTrump/posts/116109447886304328>.

⁶⁴ “Ambassador Greer Issues Statement on Supreme Court IEEPA Decision,” USTR, February 20, 2026, accessible here: <https://ustr.gov/about/policy-offices/press-office/press-releases/2026/february/ambassador-greer-issues-statement-supreme-court-ieepa-decision>.

⁶⁵ 19 U.S.C. § 2132, accessible here: <https://www.govinfo.gov/app/details/USCODE-2024-title19/USCODE-2024-title19-chap12-subchapl-part2-sec2132>.

President Trump's use of Section 122

President Trump invoked Section 122 by issuing a proclamation stating that the United States is experiencing a “large and serious deficit” in its balance of payments and that “special measures to restrict imports are required to address those problems[.]” The proclamation does not explain the economic justification in detail, instead asserting that the longstanding US trade deficit and growing external debt is a balance-of-payment deficit under Section 122.

The conventions for balance of payments accounting and the international monetary framework have evolved significantly since the 1970s, raising questions about whether President Trump's use of Section 122 aligns with the statute's original intent. More critical than the statutory interpretation may be whether courts would consider the presidential determination justiciable. Since Section 122 has never been used or challenged in court, there is no established precedent. USTR General Counsel Jennifer Thornton publicly acknowledged on February 24 that legal challenges are expected.

Additionally, the use of Section 122 would raise questions about consistency with Article XII of the General Agreement on Tariffs and Trade (GATT), together with the 1979 Declaration and the 1994 Understanding on the Balance of Payments Provisions. The WTO obligations set out notification and consultation obligations for trade measures taken to safeguard the balance of payments. As of the writing of this alert, the United States does not appear to have filed a notification. Though the United States may not fulfill its notification obligations under Article XII, other Members also have the option to counter-notify.

The Section 122 tariff order

President Trump is using Section 122 to impose an additional 10% tariff on imports from all countries, subject to certain exceptions. This new tariff is applied on top of any existing applicable tariff rates. The tariff entered effect for products of all countries entered for consumption, or withdrawn from warehouse for consumption, on or after 12:01 a.m. eastern standard time on February 24, 2026. Because the authority is limited to 150 days, the tariff is set to terminate at 12:01 a.m. eastern daylight time on July 24, 2026.

The tariff is broadly applicable to imports from all countries, but includes significant specific exceptions:

- **Annex II exceptions list:** The tariff order provides a list of specific products excepted from the tariff in Annex II. This includes certain critical minerals, precious metals, energy products, natural resources and fertilizers not available in sufficient quantities in the United States, certain agriculture products (including beef, tomatoes, and oranges), certain pharmaceuticals and ingredients, semiconductors, semiconductor manufacturing equipment, and certain electronics. The list closely mirrors the Annex II exclusions from the IEEPA reciprocal tariff orders.⁶⁶
- **Civil aircraft and parts exception:** The tariff order provides a new global exception for listed civil aircraft and parts, similar to the country-specific civil aircraft and parts exceptions the Trump administration had granted to certain partners in the ART negotiations, and generally covering the same products. The list includes HTSUS subheadings related to unmanned aerial vehicles.
- **Products subject to Section 232 tariffs:** As with the IEEPA tariffs, products already subject to Section 232 tariffs are excepted from the Section 122 tariff. For derivative steel, aluminum, and copper products, the Section 122 tariff applies only to the value of the non-steel, non-aluminum, and non-copper content.
- **USMCA exception:** As with the IEEPA tariffs on Mexico and Canada, products that qualify for preferential treatment under the USMCA are excepted from the Section 122 tariff.

⁶⁶ The Section 122 Annex II list excludes certain subheadings under HTSUS chapters 48 and 49 related to books and other printed materials, which were on the IEEPA Annex II list. Inclusion of these subheadings was likely judged to be redundant, as they are also covered by the informational materials tariff exception.

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- **Textile and apparel from CAFTA-DR countries:** Imports of textile and apparel goods from Costa Rica, the Dominican Republic, El Salvador, Guatemala, Honduras, and Nicaragua that qualify for preferential treatment under CAFTA-DR are excepted from the Section 122 tariff.
 - **Informational materials and donations:** As with the IEEPA tariffs, articles classified as donations and informational materials are excepted from the Section 122 tariff.
 - **Duty drawback:** Drawback is available with respect to the additional duties imposed under the Section 122 order.
 - **Chapter 98:** Goods properly entered under Chapter 98 provisions, pursuant to applicable CPB regulations, are generally exempt, except for entries under 9802.00.80, 9802.00.40, 9802.00.50, and 9802.00.60. For these tariff codes, the Section 122 tariff applies to the value of repairs, alterations, or processing performed, as described in the applicable subheading. For 9802.00.80, the Section 122 tariff applies to the value of the article assembled abroad, less the cost or value of such products originating in the United States.
 - **Goods in transit exception:** The tariff order includes a narrow exception for goods already in transit to the United States. The exception applies to goods loaded onto a vessel at the port of loading and in transit on the final mode of transit to the United States before 12:01 a.m. eastern standard time on February 24, 2026 and are entered before 12:01 a.m. eastern standard time on February 28, 2026.

Comparisons to the IEEPA-based tariff rates

The Section 122 tariff order does not incorporate the country-specific IEEPA tariff levels, tariff level caps, or product-specific exceptions previously negotiated in the final or preliminary ARTs. Trade partners that benefited from special IEEPA tariff product exceptions, such as Switzerland, Liechtenstein, and the European Union (EU), no longer retain those protections. Trade partners that negotiated caps to the IEEPA tariffs, including the EU, Switzerland, Liechtenstein, Japan, and Korea, where the US tariff was limited to either (i) a 15% IEEPA tariff rate or (ii) only the MFN rate if it exceeded 15%, have lost those caps. Because of the loss of the cap, certain HTSUS subheadings, such as dairy products and apparel, face significant tariff increases. As a result of these two changes, Japan, Korea, Switzerland, Liechtenstein, and the EU will experience an increase in the average effective US tariff rate under the Section 122 action.

On the other hand, trade partners that were subject to relatively high IEEPA tariff rates will see significant tariff reductions under the Section 122 tariff. China, India, and Brazil are likely to be the largest beneficiaries. For Brazil, the change eliminates the additional 40% IEEPA tariff and leaves only a 10% tariff in place, while India's tariff falls from 25% to 10% (importers may also be able to seek refunds for the additional 25% Russia Oil IEEPA tariff on India, which President Trump had already terminated on February 7). For China, the total IEEPA tariff level falls from 20% to 10%, but the action also alters the application of exceptions. The 10% fentanyl-trafficking IEEPA tariff on imports from China did not include any product-specific exceptions, unlike all other IEEPA-based tariffs. Under the Section 122 tariff, imports from China now qualify for the same tariff exceptions as imports from any other country.⁶⁷

Forthcoming Section 301 investigations

Section 301 of the Trade Act of 1974⁶⁸ authorizes USTR (subject to the direction of the president) to address foreign government conduct that (i) denies US rights under a trade agreement, (ii) constitutes "unjustifiable" action that "burdens or restricts" US commerce, or (iii) constitutes "unreasonable" or "discriminatory" action that "burdens or restricts" US "commerce" (defined to include goods, services, and investment). If USTR decides to take the actions authorized by Section 301 (e.g., impose duties or other import restrictions, withdraw or suspend trade agreement

⁶⁷ The Section 301 tariffs on certain imports from China remain in effect and are additive with the Section 122 tariff.

⁶⁸ 19 U.S.C. §§2411-2420, accessible here: <https://www.govinfo.gov/app/details/USCODE-2024-title19/USCODE-2024-title19-chap12-subchapIII>; and 15 C.F.R. Part 2006, accessible here: <https://www.ecfr.gov/current/title-15/subtitle-C/chapter-XX/part-2006>.

concessions, or enter into agreements with the foreign government to eliminate the conduct in question), there will be additional notice and comment periods concerning any specific remedial actions.

Section 301 divides the potential remedial actions into “mandatory” and “discretionary” categories depending upon the nature of the foreign conduct alleged. Action is “discretionary” where the act, policy, or practice is “unreasonable or discriminatory” and “burdens or restricts” US commerce. Most recent Section 301 investigations have been based on the discretionary statutory provision.

USTR’s strategy for Section 301 investigations

In announcing the plan to initiate Section 301 investigations on February 20, 2026, USTR stated that it “intend[s] to conduct these investigations on an accelerated timeframe,” that the investigations will “cover most major trading partners,” and that the investigations will “address areas of concern such as industrial excess capacity, forced labor, pharmaceutical pricing practices, discrimination against U.S. technology companies and digital goods and services, digital services taxes, ocean pollution, and practices related to the trade in seafood, rice, and other products.”

The topics identified by USTR reflect cross-cutting US concerns with foreign trade practices, instead of country-specific, bilateral market access concerns. As a result, USTR could be envisioning the investigations as broad, cross-cutting investigations covering multiple countries, a set of country-specific investigations with similar fact patterns, or a combination of the two approaches. The concerns highlighted are also already known to USTR staff and their counterparts in foreign governments, which could assist with quickly developing the investigations and consultations. USTR’s annual National Trade Estimate Reports routinely highlight concerns with the practices of specific countries relating to these topics.

The Trump administration’s trade deal negotiations have also covered these topics. USTR included language in the ARTs related to management of industrial excess capacity, import prohibitions on goods made with forced labor, pharmaceutical pricing practices, measures to protect digital services trade, commitments against adopting digital services taxes, disciplines on fisheries management and subsidies, and commitments to improved agriculture market access.

Investigation timelines

In recent years, USTR has only conducted one or two investigations at once and has allowed up to a year for their completion. Conducting investigations targeting every trade partner at the same time and completing those investigations within 150 days (the maximum duration of Section 122 tariffs without congressional extension) will be a significant logistical undertaking.

While USTR faces statutory deadlines (18 months for investigations involving trade agreements and 12 months for discretionary investigations), there are no minimum timelines specified in the statute. If USTR decides to pursue investigations on an “accelerated timeframe,” it must still comply with the required administrative procedures. The Section 301 regulations provide several options to accelerate the required procedures:

- USTR may hold public hearings within 30 days after making a determination of action, rather than before the determination and with 30 days’ notice.
- USTR may consult with the private sector advisory committees after the determination of action, rather than consulting in advance.

Possibility of new Section 232 investigations

Media reports indicate that the Department of Commerce is also planning to initiate new Section 232 investigations as part of the effort to replace the IEEPA tariffs. According to the reports, these investigations would target large-scale batteries, cast iron and iron fittings, plastic piping, industrial chemicals, telecommunications equipment, and power grid equipment. The details of these proposals are unknown, and it is unclear whether the Department of

Commerce has decided to proceed with the investigations. If initiated, the Department of Commerce Bureau of Industry and Security (BIS) will post notices of request for public comments to the *Federal Register*.

Trade Agreements

Trump Administration Hosts Critical Minerals Ministerial and Proposes Plurilateral Critical Minerals Trade Agreement

The Trump administration's new prioritization of critical mineral supply chain security began coming into focus in February 2026. On February 26, the Office of the United States Trade Representative (USTR) issued a call for public input on a proposed plurilateral critical minerals trade agreement, outlining the general policy actions the Trump administration hopes to include. Prior to that, on February 4, the US Department of State hosted a Critical Minerals Ministerial with representatives from 54 countries and the European Union (EU) to discuss increasing cooperation and investment in mining and processing. The Ministerial was accompanied by the launch of the Forum on Resource Geostrategic Engagement (FORGE), the Trump administration's expanded version of the Minerals Security Partnership (MSP).

Critical minerals trade becomes a priority for the Trump administration

The Trump administration has become increasingly active in promoting access to critical minerals in recent months. These initiatives are designed to promote an industry independent from China and advance the United States' objective to reduce China's dominance in critical mineral supply chains. Critical minerals are essential to many industries such as defense, aerospace, electronics, and clean energy. Reducing reliance on critical minerals from China has become a top priority for the Trump administration after China leveraged its supply chain influence to deter President Trump from escalating the US-China trade war in 2025.

The administration has pursued mineral development cooperation agreements, integrated critical mineral supply chain commitments into trade agreements, and carried out a Section 232 investigation into the national security risks associated with imports of processed critical minerals and their derivative products. Recent actions include new bilateral deals with countries such as Argentina, Australia, Cambodia, Japan, Malaysia, and Thailand, as well as deal-making events in Central Asia, and financing from the US Development Finance Corporation.

Alongside building new cooperation initiatives with US partners, the Trump administration has also begun leveraging various US government financing programs to support mining projects. In early February, the Trump administration announced "Project Vault," a \$12 billion critical minerals stockpile that will support US manufacturers.⁶⁹ US Export-Import Bank financing tools are being used to support Project Vault, as well as to finance specific mining projects. The Trump administration has also leveraged Department of Defense and Department of Energy Loan Programs Office resources to support projects in recent months.

Congress is considering several legislative proposals to provide more funding, negotiating instructions, and new legal authorities to supplement the Trump administration's international negotiations and domestic minerals development initiatives.

State Department Critical Minerals Ministerial

The Department of State hosted the Ministerial on February 4, 2026, bringing together 54 countries and the EU in Washington to discuss critical mineral and rare earth element supply chains.⁷⁰ The event featured the signing of 13 new bilateral critical minerals frameworks and memorandums of understanding (MOUs) and the launch of the Forum on Resource Geostrategic Engagement (FORGE). USTR also held initial discussions of its trade agreement proposal alongside the Ministerial, announcing initial plans with Japan, the EU, and Mexico.

⁶⁹ "EXIM Approves Project Vault Loan to Launch America's Strategic Critical Minerals Reserve and Support Manufacturing Jobs," US EXIM Bank, February 2, 2026, accessible here: <https://exim.gov/news/project-vault>.

⁷⁰ Department of State Factsheet: "2026 Critical Minerals Ministerial," February 4, 2026, accessible here: <https://www.state.gov/releases/office-of-the-spokesperson/2026/02/2026-critical-minerals-ministerial>.

Signed critical minerals frameworks and MOUs

At the ministerial, the United States signed critical minerals frameworks and MOUs with Argentina, the Cook Islands, Ecuador, Guinea, Morocco, Paraguay, Peru, the Philippines, the United Arab Emirates (UAE), the United Kingdom (UK), and Uzbekistan. The specific terms of these agreements have not been disclosed but reportedly focus on cooperation and investment promotion.

Key mineral resources and US interests by partner country

Many of the countries with which the United States signed agreements have known deposits of various critical minerals:

- **Argentina:** Third-largest global natural lithium reserves, with more than 70% remaining unexplored; substantial deposits of gold, silver, and copper.
- **The Cook Islands:** Vast quantities of deep-sea resources containing minerals such as cobalt, nickel, manganese, and rare earth elements.
- **Ecuador:** Emerging supplier of gold, silver, copper, and antimony; believed to have copper reserves comparable to Peru, the world's second largest producer.
- **Guinea:** Largest reserves of bauxite, the primary source of aluminum ore.
- **Morocco:** Holds approximately 70% of the world's phosphate reserves and is the ninth-largest producer of cobalt; also has reserves of copper, nickel, manganese, barite, and fluorine.
- **Paraguay:** Large deposits of uranium and lithium; potential reserves of titanium and rare earth elements.
- **Peru:** Second largest global producer of copper, silver, and zinc; fourth in tin; notable reserves of molybdenum, lead, and potential for lithium and rare earth elements. Peru is a critical partner for US and global objectives.
- **The Philippines:** Second-largest producer of nickel; substantial reserves of copper, cobalt, and rare earth elements.
- **Uzbekistan:** Large reserves of over 30 types of minerals, including copper, uranium, molybdenum, selenium, lithium, cadmium, silver, gold, and rare earth elements.

Countries without significant mineral deposits, such as the UAE, UK, and Japan, are expected to focus on increasing investment, research, and development in refining raw materials for end-use products. The “United States-Japan Framework for Securing the Supply of Critical Minerals and Rare Earths through Mining and Processing” illustrates these types of commitments, featuring provisions on supply chain security, mining and processing investment, and other cooperation measures.⁷¹ According to a press release from the UAE Embassy, “[b]oth sides commit to supporting investment through a range of mechanisms, including financing, guarantees, equity investments, offtake arrangements, insurance, and regulatory facilitation.”⁷²

Launch of the Forum on Resource Geostrategic Engagement

FORGE is a new international forum on critical minerals security, launched by the Trump administration at the Ministerial. According to the Department of State, “FORGE partners will collaborate at the policy and project levels to

⁷¹ “United States-Japan Framework for Securing the Supply of Critical Minerals and Rare Earths through Mining and Processing,” White House, October 27, 2025, accessible here: <https://www.whitehouse.gov/briefings-statements/2025/10/united-states-japan-framework-for-securing-the-supply-of-critical-minerals-and-rare-earths-through-mining-and-processing/>.

⁷² “UAE and United States Sign Framework to Strengthen Secure Supply of Critical Minerals and Rare Earths on the Sidelines of U.S. Critical Minerals Ministerial,” Embassy of the UAE, February 6, 2026, accessible here: <https://www.uae-embassy.org/news/uae-and-united-states-sign-framework-strengthen-secure-supply-critical-minerals-and-rare>.

advance initiatives that strengthen diversified, resilient, and secure critical minerals supply chains.” The forum emphasizes comprehensive coordination among countries across all stages of the critical mineral supply chain, including mining, processing, manufacturing, and end-use.

FORGE builds up on and replaces the Biden administration-era MSP. According to Under Secretary of State for Economic Affairs Jacob Helberg, FORGE will include more countries than the MSP and contribute to the development of the proposed critical minerals trade agreement. The Trump administration also expects FORGE to complement its new Pax Silica initiative, a partnership with nine countries and private industry to strengthen technology supply chains. South Korea is chairing FORGE through June 2026.

Proposed “Plurilateral Agreement on Trade in Critical Minerals”

On February 26, 2026, USTR opened a public docket to seek stakeholder input for a proposed “Plurilateral Agreement on Trade in Critical Minerals.”⁷³ The Trump administration intends to use the proposed trade agreement to establish new multinational price management and investment support policies to develop a more resilient and diversified critical minerals supply chain for the United States and like-minded partners. The proposal follows from President Trump’s January 20, 2026 Section 232 Proclamation addressing national security risks associated with imports of processed critical minerals and their derivative products, in which he instructed USTR to enter negotiations with US trade partners to adjust imports of certain mineral products and stated that he may consider imposing tariffs in the future.⁷⁴

The trade agreement is a separate initiative from the Department of State’s bilateral cooperation frameworks and memorandums of understanding, which were the focus of the Critical Minerals Ministerial. While the Department of State appears focused on fostering cooperation and investment promotion, USTR’s mandate is to develop a legally enforceable, plurilateral trade agreement with a common price mechanism. This agreement will require a greater level of commitment from participating members compared to the Department of State’s initiatives, resulting in a longer negotiation process and likely a more limited group of like-minded partners.

USTR’s initial proposal

In the notice, USTR states that it is “evaluating policy actions to enhance all elements of domestic production of critical minerals and improve the overall resilience of U.S. critical minerals supply chains.” The policy framework is still in early development, with USTR suggesting that “[o]ne possible approach is a plurilateral agreement on trade in critical minerals and downstream products with like-minded partners that would create investment incentives for expanding supply chains for certain critical minerals.” The agreement would include policy tools to “determine pricing mechanisms that reflect the market economy-based cost of production for certain critical minerals to enable new private-sector or public-private investment and reduce the coercive impact of non-market policies and practices.” The pricing mechanism, USTR states, should “allow the United States and other parties to the agreement to develop supply chains for these minerals that correct for non-market policies and practices that distort global prices.”

While the design of the pricing mechanism has yet to be determined, Trump administration officials have repeatedly referenced proposals to use price floors enforced by a common external tariff. The US government and its negotiating partners have also referenced possibilities of including standards-based markets, price-gap subsidies, and offtake-agreements.

Beyond the pricing mechanism and domestic investment incentives, USTR anticipates the agreement will cover recycling, environmental protection, and labor standards. For recycling, USTR is exploring ways to secure domestic

⁷³ “Request for Comments on the Design of a Plurilateral Agreement on Trade in Critical Minerals and Policy Actions to Strengthen the Resilience of Critical Mineral Supply Chains,” 91 FR 9686 (February 26, 2026), accessible here: <https://www.federalregister.gov/documents/2026/02/26/2026-03868/request-for-comments-on-the-design-of-a-plurilateral-agreement-on-trade-in-critical-minerals-and>.

⁷⁴ “Adjusting Imports of Processed Critical Minerals and Their Derivative Products into the United States,” 91 FR 2439 (January 20, 2026), accessible here: <https://www.federalregister.gov/documents/2026/01/20/2026-01045/adjusting-imports-of-processed-critical-minerals-and-their-derivative-products-into-the-united>.

access to scrap and recycling materials, though details remain limited. High environmental and labor standards are expected to be included, consistent with provisions found in other recent US trade agreements.

Opportunity for public input

USTR acknowledges that developing resilient supply chains for critical minerals requires tailored approaches, noting that “each critical mineral has its own supply chain and market dynamics” and “[u]nderstanding the nuances of those supply chains and markets is necessary for any market-based supply chain development to occur and for an effective resilience policy to succeed.” Designing a policy that can address these diverse needs will require detailed engagement from the affected industries. Through the request for public input, USTR aims to gain insights into mineral pricing systems, market structures, and identify points in supply chains where price interventions could be most beneficial. This engagement will also help determine which border measures would best support the agreement’s price management objectives.

Interested stakeholders are invited to submit comments to the public docket on USTR’s website through March 19, 2026.⁷⁵ The notice provides additional instructions on how to submit comments and questions of interest from USTR, which include suggestions for prioritization of minerals and countries, suggested pricing methods, regulatory standards, investment governance interests, international policy coordination needs, and agreement enforcement, among others.

Initial negotiating steps and partner governments

USTR has also begun early conversations about the proposed agreement with a small group of like-minded partners. Japan, the EU, and Mexico are the first economies to express interest in participating in the negotiations. As a starting point for these discussions, USTR recently developed an Action Plan with Mexico⁷⁶ and is in the process of developing Action Plans with the EU and Japan.⁷⁷

- **United States-Mexico Critical Minerals Action Plan:** According to this action plan, the United States and Mexico will implement the following elements over the next 60 days: (i) Discuss the development of coordinated trade policies, including price floors for critical mineral imports; (ii) evaluate how price floors and provisions such as regulatory standards for mining and processing, technical cooperation, investment promotion, geological mapping coordination, research, stockpiling, and coordinated rapid responses to potential supply chain disruptions could be incorporated into a plurilateral agreement on critical minerals; and (iii) identify specific mining projects for critical minerals of mutual interest in the United States, Mexico, or third countries.
- **EU-US-Japan Strategic Partnership on Critical Minerals Supply Chain Resilience:** This trilateral partnership initiative is designed to reduce dependency on China for critical minerals such as lithium, cobalt, and nickel, which are essential for high-tech industries. It establishes a framework for a forthcoming MOU between the United States and EU, within 30 days of the release of this agreement, and designates the United States, EU, and Japan to lead the development of a proposed critical minerals trade bloc.

⁷⁵ Public Docket: Request for Comments on the Design of a Plurilateral Agreement on Trade in Critical Minerals and Policy Actions to Strengthen the Resilience of Critical Mineral Supply Chains, USTR, accessible here: <https://comments.ustr.gov/s/docket?docketNumber=USTR-2026-0034>.

⁷⁶ “Ambassador Jamieson Greer Announces U.S.-Mexico Action Plan on Critical Minerals,” USTR, February 4, 2026, accessible here: <https://ustr.gov/about/policy-offices/press-office/press-releases/2026/february/ambassador-jamieson-greer-announces-us-mexico-action-plan-critical-minerals>.

⁷⁷ “Ambassador Jamieson Greer Announces Critical Minerals Cooperation with the European Union and Japan,” USTR, February 4, 2026, accessible here: <https://ustr.gov/about/policy-offices/press-office/press-releases/2026/february/ambassador-jamieson-greer-announces-critical-minerals-cooperation-european-union-and-japan>.

CPTPP

Philippines-Canada FTA Talks Advance Philippines' CPTPP Accession Bid

The launch of bilateral free trade agreement (FTA) negotiations between the Philippines and Canada in February 2026 marks a significant step in the Philippines' broader strategy to secure membership in the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP). With formal CPTPP accession talks scheduled to begin in 2026, the Philippines is actively pursuing new trade partnerships to diversify its economic relationships and gain access to key markets, including Canada. These FTA discussions build on the momentum of the ASEAN-Canada FTA process and are viewed as a critical component in meeting the CPTPP's rigorous accession requirements. A successful outcome would not only strengthen the Philippines' case for CPTPP membership but also support its integration into the wider Asia-Pacific trade framework.

The Philippines' engagement with Canada is expected to play a pivotal role in advancing its CPTPP accession bid and enhancing its position within the regional trade architecture. In August 2025, the Philippines formally submitted its CPTPP application to New Zealand, the agreement's official depository, signaling its intent to diversify trade frameworks amid ongoing trade tensions and tariff negotiations with the United States. This move is part of a broader strategy to expand trade relationships and reduce reliance on traditional partners.

CPTPP membership would provide the Philippines with access to major markets where it currently lacks bilateral agreements, such as Canada, Mexico, Peru, and the United Kingdom. The Philippine Chamber of Commerce and Industry (PCCI) has described CPTPP membership as essential for safeguarding the country's economic future in an increasingly fragmented global trade environment and amid rising protectionism from established partners.⁷⁸

At the 9th CPTPP ministerial meeting in Melbourne in November 2025, member countries confirmed that accession negotiations with the Philippines will commence in 2026, alongside talks with Indonesia and the United Arab Emirates. Negotiations with Uruguay have already begun, and discussions with Costa Rica are expected to conclude soon.⁷⁹ To secure CPTPP membership, the Philippines must meet the agreement's high standards and obtain consensus from all twelve current members – Australia Brunei, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore, the United Kingdom, and Vietnam – through bilateral discussions.

⁷⁸ "PCCI backs CPTPP accession to diversify markets and fortify the economy amid global shifts," Philippine Chamber of Commerce and Industry, September 11, 2025, accessible here:

[https://www.facebook.com/pcciofficial/posts/%F0%9D%90%8F%F0%9D%90%91%F0%9D%90%84%F0%9D%90%92%F0%9D%90%92-%F0%9D%90%91%F0%9D%90%84%F0%9D%90%8B%F0%9D%90%84%F0%9D%90%80%F0%9D%90%92%F0%9D%90%84-11-september-2025-%F0%9D%91%B7%F0%9D%91%AA%F0%9D%91%AA%F0%9D%91%B0-%F0%9D%92%83%F0%9D%92%82%F0%9D%92%84%F0%9D%92%8C%F0%9D%92%94-%F0%9D%91%AA%F0%9D%91%B7%F0%9D%91%BB%F0%9D%91%B7-%F0%9D%92%82%F0%9D%92%84%F0%9D%92%84%F0%9D%92%84%F0%9D%92%86%F0%9D%92%94%F0%9D%92%94%F0%9D%92%8A%F0%9D%92%90%F0%9D%92%8F-%F0%9D%92%95%F0%9D%92%90-%F0%9D%92%85%F0%9D%92%8A%F0%9D%92%97%F0%9D%92%86%F0%9D%92%93%F0%9D%92%94%F0%9D%92%8A%F0%9D%92%87%F0%9D%92%9A-%F0%9D%92%8E%F0%9D%92%82%F0%9D%92%93%F0%9D%92%8C%F0%9D%92%86%F0%9D%92%95%F0%9D%92%94-/1089960163282598/.](https://www.facebook.com/pcciofficial/posts/%F0%9D%90%8F%F0%9D%90%91%F0%9D%90%84%F0%9D%90%92%F0%9D%90%92-%F0%9D%90%91%F0%9D%90%84%F0%9D%90%8B%F0%9D%90%84%F0%9D%90%80%F0%9D%90%92%F0%9D%90%84-11-september-2025-%F0%9D%91%B7%F0%9D%91%AA%F0%9D%91%AA%F0%9D%91%B0-%F0%9D%92%83%F0%9D%92%82%F0%9D%92%84%F0%9D%92%8C%F0%9D%92%94-%F0%9D%91%AA%F0%9D%91%B7%F0%9D%91%BB%F0%9D%91%B7-%F0%9D%92%82%F0%9D%92%84%F0%9D%92%84%F0%9D%92%86%F0%9D%92%94%F0%9D%92%94%F0%9D%92%8A%F0%9D%92%90%F0%9D%92%8F-%F0%9D%92%95%F0%9D%92%90-%F0%9D%92%85%F0%9D%92%8A%F0%9D%92%97%F0%9D%92%86%F0%9D%92%93%F0%9D%92%94%F0%9D%92%8A%F0%9D%92%87%F0%9D%92%9A-%F0%9D%92%8E%F0%9D%92%82%F0%9D%92%93%F0%9D%92%8C%F0%9D%92%86%F0%9D%92%95%F0%9D%92%94-/1089960163282598/)

⁷⁹ "Joint Ministerial Statement on the occasion of the Ninth Commission Meeting of the CPTPP," Australian Department of Foreign Affairs and Trade, November 21, 2025, accessible here: <https://www.dfat.gov.au/trade/agreements/in-force/cptpp/joint-ministerial-statement-occasion-ninth-commission-meeting-cptpp>.

Petitions & Investigations

Investigations

United States Initiates Five-Year (Sunset) Review of ADD Orders on Polyvinyl Alcohol from China and Japan

On March 2, 2026, the Department of Commerce (Commerce) and the International Trade Commission (ITC) announced the initiation of the second five-year (sunset) reviews of the antidumping duty (ADD) orders on polyvinyl alcohol from China and Japan.⁸⁰ The ITC review will seek to determine whether revocation of the ADD orders would likely lead to continuation or recurrence of material injury, while Commerce's review will examine whether revocation of the ADD orders would likely lead to the continuation or recurrence of dumping. This is the fourth review of the ADD order, which Commerce originally issued in 2003.

Covered product

The product covered by the orders consists of all polyvinyl alcohol hydrolyzed in excess of 80%, whether or not mixed or diluted with commercial levels of defoamer or boric acid. The following products are specifically excluded from the scope of these orders:

- PVA in fiber form.
- PVA with hydrolysis less than 83 mole percent and certified not for use in the production of textiles.
- PVA with hydrolysis greater than 85% and viscosity greater than or equal to 90 cps.
- PVA with a hydrolysis greater than 85%, viscosity greater than or equal to 80 cps but less than 90 cps, certified for use in an ink jet application.
- PVA for use in the manufacture of an excipient or as an excipient in the manufacture of film coating systems which are components of a drug or dietary supplement, and accompanied by an end-use certification.
- PVA covalently bonded with cationic monomer uniformly present on all polymer chains in a concentration equal to or greater than one mole percent.
- PVA covalently bonded with carboxylic acid uniformly present on all polymer chains in a concentration equal to or greater than two mole percent, certified for use in a paper application.
- PVA covalently bonded with thiol uniformly present on all polymer chains, certified for use in emulsion polymerization of non-vinyl acetic material.
- PVA covalently bonded with paraffin uniformly present on all polymer chains in a concentration equal to or greater than one mole percent.
- PVA covalently bonded with silan uniformly present on all polymer chains certified for use in paper coating applications.
- PVA covalently bonded with sulfonic acid uniformly present on all polymer chains in a concentration level equal to or greater than one mole percent.

⁸⁰ "Polyvinyl Alcohol From China and Japan; Institution of Five-Year Reviews," 91 FR 10155 (March 2, 2026), accessible here: <https://www.federalregister.gov/documents/2026/03/02/2026-04076/polyvinyl-alcohol-from-china-and-japan-institution-of-five-year-reviews>; "Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Advance Notification of Sunset Review," 91 FR 4497 (March 2, 2026), accessible here: <https://www.federalregister.gov/documents/2026/02/02/2026-02089/antidumping-or-countervailing-duty-order-finding-or-suspended-investigation-advance-notification-of>.

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- PVA covalently bonded with acetoacrylate uniformly present on all polymer chains in a concentration level equal to or greater than one mole percent.
 - PVA covalently bonded with polyethylene oxide uniformly present on all polymer chains in a concentration level equal to or greater than one mole percent.
 - PVA covalently bonded with quaternary amine uniformly present on all polymer chains in a concentration level equal to or greater than one mole percent.
 - PVA covalently bonded with diacetoneacrylamide uniformly present on all polymer chains in a concentration level greater than three mole percent, certified for use in a paper application.

The merchandise subject to these orders is classifiable under Harmonized Tariff Schedule of the United States (HTSUS) subheading 3905.30.00. HTSUS codes are provided for convenience and customs purposes and the written description of the scope is dispositive.