

PUBLICATION

President Trump Orders Investigations Into Foreign Trade Barriers to Develop Reciprocal Tariffs

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President Trump announced his Fair and Reciprocal Plan (the Plan) pursuant to his America First Trade Policy. While the Memorandum does not immediately create any new tariffs, it outlines the Trump administration's plan to evaluate both tariffs and non-tariff barriers imposed by other countries. If deployed as planned, goods coming from every country that trades with the United States will be impacted. USTR has requested comments, which are due March 11, 2025. Companies should consider filing comments on trade barriers that undermine or harm U.S. production or exports. Similarly, companies concerned with the effect of any related decision should comment to raise those issues, such as potential retaliation and the effect of any tariffs.

The Reciprocal Trade and Tariffs Memorandum directs the Secretaries of Treasury, Commerce, and Homeland Security, the Director of the Office of Management and Budget, the United States Trade Representative (USTR), the Assistant to the President for Economic Policy, and the Senior Counselor to the President for Trade and Manufacturing to evaluate actions taken by trade partners.

While framed through the tariff lens, the Plan seeks to address both tariff-centric and non-tariff trade mechanisms leveraged by other countries with the goal of reducing the United States' trade deficit. Importantly, the Memorandum states that all trade partners, "both friend and foe," will be evaluated and face reciprocal tariffs. The desired outcome of the Plan is to "ensure comprehensive fairness and balance across the international trading system by factoring in losses as a result of measures that disadvantage the United States as applied."

Foreign Actions Subject to Scrutiny

The Memorandum provides a non-exhaustive list of actions taken by foreign trade partners that the administration must evaluate to determine the proper reciprocal action. U.S. companies engaged in foreign trade can report any action they are experiencing in export markets to seek relief from the government. The Memorandum identifies the following:

- Tariffs imposed by foreign countries;
- Extraterritorial taxes, such as value-added tax;
- Policies or procedures that cause exchange rates to deviate from market value; and
- Costs arising from non-tariff barriers.

Beyond these, the Memorandum specifically includes a catch-all provision providing that "any other practice that . . . imposes any unfair limitation on market access or any structural impediment to fair competition with the market economy of the United States" can be considered.

Non-Tariff Barriers

Non-tariff barriers – which the administration believes severely disadvantage U.S. exporters in foreign markets – are a key motivation of the Fair and Reciprocal Plan. The following are non-tariff barriers U.S. companies can look out for:

- Licenses, Registrations, Standards, or Other Restrictive Requirements Related to Health, Safety, or the Environment;
- Foreign Exchange Requirements or Other Regulations Related to Facilitating Financial Transactions;
- Embargos;
- Quotas; and
- Import Deposits.

Request for Comment Regarding Unfair Trade Practices by Other Countries

On February 20, 2025, USTR announced that it is seeking comments from the public concerning unfair and non-reciprocal foreign trade practices on a country-specific basis. The USTR is seeking evidence of "policies, measures, or barriers that undermine or harm U.S. production, or exports, or a failure by a country to take action to address a non-market policy or practice in a way which harms the United States." The notice specifically asks that submissions quantify any harm or cost to Americans caused by alleged unfair trade practices.

This provides U.S. exporters and other affected companies with an express opportunity to report non-tariff barriers that they come across. Exporters and other affected companies should take care to document any barriers that disrupt their operations. The request for comment by the USTR is a clear demonstration of the administration's willingness to address non-tariff barriers through reciprocal action, which could result in much-desired relief for U.S. companies.

Timeline For Implementation

The Memorandum directs the administration to begin their investigations after submitting reports under President Trump's American First Trade Policy Memorandum from January 20, 2025. The reports are due on April 1, 2025.

At this point, "all necessary actions to investigate the harm to the United States from any non-reciprocal trade arrangements adopted by any trading partners" must be taken. This will be followed by a report made to the President "detailing proposed remedies in pursuit of reciprocal trade relations with each trading partner."

Additionally, within 180 days of the Memorandum, or August 12, 2025, the Office of Management and Budget must submit an assessment detailing the fiscal impacts of reciprocal action, considering specifically the impacts of any information collection requests on the public.

Our International Trade and National Security team will continue to monitor developments and provide updates as warranted. If you have any questions or would like to discuss this in further detail, please reach out to [P. Lee Smith](#), [Matthew "Matty" McGee](#), or any member of Baker Donelson's [International Trade and National Security team](#).