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A First Look at President Trump's 'America First Trade Policy'

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The Trump administration has provided an anxious world with an initial indication of what an “America First Trade Policy” will look like. In an Inauguration Day memorandum to agency heads, the president outlined a wide range of trade programs and conditions that will be reviewed to assess their alignment with U.S. economic interests.

As summarized below, several reports on the current state of trade policy and outcomes are expected over the next few months. Notably, the signaled day-one imposition of 25 percent tariffs on all imports from Canada and Mexico did not take place, and it remains to be seen if the threat of such tariffs might instead serve as the first round in a perhaps accelerated renegotiation of the United States-Mexico-Canada Agreement (NAFTA 2.0). No one, however, can yet be confident that such tariffs will not be imposed by Feb. 1, the new action date most recently mentioned by the president (who has also indicated that additional 10 percent tariffs may be imposed on China by that date).

In any event, the depth and detail of the programs and policies to be reviewed and implemented according to the America First Trade Policy are significant. The Trump administration has indicated a clear intention to shift away from trade policy as a second-tier aspect of overall U.S. global political strategy towards an affirmative treatment of trade as a primary national goal. This in turn will require a weighing of all aspects of trade relationships, policies, laws and regulations against U.S. national economic interests, narrowly defined. Missing, however, from the initial posture is any analysis of the impact of such policies on broader U.S. economic interests, including the difficulty of maintaining strong exports should countries faced by U.S. tariffs or other trade restrictions choose to retaliate. The EU is moving to accelerate adoption of a free-trade agreement with the Mercosur group of countries in South America and toward modernization of its free-trade agreement with Mexico. Meanwhile, Canada is reportedly preparing a retaliation list, whereas Argentina has recently announced that it will seek a free-trade agreement with the United States in 2025. Moreover, there is undoubtedly tension between high tariffs and reducing U.S. inflation.

Issues Covered in the America First Trade Policy:

Addressing Unfair and Unbalanced Trade

The following is an abbreviated list of the actions ordered by the memorandum to address “unfair and unbalanced trade”:

- *Annual Trade Deficits* – the secretary of commerce, the secretary of the treasury and the United States trade representative are to investigate the causes of annual trade deficits in goods, as well as the economic and national security implications and risks resulting from such deficits, and

they shall recommend appropriate measures to remedy such deficits (such as a global supplemental tariff or other policies).

- *External Revenue Service* – the secretary of the treasury, the secretary of commerce, and the secretary of homeland security are to investigate the feasibility of establishing and shall recommend the best methods for designing, building and implementing an External Revenue Service (ERS) to collect tariffs, duties and other foreign trade-related revenues.
- *Unfair Trade Practices* – the United States trade representative, the secretary of the treasury, the secretary of commerce and the senior counselor for trade and manufacturing are to undertake a review of, and identify, any unfair trade practices by other countries and shall recommend appropriate actions to remedy such practices under applicable authorities.
- *USMCA* – the United States trade representative is to initiate a public consultation process with respect to the United States-Mexico-Canada Agreement (USMCA) in preparation for the July 2026 review of the USMCA, and, in consultation with the heads of other relevant executive departments and agencies, assess the impact of the USMCA on American workers, farmers, ranchers, service providers and other businesses and shall make recommendations regarding the United States' participation in the agreement.
- *Currency Manipulation* – the secretary of the treasury is to review and assess the policies and practices of major U.S. trading partners with respect to the rate of exchange between their currencies and the U.S. dollar and shall recommend appropriate measures to counter currency manipulation or misalignment that prevents effective balance of payments adjustments or that provides unfair competitive advantages.
- *Existing Free-Trade Agreements* – the United States trade representative is to review existing U.S. trade agreements and sectoral trade agreements and shall recommend any revisions that may be necessary or appropriate to achieve or maintain a general level of reciprocal and mutually advantageous concessions.
- *New Trade Agreement Opportunities* – the United States trade representative is to identify countries with which the United States can negotiate agreements on a bilateral or sector-specific basis to obtain export market access for American workers, farmers, ranchers, service providers and other businesses and shall make recommendations regarding such potential agreements.
- *Antidumping and Countervailing Duties* – the secretary of commerce is to review policies and regulations regarding the application of antidumping and countervailing duty (AD/CVD) laws and shall consider modifications thereto, as appropriate.
- *Duty-Free Rules* – the secretary of the treasury, the secretary of commerce, the secretary of homeland security, the senior counselor for trade and manufacturing, and the United States trade representative are to assess revenue losses and risks (such as, for example, the importation of contraband) from the current implementation of the \$800-or-less, duty-free de minimis exemption under 19 U.S.C. §1321, and they shall recommend modifications thereto, as warranted.
- *Discriminatory Tax Regimes* – the secretary of the treasury, the secretary of commerce, and the United States trade representative are to investigate whether any foreign country subjects U.S. citizens or corporations to discriminatory or extraterritorial taxes.

- *Buy American and Hire American* – the United States trade representative and the senior counselor for trade and manufacturing are to review the impact of all trade agreements — including the World Trade Organization Agreement on Government Procurement — on the volume of federal procurement covered by Executive Order 13788 of April 18, 2017 (“Buy American and Hire American”).

Trade with the People’s Republic of China

The following is an abbreviated list of the actions ordered by the memorandum to address economic and trade relations with the People’s Republic of China (PRC):

- *Annual Trade Deficits* – the United States trade representative is to review the Economic and Trade Agreement Between the Government of the United States of America and the Government of the People’s Republic of China to determine whether the PRC is acting in accordance with this agreement and shall recommend appropriate actions to be taken based upon the findings thereof.
- *Technology Transfers, IP, and Innovation* – the United States trade representative is to assess the May 14, 2024, report entitled “Four-Year Review of Actions Taken in the Section 301 Investigation: China’s Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation” and consider potential additional tariff modifications as needed (particularly with respect to industrial supply chains and circumvention through third countries) and shall recommend such actions as are necessary to remediate any issues identified.
- *Unreasonable or Discriminatory Practices* – the United States trade representative is to investigate other acts, policies and practices by the PRC that may be unreasonable or discriminatory and that may burden or restrict U.S. commerce and shall make recommendations regarding appropriate responsive actions.
- *Normal Trade Relations Legislation* – the secretary of commerce and the United States trade representative are to assess legislative proposals regarding permanent normal trade relations with the PRC and shall assess proposed changes thereto.
- *Intellectual Property Rights* – the secretary of commerce is to assess the status of U.S. intellectual property rights (such as patents, copyrights and trademarks) conferred upon PRC persons and shall make recommendations to ensure reciprocal and balanced treatment of intellectual property rights with the PRC.

Other Economic Security Matters

The following is an abbreviated list of the actions ordered by the memorandum to address additional economic security matters:

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- *Effect of Imports on U.S. Industry and Manufacturing* – the secretary of commerce, the secretary of defense and the heads of any other relevant agencies are to conduct a full economic and security review of the U.S. industrial and manufacturing base to assess whether it is necessary to initiate investigations to adjust imports that threaten the national security of the United States.
- *Steel and Aluminum* – the assistant to the president for economic policy, the secretary of commerce, the United States trade representative and the senior counselor for trade and manufacturing are to review and assess the effectiveness of the exclusions, exemptions and other import adjustment measures on steel and aluminum in responding to threats to the national security of the United States and shall make recommendations based upon the findings of this review.
- *Export Controls* – the secretary of state, the secretary of commerce and the heads of other agencies with export-control authorities are to review the U.S. export control system and advise on modifications in light of developments involving strategic adversaries or geopolitical rivals as well as all other relevant national security and global considerations (with an emphasis on maintaining U.S. technological edge and eliminating loopholes).
- *Connected Products* – the secretary of commerce is to review and recommend appropriate action with respect to the rulemaking by the Office of Information and Communication Technology and Services (ICTS) on connected vehicles and shall consider whether controls on ICTS transactions should be expanded to account for additional connected products (also known as “smart” products).
- *U.S. Investments in Countries of Concern* – the secretary of the treasury, the secretary of commerce and the heads of any other relevant agencies are to review whether Executive Order 14105 of Aug. 9, 2023 (“Addressing United States Investments in Certain National Security Technologies and Products in Countries of Concern”) should be modified or rescinded and replaced, and they shall assess whether the final rule entitled “Provisions Pertaining to U.S. Investments in Certain National Security Technologies and Products in Countries of Concern,”¹, which implements Executive Order 14105, includes sufficient controls to address national security threats. They shall also make recommendations based upon the findings of this review, including potential modifications to the Outbound Investment Security Program.
- *Foreign Government Subsidies in U.S. Procurement* – the director of the Office of Management and Budget is to assess any distorting impact of foreign government financial contributions or subsidies on U.S. federal procurement programs and shall propose guidance, regulations, or legislation to combat such distortion.
- *Unlawful Migration and Fentanyl* – the secretary of commerce and the secretary of homeland security are to assess the unlawful migration and fentanyl flows from Canada, Mexico, the PRC and any other relevant jurisdictions, and they shall recommend appropriate trade and national security measures to resolve that emergency.

¹ 89 Fed. Reg. 90398 (November 15, 2024)

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The deadline for delivery to the president of the various reviews and recommendations listed above is April 1, 2025 (except for the report on foreign government subsidies in U.S. procurement, which is due to the President by April 30, 2025).