McLarty Update: Understanding "Liberation Day"

April 4, 2025

COMING SOON: McLarty Trade Compass is an essential toolkit designed to help your business navigate the dynamic landscape of Trump-era trade policy. This exclusive toolkit will provide a detailed, real-time tracker and calendar of all official Trump administration trade actions and a comprehensive list of key decision-makers and contacts within the White House and on Capitol Hill. This toolkit will be made available to all McLarty clients.

[This memo is part of the "Liberation Day" series: Find memo one here, and the full list of reciprocal rates here.**]**

TOPLINE

In the White House Rose Garden on April 2, President Trump announced a series of unprecedented reciprocal tariff actions against all US trading partners, calling his new order a "declaration of economic independence."

The Executive Order, which invokes IEEPA to levy a 10% baseline tariff rate against all US trading partners (effective April 5), as well as individualized higher tariff rates on a subset of countries (effective April 9), forecasts a drastic shift in how the United States approaches bilateral trading relationships as well as its commitments to the World Trade Organization. This memo further examines the "Liberation Day" announcement, the methodology behind the reciprocal tariffs, initial reactions from key domestic stakeholders, and what these measures may mean for the future of global trade.

HOW TRUMP VIEWS TARIFFS

President Trump has frequently spoken about his motivations behind new tariffs, which include a range of goals: incentivizing "fair and reciprocal" treatment for US goods in foreign markets, re-shoring manufacturing in the United States, raising revenue to reduce taxes and address government budget deficits, and as leverage in negotiations (often on issues unrelated to trade policy). According to those close to the President, the Trump administration views tariffs in four policy buckets:

1. **Tariffs for reciprocity and fairness:** President Trump has long believed that the United States has provided more access to its market than trading partners, who he argues block US goods through tariffs, non-tariff barriers, and currency manipulation, creating unsustainable US trade deficits. His announced 10% base rate for all imports is likely to be retained by the administration in the near- to mid-term, in order to raise revenue. The reciprocal tariffs may be modified based on country reactions – whether in support of or against US national interest.

   The individualized reciprocal rates are intended as barriers for affected countries to lower rates for American goods or commitments to address non-tariff barriers or to take steps to address their trade surpluses with the United States.

2. **Tariffs as leverage:** President Trump has also approached using tariffs as an instrument to coax countries into negotiations on unrelated security issues. In the cases of Canada, Mexico, and China tariffs were deployed as punishment for failing to crack down on fentanyl flows, while in the case of Colombia, tariffs were used as a cudgel against disagreements on migrant deportations (the Colombia tariffs were never implemented).

3. **Tariffs to compete with China:** Unlike with Canada and Mexico, China's reciprocal tariffs stack on top of the previous fentanyl IEEPA 20%, likely as well as existing relevant product-specific Section 301 tariffs. This action was coupled with revoking the *de minimis* exemption for qualifying products under $800 in value for China on May 2. While these tariffs will likely be maintained for some time to encourage decoupling from China, eventually President Trump will look for a deal to prove his victory (and cement his legacy) in this global competition.

4. **Tariffs that incentivize and protect domestic production:** Baseline tariffs and Section 232 investigations into critical sectors, most of which have not yet been published, are intended to drive incentives to build in the United States and are not likely to be negotiated down, though we understand the President and his team may be receptive to special treatment for companies investing over $1 billion in the United States.

BEHIND THE TARIFF CALCULATIONS

Following the Liberation Day announcements, USTR released the methodology used to calculate the initial tariff rates partner countries impose on the US. As confirmed by the *Wall Street Journal*, **USTR calculated the rates by dividing the 2024 US trade deficit with a target country by the amount of US imports to that country**. The calculation assumes that trade deficits are a combination of tariff and non-tariff barriers, with the explanation stating that these levies are intended to address the cumulative effects of trading partners' behaviors.

This formula explains how several export-based manufacturing countries such as Vietnam, Cambodia, or India – that import significantly smaller amounts from the US – face such high tariff rates. Meanwhile, countries like Colombia, with which the US maintains a significant trade surplus, are subject to only the 10% universal reciprocal tariff (plus MFN tariff rates).

The dynamics behind USTR's tariff calculations will put significant pressure on Asian trading partners seeking a balance between Washington and Beijing. China itself will face 34% individualized reciprocal tariffs – which have been confirmed to stack upon the Trump administration's 20% IEEPA tariffs for sourcing illicit fentanyl flows – and are likely to also accumulate upon existing Section 301 tariff measures, leading some economists to estimate an at least 76% effective tariff rate on all Chinese imports. McLarty will provide a future memo focused on trading partner responses and retaliatory measures.

UNDERSTANDING EXCLUSIONS AND SECTORAL TARIFFS

As outlined in the White House's reciprocal tariff fact sheet, the following areas are excluded from 10% universal and individualized reciprocal tariffs:

- Humanitarian articles subject to 50 USC 1702(b) (food, clothing, and medicine designed to alleviate human suffering)
- Steel/aluminum and autos/auto parts already subject to Section 232 tariffs
- Copper, pharmaceuticals, semiconductors, and lumber articles
- Articles subject to future Section 232 tariffs *(likely pharmaceuticals, semiconductors, maritime equipment, and certain critical minerals)*
- Bullion
- Energy and other critical minerals not available in the US

Moreover, Canadian and Mexican goods compliant with USMCA are unaffected, while non-USMCA compliant goods will be subject to 25% duties, as mandated by President Trump's original immigration and fentanyl tariff actions against the two countries from February 1, which also invokes IEEPA. The fact sheet also describes that in the event Canada and Mexico IEEPA tariffs are terminated, non-USMCA compliant goods will be subject to 12% tariffs.

INITIAL REACTIONS

Wall Street

The market reacted immediately to "Liberation Day" with the Dow falling over 1,200 points and S&P dropping by 3.6%. The stock prices of major multinational companies – many of whom source their products from Asia – experienced serious tumbles and investor selloffs, with some major brands' value even dropping by nearly 50%. Appearing on CNN, White House Press Secretary Karoline Leavitt urged Wall Street to weather the storm and "trust in President Trump."

Capitol Hill

The success of the reciprocal tariff order will, in some part, depend on the level of support afforded in Congress. **Initial reactions from Capitol Hill were swift, but mostly along party lines,** with a fairly broad Republican consensus backing the President's actions. However, **dissent** from four Republican Senators allowed the chamber to pass a bill which would revoke the state of national emergency on Canadian border security and fentanyl flows, which would effectively end 25% tariffs on Canadian goods (and 10% tariffs on Canadian energy) that were imposed using IEEPA. Senator Chuck Grassley (R-IA) introduced new legislation on April 3 which seeks to reassert Congressional authority over tariff measures, which if passed would require Congress's explicit approval within a 60-day period for new tariffs. Although President Trump is the recipient of stalwart approval in the House of Representatives, as lawmakers face tough elections over the next two years, **questions remain in how lawmakers balance maintaining their voter base while justifying reciprocal tariffs that may bring economic damage to their constituencies.**

Legal Challenge

Late on April 3, the first lawsuit challenging President Trump's usage of IEEPA to impose tariffs on China was introduced by a Floridian small business, Emily Ley Paper, and the New Civil Liberties Alliance. The lawsuit questions the President's legal authority to raise tariffs through IEEPA, and if successful in court, could nullify – or at least pause - President Trump's reciprocal tariffs. If this happens, we expect the Trump Administration to quickly move toward new Section 301 and 232 investigations, which, when completed, could provide the necessary legal authority to bring new tariffs.

MISSING FROM LIBERATION DAY ANNOUNCEMENTS

Announcements made on "Liberation Day" satisfied several components of the America First Trade Policy memorandum published on January 20, but not all of them. **The following tasks listed below are yet to be made public:**

- ***Review of Existing Sectoral Agreements, Scoping Out New Ones:*** Under this section, USTR was asked to **identify countries** with which the **US might negotiate new bilateral or sector-specific arrangements** to obtain market access for US "workers, farmers, ranchers, service providers, and other businesses." With a variety of FTAs presumably reviewed by USTR through reciprocal tariff calculations, **Washington may elect to pursue non-traditional agreements**, perhaps to secure access to critical minerals and inputs needed for strategic economic sectors, as shown by the critical mineral tariff exclusions announced on "Liberation Day."

- ***Holding China Accountable with Section 301, PNTR:*** America First requests USTR to assess the May 14, 2024 report regarding the **four-year review of the Section 301** investigation against China while recommending **possible tariff modifications**. USTR is tasked with remediating unfair trade practices related to "industrial supply chains and circumventions through third countries." USTR and the Commerce Department are also directed to investigate other "**unreasonable or discriminatory" Chinese trade policies**, ensure "balanced treatment" of **US IP rights in China**, and to assess **legislative proposals regarding Permanent Normal Trade Relations (PNTR) with China.** While not mentioned in the memorandum, USTR will also need to conclude its 301 investigations into the Chinese shipbuilding and legacy chip industries, with a final determination deadline for shipbuilding on April 17, 2025.

- ***Reviewing National Security Trade Enforcement Tools:*** America First additionally orders the State and Commerce Departments to **review the US export control system** and its efficacy against "strategic adversaries or geopolitical rivals." Although the Commerce Department has reviewed and published final rules on certain Biden-era technology controls, such as the connected vehicle final rule, and moved ahead with reviews on Section 232 steel and aluminum tariffs – which have since been restored – as directed, the Treasury and Commerce Departments have yet to release review findings on the Biden administration's **Executive Order 14105** on outbound investment security.
- ***DST Investigations and EU Digital Sovereignty Actions:*** An Executive Order accompanying America First instructs USTR to investigate whether European digital service taxes (DSTs) burden or restrict US commerce. The order describes foreign digital regulatory measures and tax policies that discriminate against, and undermine the growth of American companies, particularly in the technology sector.

The collection of these remaining measures still portends major adjustments to the US's global trading posture, especially toward China. Coupled with Section 232 tariff investigations that are yet to be announced, the "Liberation Day" tariffs appear to be an opening move to gain leverage on US access to critical resources and manufacturing inputs, with many actions still to come on the "America First" agenda.

LOOKING AHEAD

As framed by President Trump in his reciprocal tariff announcement, the message to US trading partners is simple: "treat us like we treat you." The reciprocal tariffs announced on "Liberation Day" accordingly cement the **Trump administration's view that access to the US market for close allies and trading partners alike is conditional, and not a given.** To access the opportunities and benefits that are "privileged" by the US market, **foreign countries will be forced to confront trading practices and market barriers** that have long dogged American exporters seeking a level playing field.

Although the President will continue to fight for American companies' access abroad, the landscape for these companies remains in flux, especially as trading partners prepare their response. Despite Treasury Secretary Scott Bessent's "do not retaliate" advice to partner countries, whether the reciprocal tariffs instigate rising global trade tensions is uncertain. It will be crucial in the coming days to assess trading partners' responses and retaliation to the reciprocal tariffs, which McLarty will continue to monitor.