

Panel: Reciprocity
or Protectionism -
Public
Procurement and
International Trade

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Trump Tariffs: What Do They Teach Us?



Reflects the additional *ad valorem* tariff rate on US imports since the beginning of the second Trump administration.

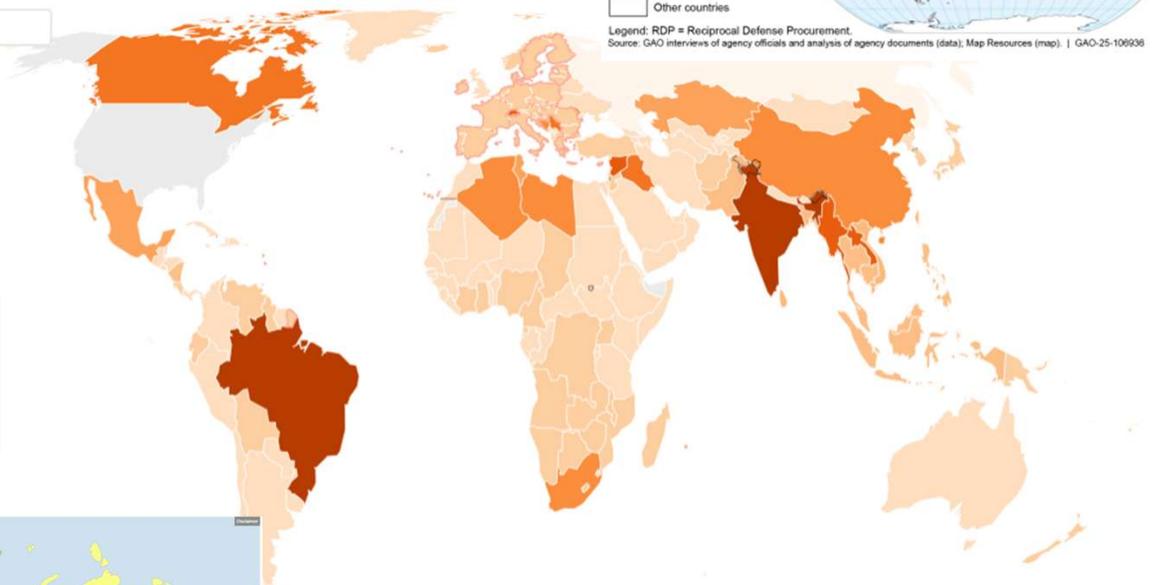
Click on or search for each country to learn more.

Currently in effect Pending or threatened

10% 60%

Search..

Map of Reciprocal Defense Procurement Partner Countries



WTO GPA



Trump Administration Tariffs

Source: Atlantic Council

Trade Agreements on Tariffs

“Eligible Products”

“Qualifying country products”

- Reciprocal Defense Procurement Agreements: examples
 - UK: Sec. 4: “When allowed under national laws, regulations, and international obligations applicable to the Participants, the Participants commit that, on a reciprocal basis, they will not include customs, taxes, and duties in the evaluation of offers, and **will use their best endeavours to waive their charges for customs and duties for procurements to which this MOU applies.**”
- WTO Government Procurement Agreement
 - Article IV.7 of the GPA generally exempts customs duties from the nondiscrimination obligations (“Paragraphs 1 and 2 [regarding non-discrimination] **shall not apply to: . . . customs duties and charges of any kind** imposed on, or in connection with, importation.”)
- Free Trade Agreements: example
 - Australia: Ch. 15: National treatment and nondiscrimination obligations “**shall not apply** to customs duties and charges . . . other than measures governing covered procurements.”



Tariffs and U.S. Procurement

Starting Point: U.S. Procurements Bear Tariffs

- FAR 25.902 cross-references the U.S. Customs Service regulations and notes that “[e]xcept as provided elsewhere in the Customs Regulations ... all shipments of imported supplies purchased under Government contracts are subject to the customs entry and examination requirements.”
- As a result, “[u]nless the agency obtains an exemption [citing FAR 25.903], those shipments are also subject to duty.”
- Standard clauses in the Government procurement regulations, such as FAR 52.212-4(k), similarly state that the price paid by the Government (the “contract price”) includes customs duties.
- The Customs Regulations echo the FAR and state that, except as exempted, “importations made by or for the account of any agency or office of the United States Government are subject to the usual Customs entry and examination requirements.” 19 CFR § 10.100.





DFARS 225.901 - Policy



- Unless the supplies are entitled to duty-free treatment under a special category in the Harmonized Tariff Schedule of the United States (e.g., the Caribbean Basin Economic Recovery Act or a Free Trade Agreement), or unless the supplies already have entered into the customs territory of the United States and the contractor already has paid the duty, **DoD will issue duty-free entry certificates for—**
 - (1) **Qualifying country supplies (end products and components);**
 - (2) **Eligible products (end products but not components) under contracts covered by the World Trade Organization Government Procurement Agreement or a Free Trade Agreement;** and
 - (3) **Other foreign supplies for which the contractor estimates that duty will exceed \$300 per shipment** into the customs territory of the United States.



John M. Tenaglia,
Principal Director,
Defense Pricing,
Contracting,
and Acquisition
Policy (25 Aug 2025)



“Effective immediately, **contracting officers shall include or modify contracts to include the clause at DFARS 252.225-7013 – Duty Free Entry** as prescribed in DFARS 225.1101(4) for **contracts or orders that anticipate delivery of end products, components, or materials imported into the customs territory of the United States.** Further, to maximize the Department’s budget to meet warfighter needs, contracting officers should indicate in a Solicitation, Indefinite Delivery Contract (IDC) or Agreement, or within a pre-contract cost agreement, that any subsequent contract action will include the duty-free entry clause, and the contractor should use the clause to assure that appropriate shipping documentation is used to prevent incurring duties. The contractor should reference the Solicitation, IDC, or Agreement number within the request.”



Status of National Defense Authorization Act (NDAA) for Fiscal Year 2026

- House passed HR 3838 on September 10, 2025
- Senate Armed Services Committee passed S. 2296 on July 11
- Senate passed its bill on October 9
- Now in conference

From SASC Report
119-39 (July 15,
2025)

Sec. 874--Duty-free entry of supplies procured by Department of Defense

The committee recommends a provision that would **require the Secretary of Defense to issue duty-free entry certificates in certain circumstances, and requires supply chain tracking.**

Reciprocal Defense Procurement Agreements

The **committee emphasizes that defense-related acquisitions from qualified sources under Reciprocal Defense Procurement Agreements should remain exempt from any tariffs or trade restrictions.** The committee urges the Department of Defense and relevant interagency stakeholders to preserve existing exemptions and ensure that future trade actions do not hinder defense procurement or compromise national security priorities.

Senate bill also called for report on tariffs' impact on the U.S. defense industrial base.



Trump Administration Position on Senate Bill

Duty-free Entries for the Department of War. The Administration strongly objects to section 874. The Administration has imposed reciprocal tariffs to address the national emergency related to the asymmetries in trade relationships. These asymmetries have created an extreme goods trade deficit and contributed to the atrophy of domestic production capacity, especially that of the U.S. manufacturing and defense-industrial base. **This provision would undermine domestic capacity-building efforts by allowing the Department of War to bypass the Administration's tariffs, which were created to address trade imbalances and restore our Nation's atrophied industrial base.**



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

September 9, 2019
(Senate)

STATEMENT OF ADMINISTRATION POLICY
S. 2296 – National Defense Authorization Act for Fiscal Year 2026
(Sen. Wicker, R-MS)

Closing Questions

Does the Defense exception meet the goals of the Trump tariffs?

What are the Defense Department's and Congress' views on imposing tariffs on Defense Department procurements?

Should the same type of exemption be extended to civilian agency procurements?

Could a tariff exemption be extended to state and local procurements, for example under:

- Federal state aid/grants?
- Cooperative purchasing/Joint procurement?

Conclusion

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