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Trump administration executive action alert

“Defending American Companies and Innovators From Overseas Extortion and Unfair Fines and Penalties” | 21 February 2025

[Presidential memorandum on digital trade](#); [White House fact sheet](#)

Key highlights

- On 21 February, President Trump signed a memorandum, “Defending American Companies and Innovators From Overseas Extortion and Unfair Fines and Penalties,” which instructs the US Trade Representative (USTR) and other cabinet agencies to investigate actions by other governments that – through their tax or regulatory structures – impose “one-sided, anti-competitive policies” against US companies in the digital economy.
- The memorandum builds on the “Day 1” memoranda on the [America First Trade Policy](#) and the [OECD Global Tax Deal](#). It also expands on initiatives started during the first Trump administration aimed at addressing unilateral digital services taxes (DSTs) that the US believes unfairly target American companies.
- **Timing:**
 - No immediate tariffs were announced. Rather, recommendations will need to be delivered by 1 April, consistent with the directives in the memoranda on the America First Trade Policy and OECD Global Tax Deal.
- **Background:**
 - The first Trump administration initiated “Section 301” investigations into DSTs in 10 jurisdictions, including Canada, France, India, Italy and the United Kingdom, to determine whether they unfairly discriminated against US technology companies.
 - The Biden administration negotiated deals that resulted in the termination of trade actions against the countries identified as having discriminatory DSTs while awaiting the outcome of global tax negotiations at the G20/OECD.
- **Key elements of the memorandum:**
 - The memorandum states that the Trump administration plans to impose tariffs and/or other responsive actions against trading partners that impose “taxes, fines or other regulatory burdens” that discriminate against US companies in the digital economy.
 - In assessing discriminatory actions, the administration will investigate:

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- Taxes, such as DSTs and other extraterritorial taxes, that may discriminate against US companies
- Regulations imposed on US companies that could inhibit growth or intended operation, such as content moderation policies
- Any act, policy or practice that jeopardizes a US company's intellectual property protections
- Any other act, policy or practice that could undermine the global competitiveness of US companies (e.g., the European Union's Digital Markets Act)
- More generally, the memo also requires investigation of any discriminatory trade, regulatory or tax measures.
 - The Departments of the Treasury and Commerce as well as USTR are directed to jointly identify any trade or regulatory practices that "discriminate against, disproportionately affect, or otherwise undermine the global competitiveness or intended operation" of US companies and recommend appropriate countermeasures.
 - Treasury, in consultation with Commerce and USTR, is required to determine whether any foreign country imposes tax measures detrimental to US citizens or companies, such as discriminatory or extraterritorial taxes, tax measures that undermine the global competitiveness of US companies or those that are inconsistent with US tax treaties. The memo does not, however, require the agencies to develop recommendations to address the measures.
- The memo also instructs USTR to:
 - Identify tools the US can use to secure a permanent moratorium on customs duties on e-commerce
 - Establish a process along with the senior counselor to the president for trade and manufacturing for US companies to report discriminatory taxes or regulations
- The memo also instructs Treasury, Commerce and USTR to investigate EU and UK actions that have the effect of utilizing US companies' products or services to undermine freedom of speech and political engagement or otherwise moderate content.

Additional

■ What next

- The memorandum and accompanying fact sheet indicate that the policies and practices of the following jurisdictions will receive particular scrutiny:
 - DSTs in Canada, France, Austria, Italy, Spain, Turkey and the UK
 - Content moderation policies in the EU and UK
 - The EU's Digital Services Act (DSA) and Digital Markets Act (DMA)
- The administration will make determinations on appropriate US actions after USTR and the relevant agencies deliver their 1 April reports and recommendations to the president.

■ Reactions

- US tech industry groups generally welcomed the memorandum and indicated that some of the policy measures, such as the withdrawal of DSTs and a permanent moratorium on e-commerce duties, could "enable transformative US technology companies to access global markets."
- The European Commission responded with a statement that it treats all companies fairly and would respond vigorously to any "unjustified measures."

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