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How to foster growth by advancing Anti-Competitive Market Distortion-focused trade policy reform in the United States

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The Growth Commission

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Introduction

While many in the traditionally free trade-supporting community have leveled criticisms against it, the current Trump administration's trade agenda marks a turning point and could lead to one of several different outcomes. It certainly creates an opportunity to capture the panoply of issues that impact international trade in a way that has escaped the world trading system since the Uruguay Round (Outcome 1); equally, if this opportunity is badly handled or if confusing signals are sent, this could lead to significant wealth destruction and a global slump (Outcome 2).

The administration's America First Trade Policy and various Executive Orders on duties lay out a framework not only for traditional border measures but for tackling internal and external market distortions that adversely affect U.S. firms. I and others have developed a theory of Anti-Competitive Market Distortions (ACMDs) over the last thirty years which has been designed for this matter and could steer the world economy into the first outcome rather than the second.

The emergence of a Trump Trade Doctrine presents a unique window to inject a legally and economically grounded framework, anchored in anti-competitive market distortion (ACMD) analysis. It is certainly true that previous attempts to dismantle what we have called ACMDs over the last thirty years have failed.

In a September 2009 speech, the Director-General of the World Trade Organization, Pascal Lamy, addressed the state of global trade following the 2008 financial crisis. He noted that some countries had introduced trade-restrictive measures but emphasized that these actions had not led to widespread retaliation. He stated:

> *"True, most of these measures are allowed under WTO rules. True, also, that none of them has triggered so far a tit-for-tat chain retaliation."*

What Lamy missed is that while tariff retaliation did not occur, the proliferation of ACMDs was accelerating. This rise has been documented by the Global Trade Alert at the University of St Gallen.[1]

Indeed, it is clear that from the days of the Structural Impediments Dialogue with Japan in the 1980s to now, all attempts to reduce ACMDs in countries have failed. All attempts to discipline the mercantilist export-led Asian economy boom or to deal with inherent distortions in those economies likewise failed.

Failure can be traced to a lack of understanding of the profound GDP per capita and trade effects of these distortions which had lurked under big tariffs but became exposed as tariffs came down. It can also be traced to a naïve hope that countries would honor the agreements that the founders of the international trading system crafted. Whatever the cause, the reality is now plain for all to see.

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[1] Evenett, Simon J, *Protectionism, State Discrimination, and International Business Since the Onset of the Global Financial Crisis*, Global Trade Alert, University of St. Gallen, 2019.

Our ACMD economic modeling (the SRB-γ model as further refined and developed) also shows that the impact on GDP per capita of the ACMDs is not evenly distributed across trade openness, regulatory competition and property rights – the three key pillars of economic growth. Behind-the-border regulatory distortions that damage competition have almost three times the impact of trade openness, with property rights protection having almost double the impact. So any failure to deal with these behind-the-border practices have had – and will continue to have – profound impacts on the U.S. economy (as well as others).

The current trade remedy system is also wholly insufficient to deal with these ACMDs employed by key U.S. trading partners, particularly China. It is designed to deal with subsidies granted to firms, and not the far more pernicious and difficult to measure ACMDs that tend to be systemic and economy-wide. In order to succeed in reducing ACMDs, we need to be able to show countries that these ACMDs in their own markets not only damage others but actually lower their own GDP per capita, and we need to quantify that loss.

At the same time, if trading partners, stakeholders and – critically – stock and bond markets, do not understand the legal and economic basis for the unfair trade and reciprocal tariffs, or assume them to be arbitrary, then this will likely not result in ACMD reduction, but rather retaliation and wealth destruction.

Anti-Competitive Market Distortions undermine U.S. competitiveness and global growth

ACMDs represent a next-generation challenge in international trade. They are practices that do not necessarily violate WTO rules but still create artificial advantages for firms abroad through government action. They involve government actions that empower private interests to obtain or retain competitive advantages. These actions distort comparative advantage, lower global GDP per capita and rob U.S. firms of fair market access. ACMDs include, but are not limited to:

- excessively high or discriminatory tariffs
- regulations that reduce cost for domestic producers but exclude foreign competitors
- weak protection of property rights and intellectual property
- systematic industrial favoritism through state-owned enterprises or implicit subsidies

As noted, traditional U.S. tools like anti-dumping and countervailing duties fail to respond adequately because they target firm-level subsidies and price discrimination, not broad policy distortions across sectors or entire economies. The consequences of unaddressed ACMDs are twofold:

1. **Domestic Harm**: U.S. industries lose market share, suffer job losses and experience suppressed innovation due to unfair foreign advantages.
2. **Global Harm**: ACMDs depress overall economic output by weakening the competitive mechanisms that drive efficiency and productivity, especially in global supply chains.

The Solution: a legal and economic framework for ACMD tariffication

We have previously developed, used and championed an econometric model that scores countries across three pillars:

- International Competition (IC) – reflecting trade openness and the role of exports)
- Domestic Competition (DC) – reflecting how pro-competitive a domestic regulatory system is
- Property Rights Protection (PR) – covering all aspects of private property rights including intellectual property

By assigning pillar scores, the model identifies and quantifies the GDP per capita loss attributable to a country's deviation from optimal competitive conditions. This enables a calibrated trade remedy, such as a reciprocal tariff, to be imposed based on economic harm rather than political considerations.

The following table improves the pillar scores of the G20 countries to U.S. levels in all three areas to identify the net impact on GDP per capita:

Country	**GDP per capita loss from ACMD/versus U.S. (%)**
Argentina	38.1
Brazil	36
Türkiye	33.45
India	32.35
Russian Federation	30.56
Mexico	28.79
China	27.64
South Africa	26.45
Italy	26.7/25.3
Indonesia	25.36
Saudi Arabia	19.5[2]
France	12.9/11.78
Germany	8.1/5.86
UK	5.712/1.012
Canada	3.76
Australia	1.976/0.856
Japan	3.68/1.72
South Korea	11.05/10.21

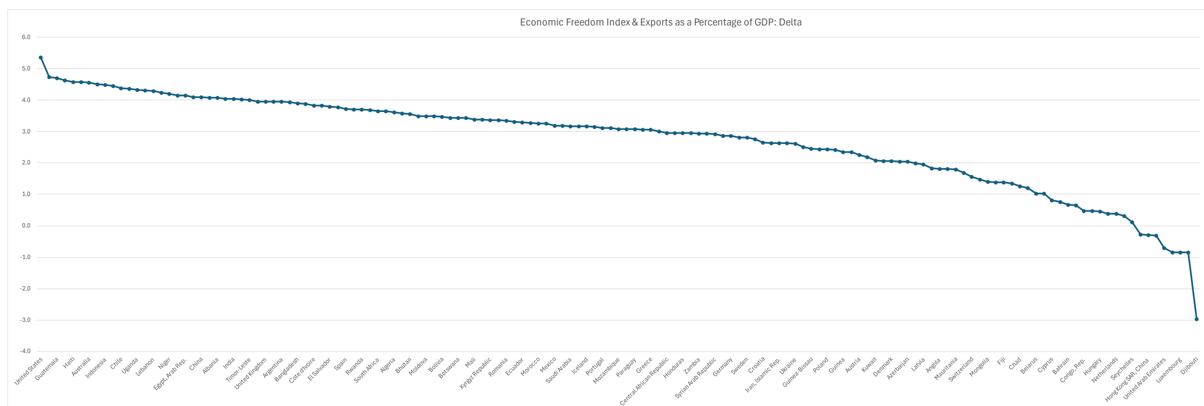
[2] Data for Saudia Arabia (insolvency – World Bank Doing Business Index) was missing so we have assumed the other PR pillar scores, and added a dummy variable to reflect recent positive changes to the Saudi insolvency regime.

The table above gives a calibrated set of GDP per capita losses imposed on the overall US-X country system. There are several issues to note. First, there is a wide difference across the EU customs territory (Germany, France and Italy have very different scores). Second, there is a group of countries in the 20-35 (approximate) range to which a high tariff can be expected to be applied.

There are some countries that have an x/y score. Here the x score reflects improvement to U.S. scores, where scores above the U.S. are ignored. The y score reflects if we include the fact that some countries score more highly than the U.S. and use that difference to reduce their x value. This is true for the UK, France, Germany and Italy because of higher IC pillar scores than the U.S. This IC difference reflects not only the tariff but trade facilitation measures and exports as a percentage of GDP as well.

The U.S. IC pillar score is dragged down by its poor exports as a percentage of GDP. This is partly because of the size of its market but could also be affected by U.S. exporters facing significant barriers of the type the current administration is seeking to address. Because of that, we are comfortable in ignoring the EU y values as the EU's behind-the-border barriers lower U.S. exports to the EU.

The difference between a country's economic freedom index score and its exports as a percentage of GDP is greater for the U.S. than for almost all other countries. This cannot all be explained by the size of the U.S. internal market. The difference is nearly one entire point higher at 5.4 than it is for the next highest country (Burundi at 4.7) and the next highest developed nation (New Zealand at 4.6), which suggests that U.S. exports are being affected by ACMDs other countries erect, and the U.S. profile is significantly different from other countries. The following graph illustrates this point:



A tariff that correlates to these scores is an indication that the U.S. is effectively being forced to impose a cost on itself (by effectively lowering its IC score) to ensure that other countries lower their ACMDs across the board. If we assume the U.S. tariff actions in general reduce U.S. trade pillar scores by 2 points, we can add 5.6% to the overall impact of the distortions in countries. The table below shows this. If countries remove their distortions, their tariffs can be reset to zero.

Country	Total ACMD GDP per capita losses incl. impact on U.S.
Argentina	43.6
Brazil	41
Türkiye	39.16
India	37.95
Russian Federation	36.16
Mexico	34.39
China	33.24
South Africa	32.05
Italy	32.3
Indonesia	30.96
Saudi Arabia	25.1[3]
France	18.5
South Korea	16.65
Germany	13.7
UK	11.31
Canada	9.36
Japan	9.28
Australia	7.58
EU average of majors	21.5

Any tariff which is chosen to reflect the impact of ACMDs of all kinds (including tariff measures) could be calibrated against these scores.

Since the damage of the ACMD is primarily to the country that is distorting its market, it could be argued that the unfair/reciprocal tariff could be effectively used to increase GDP per capita in all countries, if the result is a reduction of all ACMDs across the board. This would be a positive result for the world.

Although the U.S. starts with a high pillar score for domestic competition and property rights protection, it should also be noted that the new Executive Order on Anti-Competitive Regulation (April 9, 2025) specifically requires agency heads to report to the Federal Trade Commission and Department of Justice any regulations which:

(i) create, or facilitate the creation of, de facto or de jure monopolies;
(ii) create unnecessary barriers to entry for new market participants;
(iii) limit competition between competing entities or have the effect of limiting competition between competing entities;
(iv) create or facilitate licensure or accreditation requirements that unduly limit competition;
(v) unnecessarily burden the agency's procurement processes, thereby limiting companies' ability to compete for procurements; or
(vi) **otherwise impose anti-competitive restraints or distortions on the operation of the free market.**

[3] Data for Saudia Arabia (insolvency – World Bank Doing Business Index) was missing so we have assumed the other PR pillar scores, and added a dummy variable to reflect recent positive changes to the Saudi insolvency regime.

This means that the U.S. President is prepared to lower the U.S.'s own ACMDs and is not saying to countries that this is a one-way street.

Put another way, the U.S. is using the size and attractiveness of its market as a ratchet to force other countries to do what is actually in their own interests to do (in terms of maximization of GDP per capita, a proxy for wealth creation), and has put in place a downpayment for this with its trading partners by commencing the very process which they are being asked to follow.

This is not unlike the Cordell Hull reciprocal tariff actions in the 1930s that set up the GATT post-war system.[4] It is also not unlike the way Carlos Salinas in Mexico approached President George H.W. Bush to petition for Mexico to be included in the Canada-US bilateral agreement as a powerful reform document for Mexico to use external power to lock in the reforms he was setting out in Mexico. Those reforms and NAFTA ultimately catapulted Mexico into the OECD.

This model reframes tariffs not as protectionist tools per se, but as market-correcting mechanisms designed to:

- penalize distortive behavior
- create reform incentives for offending countries
- level the playing field for U.S. producers

ACMD tariffs would phase down as offending countries improve their pillar scores, aligning with the U.S., bringing transparency and accountability to a volatile trade environment.

The risk of a lack of understanding of the legal and economic framework

Without a normative framework, stakeholders will find it hard to understand the administration's goals and will therefore assume that this is a protectionist response without a clear goal. This is because there have been several objectives with tariffs which administration spokespeople have sometimes blurred.

Non-trade goals such as solving the fentanyl crisis and tariffs for general revenue, as well as tariffs to deal with unfair practices, have often been elided – at least in the public mind (see for example the recent Fox News Maria Bartiromo interview with Scott Bessent).[5]

The result will be to assume tariff actions can only damage the U.S. economy and so markets will react accordingly. If the 10-year Treasury yield assumes only negative outcomes, it may climb, therefore increasing the cost of borrowing for the U.S. to levels

[4] Reciprocal Tariff Act of 1934. Pub. L. No. 73-316, 48 Stat. 943.
[5] Fox Business, "Treasury Secretary Addresses Recession Talk: There is no Reason we Need to Have a Recession." 20:24. March 18, 2025.

that will severely erode the ability of the administration to achieve key goals such as tax cuts and potentially some regulatory reforms.

On the other hand, if the markets understand that there could be a positive goal with distortion reduction in many countries leading to wealth creation, this could lead to a reduction in the 10-year Treasury yield, opening headroom for the U.S. administration.

It is also important for trading partners to understand how they can secure tariff reductions from the administration.

Trading partners must have a clear understanding of the reason for the tariff, else they are likely to retaliate and not lower their distortions. The Trump administration's Executive Orders and public announcements have suggested that the reciprocal tariffs will be based on market distortions in other markets. Examples have included discriminatory taxes, regulatory barriers and lack of protection of intellectual property rights. These all fit into the ACMD typology, for example referred to in Singham and Rangan.[6]

Conclusion

If U.S. trading partners understand the underlying reasons for the tariff are that for forty years, little progress has been made on the second two pillars of our ACMD model (indeed if anything ACMDs have proliferated), and that the "deal zone" with the U.S. involves a reduction in these, then we will be on a path to a world that President Trump outlined in a press conference around the G7 Summit in Ottawa in 2018, where he said:

> *"Ultimately that's what you want. You want a tariff free. You want no barriers. And you want no subsidies. Because you have some cases where countries are subsidizing industries and that's not fair."*

The Growth Commission agrees with those sentiments and understands them to include all ACMDs implicitly. The question is how we get to that world.

While it is not clear whether the current action will lead to this world, it is clear that what we have done in the past forty years has not. Whether the administration's actions leads to these outcomes will depend on:

1. The clarity of the signals from the administration; and
2. The ability of countries to reduce their ACMDs.

[6] Singham, Shanker A., and Rangan, U. Srinivasa, *Anti-Competitive Market Distortions: A Typology*, Economic Affairs, 38(3) 2018, pp339-347 available at https://doi.org/10.1111/ecaf.12311