



Comments to the United States Trade Representative

Re: Significant Foreign Trade Barriers for the 2027 National Trade Estimate **Report Docket Number USTR–2026–0498**

October 27, 2026

Public Citizen welcomes the opportunity to provide written comments to the United States Trade Representative (USTR) on the 2027 National Trade Estimate (NTE) report. Public Citizen is a nonprofit consumer advocacy organization with more than 1 million members and supporters.

At its core, the NTE report is a value judgment, a proclamation to the world about what U.S. public policy priorities are and what they are not. For years, USTR’s annual review of U.S. trade partners’ “significant trade barriers” — required by Section 181 of the Trade Act of 1974, 19 U.S.C. § 2241 — has included not only policies that explicitly discriminate against U.S. companies, but also a wide array of other countries’ beneficial public interest policies. These have included measures related to public health and environmental protection, food labeling and safety, worker rights, digital privacy and security, and consumer protection.

The NTE Should Not List Public-Interest Policies

It is Public Citizen’s view that it is inappropriate and counterproductive for USTR to spend public resources compiling a corporate hit list of public-interest measures implemented by foreign countries to then effectively arm commercial interests with ammunition to attack similar U.S. domestic policies by labeling those measures categorically as trade barriers. Any broad conception of the U.S. national interest should favor other countries enforcing strong environmental, public-health, labor, consumer-protection, digital-privacy, and other public-interest standards.

The 2024 NTE Report under the previous administration marked an important, if incomplete, departure from earlier reports. It recognized that countries have “a sovereign right to adopt measures in furtherance of legitimate public purposes” and took a more nuanced approach to identifying trade barriers. For example, the 2024 report excluded earlier criticisms of New Zealand’s popular health programs for controlling medicine costs. It also excluded digital governance measures that previous reports had treated as barriers, including Europe’s Digital Markets Act, Australia’s News Media Bargaining Code, and Canada’s Online News Act. That restraint from criticizing these measures makes sense given that many policies branded as “trade

barriers” by large corporations are, in fact, safeguards for public health, workers, consumers, the environment, and democratic policy space. As governments around the world, including the United States, confront corporate concentration, unsafe products, environmental harm, and abusive business practices, it is untenable to label responsible regulation a barrier to trade.

Unfortunately, the 2025 and 2026 NTE Reports reverted to regurgitating the hit lists of the largest U.S. multinational corporations and their trade associations. The 2026 NTE Report moved even further in the wrong direction than the previous year. It expanded the use of the NTE as a roadmap for challenging other countries’ democratically enacted safeguards and made clear that the report is part of the administration’s strategy to pressure trading partners to weaken or abandon such policies.

Trade policy should not be used to push the agenda of the largest and most politically connected corporations at the expense of durable economic relationships. Unfortunately, we see this outcome repeatedly in the USTR’s Agreements on Reciprocal Trade to date. Under threat of punishing tariffs, the partner country committed, for instance, to accept U.S. certifications for food and agricultural imports without any additional requirements and to refrain from taxing U.S. technology companies for the revenue they earn in that country. The NTE should not treat a country’s regulatory sovereignty, especially in independent food safety and health rules, as a trade offense merely because a powerful multinational corporation prefers weaker rules.

This approach is not only inconsistent with the public interest, but also shortsighted as economic policy. If the U.S. uses trade threats and tariff pressure to demand that other countries weaken protections for consumers, workers, public health, the environment, or competition, it risks undermining trust in U.S. firms and encouraging trading partners to seek alternative suppliers.

It also threatens U.S. policy space. The United States cannot credibly insist that other countries abandon public-interest protections while Congress, federal agencies, states, and localities pursue similar measures at home. USTR should not constrain the regulatory choices that U.S. policymakers may need to protect workers, consumers, public health, and the environment.

In response to the USTR invitation for comments in identifying significant foreign barriers for inclusion in the NTE Report, Public Citizen urges USTR to refrain from targeting policies that seek to support:

1. A safe and competitive digital ecosystem,
2. Public health,
3. Environmental protection,
4. Access to medicines, or
5. Equity for historically disadvantaged groups.

1. Services and Anticompetitive Practices: Digital Policies That Should Be Removed From the 2027 Report

The 2027 NTE Report should not continue labeling other countries' digital ecosystem policies as "trade barriers" simply because Big Tech companies find them objectionable. Public Citizen's review found that the 2026 NTE targeted far more public-interest digital policies across 76 countries, up from 65 countries in the 2025 report. References to the following types of laws should be removed from the coming NTE report:

- Data protection, privacy, and data governance laws: The 2026 report identified laws regulating cross-border data flows in 34 jurisdictions, up from 27 in the 2025 report. These include several data protection and privacy laws in Brazil, Canada, the EU, India, Kenya, Nigeria, Türkiye, and Vietnam. Such laws seek to prevent companies from evading local data protection regulations by transferring data to jurisdictions with weaker standards. The NTE report also targets several data governance measures that seek to regulate cross-border transfers of public sector data and sensitive information such as health, financial, and geospatial data. This includes laws in Bolivia, Ecuador, India, Korea, and South Africa.
- AI regulations: The report lists the EU's AI Act and five other jurisdictions' AI-related policies. Some seek to mitigate harms from the development and deployment of AI systems; others, including measures implemented in Japan, Korea, and Ecuador, seek to develop local AI capacity. None of these regulations discriminate against U.S. tech companies.
- Anti-monopoly and revenue-sharing laws: The report listed digital competition laws in nine jurisdictions, including enacted measures in the EU, Japan, Türkiye, and the UK and proposals in Australia, Brazil, Korea, South Africa, and Vietnam. These laws seek to ensure greater competition in the digital economy. The report also lists revenue-sharing measures in six jurisdictions. These seek to make dominant tech platforms support local industries they have cannibalized, such as traditional news producers, or contribute to local content development. The report lists six jurisdictions with such laws — Australia, Korea, Canada, and the EU, which already have some form of regulation in place — as well as proposed regulations in New Zealand and South Africa. None of these regulations discriminate against U.S. technology companies — they all typically implement pro-competition and related obligations on all dominant entities irrespective of the country of origin.
- Digital services and other taxes: The report identified digital services taxes or equivalent measures in eight jurisdictions: Canada, Colombia, the EU, Kenya, Nigeria, Pakistan,

Turkiye, and the UK. These taxes seek to ensure that Big Tech companies pay some tax where they operate, including in countries where a lack of physical presence makes it difficult to levy income tax.

- Digital Public Infrastructure (DPI): The report lists regulations that limit market share in India's Unified Payments Interface (UPI) as a potential discriminatory barrier to trade. Open payments infrastructures such as India's UPI and Brazil's Pix are a key element in enabling the inclusion of the unbanked into the formal financial economy. The aim of DPIs such as these is not to create a commercial product, but to achieve broader social goals. The NTE should avoid attacking such systems—or the regulatory frameworks around such systems—that seek to ensure greater openness, competition, and participation in the financial ecosystem.

Big Tech platforms may not like these policies. Nonetheless, the U.S. should not discourage other countries from protecting personal data, addressing potential harms from AI, creating more competitive digital ecosystems, taxing large platforms, or, much less, take actions in the “trade” sphere that foreclose U.S. policymakers’ space to govern the digital economy at home.

2. “Technical Barriers to Trade” and Sanitary and Phytosanitary Measures Should Not Be Used to Undermine Public Health and Environmental Protections

Public Citizen urges USTR not to list legitimate agricultural, food-safety, and consumer protection policies as trade barriers. The 2026 NTE lists policies governing agricultural biotechnology and genetically engineered food, pesticide residues, veterinary medicines, growth promotants, genetically engineered crops, and food certification as trade concerns. These policies are not merely technical trade matters; they reflect countries’ democratic choices about how much protection a society provides for consumers, farmworkers, animals, and the environment.

Scientific evidence matters, but USTR should not use “science-based” as a license to impose U.S. agricultural exporters' preferred regulatory model on other countries or use “science-based” trade rules to prevent governments from taking precautionary action when a product’s safety for consumers or the environment remains uncertain. A more protective or precautionary standard is not, by itself, a trade barrier or even “unscientific.” USTR should also not label another country’s food-safety protections a trade barrier simply because they differ from U.S. standards or impose costs on U.S. exporters.

This applies especially to agricultural biotechnology. A country should be able to require its own oversight measures, including pre-market review, labeling, or traceability for genetically engineered products, or to take a precautionary approach, even when the product is authorized in

the United States. This also applies to pesticide maximum residue limits (MRLs), as the U.S. standard is not a value-neutral technical setting.

USTR should not carry the following measures into the 2027 report simply because they differ from U.S. standards:

- Agricultural biotechnology and pesticides, including restrictions on genetically engineered food in the EU, Mexico, Peru, Russia, Serbia, Taiwan, Türkiye, Ukraine, the UK, Angola, Ethiopia, Guatemala, the UAE, India, Kenya, and Korea; and pesticide regulations in Vietnam, China, the EU, Mexico, Nigeria, Norway, Pakistan, Taiwan, Türkiye, and the UK.
- Chemicals and animal health, including restrictions on growth hormones and beta-agonists such as ractopamine in the EU, Thailand, China, Russia, and Taiwan; and EU regulations on antimicrobial resistance and veterinary medicinal products.
- Food and beverage safety, including safety and reporting regulations on imported infant formula in Ethiopia, India, and Colombia; and regulations on the sale of “energy” and sugary drinks, including restrictions on advertising and the sale of these products to minors in several countries, including Bangladesh, GCC countries, and Ukraine.
- Chemical and consumer-product safety, including the EU’s REACH regulation, chemical hazard classification and labeling, and regulation of endocrine disruptors; PFAS phaseouts in Canada and the EU; chemical regulation requirements in Korea and Türkiye; and Indonesia’s testing of cosmetics for heavy metals.
- Food and product certification, including halal certification laws in Brunei, Egypt, the UAE, Kuwait, Oman, Qatar, and Saudi Arabia; and Kuwait’s health-certificate requirements for imported cosmetics, food, and pharmaceuticals.

3. *Policies Enabling Access to Medicines Should Not Be Listed*

USTR treats limits on what pharmaceutical companies can charge as trade concerns while ignoring the patent monopolies that exclude competitors and give those companies the power to charge high prices in the first place. USTR should not use intellectual property rules to privilege drug company monopolies that delay lower-cost generic and biosimilar medicines, nor should it attack other countries’ drug-pricing policies that increase access to affordable medicines by limiting what pharmaceutical companies can charge or what public health systems will pay. The profits of Big Pharma should not be put ahead of the well-being of patients and public health.

The 2026 NTE attacks drug-pricing regulations and processes in Canada, the European Union, India, Australia, and New Zealand that aim to enhance access to lifesaving medicines. Governments have the right and responsibility to manage health care costs, protect patients, and steward public resources. USTR should not carry these measures into the 2027 report.

USTR's Section 301 investigation into Germany's drug price negotiation framework illustrates many of these issues. Germany's drug price negotiation framework informed U.S. efforts to lower drug costs. USTR should not attack country practices that the United States uses or would consider using to make medicines more affordable. Germany's pharmaceutical pricing policies are not unjustifiable, unreasonable, or discriminatory. Nor are Germany's prices "suppressed," or its policies a burden or restriction on U.S. commerce. U.S. drug prices are not high because other countries' prices are low. Drug prices are lower in other countries compared to the United States because those countries have systems in place to moderate the monopoly pricing excesses of prescription drug corporations. USTR should terminate its Section 301 investigation against Germany and should not list similar policies in the 2027 report.

4. Environmental Protection Must Not Be Treated as a Trade Barrier

The 2026 NTE attacks other countries' environmental and climate policies on behalf of polluting industries, rather than recognizing these measures as efforts to hasten a clean energy transition and protect the environment. Policies listed in the 2026 NTE that USTR should remove from the 2027 report include:

- Policies to boost the clean energy transition, including the EU's Renewable Energy Directive, Deforestation-Free Supply Chain Regulation, Ecodesign for Sustainable Products Regulation, and Sustainable Aviation Fuel Regulation, which require industry to meet sustainability guidelines. The NTE also listed the EU's Carbon Border Adjustment Mechanism and the UK's proposed mechanism, which place charges on embedded emissions of certain imported products to encourage lower-emission production.
- Green certification and local content policies, including the UAE's green certification program, which gives priority government services to industries using sustainable materials and methods, and India's domestic content requirements for renewable-energy government procurement contracts.
- Policies to tackle plastic pollution, including Canada's Zero Plastic Waste Agenda; restrictions on single-use plastics in the UAE, Dominican Republic, Oman, and Côte d'Ivoire; and Chile's plan to address single-use plastic in bottles.

Instead of using the NTE to pressure countries to weaken these protections, USTR should recognize their right to pursue climate and environmental policies in the public interest. The United States should learn from other countries' efforts to address the climate crisis, not turn the demands of polluting industries into trade-policy priorities.

5. Government Procurement and Investment Must Preserve Equal Opportunity

Shockingly, the 2026 report targets South Africa's anti-discrimination and equal-opportunity measures, which seek to ensure greater participation by workers and historically marginalized communities in the corporate sector. Under "Government Procurement," the report criticizes preferences for small businesses and historically disadvantaged individuals. Under "Investment Barriers," it objects to Broad-Based Black Economic Empowerment requirements and merger-review criteria that expand ownership by workers and historically disadvantaged people.

Taken together with President Trump's unhinged claims about apparent "genocide" against white South Africans and Elon Musk's claims that Starlink is "not allowed to operate in South Africa simply because [he's] not black [sic]," the inclusion of these regulations in the NTE report is a worrying sign that the U.S. government intends to use trade tools to push its "anti-diversity" agenda globally. USTR should remove these measures from the 2027 report, and not use it to press South Africa to weaken them for the benefit of U.S. companies.

USTR also inappropriately singles out other programs supporting inclusion for historically disadvantaged groups for other countries as well, such as in Malaysia and Oman. All of these should be erased from the 2027 report.

Trade Barriers USTR Should List

Since 2022, USTR has included labor and environmental practices as categories of foreign trade barriers. The 2027 report continues to identify significant issues globally, including labor-rights violations, wage suppression, weak environmental enforcement, environmental degradation, and illegal harvesting and trade, as trade issues. These are categories of trade barriers that the USTR should take seriously.

When companies abroad are permitted to abuse workers, suppress wages, violate freedom of association, use forced labor, or pollute with impunity, U.S. workers are forced to compete against imports subsidized by social and environmental dumping. U.S. companies have an incentive to offshore production to take advantage of exploitative labor conditions and lax environmental rules, or to threaten offshoring in order to weaken workers' bargaining power domestically.

USTR should prioritize failures to protect the right to organize and bargain collectively; forced labor and other serious labor abuses; and weak enforcement of environmental laws. It should also scrutinize government action that shields firms, including U.S. multinationals operating abroad, from accountability for abuses. For example, the 2026 report provides some concrete examples. It identifies forced labor and serious workplace-safety violations alongside widespread mangrove destruction in India's shrimp industry. It also reports U.S. import-enforcement actions involving forced labor in Taiwanese fishing vessels and manufacturing; concerns about freedom of association and collective bargaining in Thailand; and others. These are practices USTR should prioritize.

USTR should also scrutinize government actions that let companies evade accountability for labor abuses, including U.S. companies operating abroad. For instance, in Kenya, the Business Law (Amendment) Act, Act No. 20 of 2024, would exempt U.S. technology companies from jurisdiction in Kenyan courts for legal violations caused by their business practices impacting Kenyan workers. Enabling Big Tech companies to take advantage of abusive labor conditions in foreign countries harms U.S.-based companies engaged in similar work, harms U.S. workers by weakening their collective bargaining power, and harms Kenyan and other workers subject to the abusive business practices of Kenyan and U.S. companies. Creating a legal exemption for large U.S. technology companies incentivizes harmful business practices that undermine the benefits of digital trade for both Kenyans and Americans. USTR should examine this measure for inclusion in the 2027 NTE.

Looking Ahead

The 2026 NTE Report made clear that the Trump administration's primary motivation behind its trade policy is to protect the profits of big U.S. companies. The brazen attacks against a range of crucial public interest policies, ranging from digital rights to public health regulations, reflect the misplaced priorities of this administration.

Other countries should be able to adopt measures to protect citizens' fundamental rights and consumer safety without having those measures challenged solely to enable greater corporate profit. And they should not feel beholden to undermine their public interest protections because of the deals they signed under threat of Trump's sweeping tariffs, especially since those tariffs have now been ruled illegal by the U.S. Supreme Court.

The 2027 report should focus on practices that harm workers and communities, including labor-rights violations and environmental abuses, rather than treating public-interest protections as trade barriers. We urge USTR to remove environmental, public-health, food-safety, digital privacy, and other legitimate public-interest policies from the 2027 NTE. USTR must ensure that trade policy enhances, rather than undermines, the public interest.