

insights

Trump imposes additional 10% tariffs on all products originating in China and 25% tariffs on all products originating in Mexico and Canada (10% on Canadian energy products)

TRUMP ADMINISTRATION TRADE ALERT - IMPORTS

HEADLINE Trump imposes additional 10% tariffs on all products originating in China and 25% tariffs on all products originating in Mexico and Canada (with a lower 10% on Canadian “energy products”)

DATE 1 February 2025

AGENCY Presidential Action

STATUS Canada - Executive Order [Imposing Duties to Address the Flow of Illicit Drugs Across our Northern Border](#)
Mexico - Executive Order - Signed but not yet published
China - Executive Order - Signed but not yet published

EFFECTIVE DATE 4 February 2025, 12:01 a.m. Eastern Time

Trump issued three executive orders imposing:

- 1) An additional 25% tariffs on all products of Mexico
- 2) An additional 25% tariffs on all products of Canada, except “energy products” from Canada which will only have a 10% tariff
- 3) An additional 10% tariff on all products of Chinese products.

DETAILS

- The duties imposed by the E.O. are not available for duty drawback.
- The E.O. also prohibits the use of Section 321 for the “products of” Mexico, Canada, and China, as that term will be defined in the Federal Register Notice.
- The tariffs imposed by the E.O. are in addition to ordinary duties and any other tariff programs (e.g., Section 301 China tariffs, ADD/CVD, Section 232) that may apply.

No exclusion process was provided for in the executive actions. A retaliation clause threatens additional tariffs if a country imposes tariffs on U.S. goods.

BASIS International Emergency Economic Powers Act (IEEPA), 50 U.S. Code § 1701 *et seq.* citing a declaration of national emergency in response to the “extraordinary threat posed by illegal aliens and drugs, including deadly fentanyl”; the National Emergencies Act (50 U.S.C. 1601 *et seq.*) (NEA); section 604 of the Trade Act of 1974, as amended (19 U.S.C. 2483); and section 301 of title 3, United States Code.

HTS/ PRODUCTS Nearly all. All products of Mexico and Canada “as defined by the Federal Register” will be subject to a 25%, except “energy products” from Canada which will only have a 10% tariff; Chinese products will be subject to an additional 10% tariff. The Federal Register notice that defines the products has yet to be published.

COUNTRY Mexico, Canada, and China

CITE <https://www.whitehouse.gov/presidential-actions/>

Summary

President Trump issued three executive orders that “impose, consistent with law, ad valorem tariffs on articles that are products of” 25% on products of Mexico, 25% on products Canada (except energy products, which are at a lower 10% rate), and an additional 10% on products of China as set forth in each order, under IEEPA and other authorities. These duties are effective Tuesday February 4, 2025. There is no drawback or duty-free de minimis relief available for these duties, and they will apply on top of other applicable programs.

Products Affected

The executive orders cover “all articles” that are the product of Mexico, Canada, and China, “as defined by the Federal Register notice.” The Secretary of Homeland Security is tasked with determining and publishing “the modifications necessary to the Harmonized Tariff Schedule of the United States (HTSUS) in order to effectuate this order consistent with law.” This notice has not been published yet. While it is anticipated that these E.O.s will cover all products from each nation, with the exception of Canadian energy products, there are significant questions to be resolved. For example, if a Chinese item was excluded from the Section 301 tariffs, will it be subject to the tariffs under the February 1 E.O.? Similarly, does the E.O. apply equally to goods that originate in Canada or Mexico under the USMCA as it does to goods that are substantially transformed in Canada or Mexico, but do not qualify as originating under USMCA.

Canadian “energy or energy resources” which are subject to a 10% tariff instead of the 25% tariff applicable to other Canadian products, are defined by reference to section 8 of the President’s order on January 20, 2025 Declaring a National Energy Emergency to include “crude oil, natural gas, lease condensates, natural gas liquids, refined petroleum products, uranium, coal, biofuels, geothermal heat, the kinetic movement of flowing water, and critical minerals, as defined by 30 U.S.C. 1606 (a)(3).”

Effective Date

The increased rates are effective as of 12:01 a.m. eastern time on February 4, 2025 but will not apply to goods entered/withdrawn for consumption on or after 12:01 a.m. eastern time on February 4, 2025, that were loaded onto a vessel at the port of loading or in transit on the final mode of transport prior to entry into the United States before 12:01 a.m. eastern time on February 1, 2025, provided the importer certifies to CBP in accordance with the procedure that will be specified in a future Federal Register notice.

The February 4 effective date is suggestive of an attempt by the administration to force negotiations with China, Canada, and Mexico. While there is no way to predict if there will be negotiations or how the negotiations will work out, it is possible that the effective date for these tariffs gets delayed.

Application in Relation to other Duties

The rates of duty established in each order are defined to be in addition to any other duties, fees, exactions, or charges applicable to such imported articles.

No drawback program relief (19 CFR parts 190, 191) is available with respect to the duties imposed pursuant to these orders.

Duty-free de minimis treatment under 19 U.S.C. 1321 is not available for the articles affected by the tariff action.

For foreign trade zone products subject to each order, articles that are products of Canada, other than “domestic status” eligible products defined in 19 CFR 146.43, entered after the effective date must be admitted as “privileged foreign status” as defined in 19 CFR 146.41, and upon entry for consumption will be subject to the increased duties in effect at the time of admittance into the foreign trade zone.

There is no indication as to whether goods that are entered pursuant to one of the provisions of Chapter 98 of the HTSUS would be exempt from these duties.

Retaliation Clause

Each order contains a retaliation clause reserving the right to “increase or expand in scope” of the tariffs imposed by each E.O., should the country retaliate by imposing additional tariffs on U.S. goods. Canada and Mexico have already announced tariff retaliations are planned, with Canada specifying 25% additional duties would be imposed on C\$30 billion of U.S. goods as of February 4, and an additional C\$125 billion in goods in three weeks, according to Prime Minister Justin Trudeau’s announcement on February 1. He stated the list of products would include “American beer, wine and bourbon, fruits and fruit juices, including orange juice, along with vegetables, perfume, clothing and shoes...major consumer products like household appliances, furniture and sports equipment, and materials like lumber and plastics, along with much, much more” as well as some “non-tariff measures” related to critical minerals, energy procurement, and other unspecified partnerships. *See* Transcript of Trudeau’s response to U.S. tariffs on Canada, Global News, Posted February 1, 2025 10:21 pm, *available at* <https://globalnews.ca/news/10993376/trudeau-trump-tariffs-us-canada/>.



Products Excluded and/or Exclusion Process

There were no product exclusions or exclusion process announced.

Removal of Duties

The Secretary of Homeland Security is charged with consulting with several other cabinet secretaries and the Attorney General regarding the emergency situation and is required to "inform the President of any circumstances that, in the opinion of the Secretary of Homeland Security," indicate the government of the tariffed country has taken "adequate steps" to alleviate the emergency that gave rise to the order. If the President determines sufficient action to stem the crisis has occurred, the tariffs will be removed. What constitutes "adequate steps" to justify removal is not defined.

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