Tariffs on Canada, China, and Mexico Are Here: An Overview of the February 1 Executive Orders

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As anticipated, on Saturday, February 1, President Trump signed three executive orders imposing a 25% *ad valorem* rate of duty on Canadian and Mexican products; and a 10% rate of duty on Chinese products. The Governments of Canada, Mexico, and China have responded. Canada has imposed 25% tariffs on certain U.S.-origin products, effective February 4, unless a deal is struck to suspend tariffs on both sides. At 5:00 p.m. Eastern on February 3, Canada and the U.S. struck a deal to delay tariffs for 30 days. Mexico has also already reached a deal and the tariffs are on pause, and China has announced its intent to pursue litigation before the WTO. Each Order is discussed below with a discussion of the respective target government's response.

EXECUTIVE ORDER IMPOSING DUTIES ON CANADIAN PRODUCTS

On February 1, 2025, the President issued an Executive Order titled "Imposing Duties to Address the Flow of Illicit Drugs Across Our Northern Border," imposing an additional 25% ad valorem rate of duty on Canadian products except energy or energy resources (which are subject to a lower 10% ad valorem rate). The duties apply with respect to goods entered for consumption, or withdrawn from warehouse for consumption, on or after 12:01 a.m. Eastern time on February 4, 2025. Any such items that were loaded onto a vessel or in transit on the final mode of transport before entry into the United States **before 12:01 a.m. Eastern Time on February 1, 2025**, are not subject to the additional duty. Importers must certify to U.S. Customs and Border Protection (CBP) that the conditions are met in order to use this exception.

The President issued the tariffs under the national emergency (relating to the national health crisis) declared on January 20 and expanded on February 1. The President has delegated to the Secretary of Homeland Security the responsibility for establishing the duty rate on imports of articles that are the products of Canada. The Secretary is responsible for modifying as necessary the Harmonized Tariff Schedule of the United States (HTSUS) to effectuate the Order.

The Order clarifies that **no duty drawbacks** shall be available with respect to the duties imposed. Further, **duty-free de minimis treatment** under 19 U.S.C. § 1321 is **not available** for products that are the subject of the Order.

The tariffs in the Order shall be removed when the President determines that "sufficient action" to alleviate the public-health crisis through cooperative enforcement actions has been taken. Retaliation to this Order will result in additional tariffs.

CANADA'S RESPONSE

In response, on February 2, Prime Minister Trudeau announced 25% retaliatory tariffs on U.S. goods imported into Canada. Trudeau's response targeted items including American beer, wine, bourbon, fruits and fruit juices, vegetables, perfumes, clothing, and shoes as well as household appliances, sporting goods, and furniture.

Lumber and plastics will also face levies, and nontariff measures are also being considered with respect to critical minerals and procurement.

The tariffs would impact US$30 billion of goods, effective February 4, 2025. Thereafter, the 25% tariff will be imposed on an additional US$125 billion of goods in approximately three weeks.

U.S. and Canadian officials met on February 3, 2025 and agreed to a deal that delays tariffs for 30 days. In short, Canada is implementing a $1.3 billion border plan to reinforce the border and to coordinate with U.S. partners to stop the flow of fentanyl. In addition, Canada is appointing a Fentanyl Czar, Canada is identifying cartels as terrorists, and Canada and the United States are developing a Joint Strike Force to combat organized crime, fentanyl, and money laundering.

EXECUTIVE ORDER IMPOSING TARIFFS ON CHINESE PRODUCTS

On February 1, 2025, the President issued an Executive Order titled "Imposing Duties to Address the Synthetic Opioid Supply Chain in the People's Republic of China." The Order tracks a similar Order imposing a duty rate on products from Canada. With respect to this Order, the President invokes his authorities under the International Emergency Economic Powers Act and the National Emergencies Act and references the national emergency the United States is facing as a result of the Chinese Communist Party (CCP) subsidization and incentivization of Chinese chemical companies to export fentanyl and related precursor chemicals for the production of synthetic opioids sold illicitly in the United States. In the Order, the President also references the PRC's support for the transnational criminal organizations involved in the trafficking of the illicit opioids. As a result of the PRC's lack of support to terminate the flow of opioids into the United States, the President has determined that it is appropriate to impose ad valorem tariffs on articles that are products of the PRC.

Specifically, all articles that are products of the PRC, as defined by the *Federal Register* notice described in the Order, will be subject to an additional **10% ad valorem rate of duty**. Such rate of duty shall apply with respect to goods entered for consumption, or withdrawn from warehouse for consumption, **on or after 12:01 a.m. Eastern Time on February 4, 2025**. Goods entered for consumption, or withdrawn from warehouse for consumption, after such time 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**, shall not be subject to such additional duty. The importer must file a certification with CBP representing that such conditions are in place.

As with the tariffs imposed against Canadian and Mexican products, if the PRC retaliates, additional import duties can be implemented. Also, as with the tariffs imposed on Canadian and Mexican products, the Secretary of Homeland Security shall determine the modifications necessary to the Harmonized Tariff Schedule of the United States (HTSUS) in order to effectuate the objectives of this order.

There are exceptions for foreign-trade-zone items eligible for admission under "domestic status" as defined in 19 C.F.R § 146.43. These items must be admitted as "privileged foreign status" as defined in 19 C.F.R. § 146.41. Such articles will be subject upon entry for consumption to the rates of duty related to the classification under the applicable HTSUS subheading in effect at the time of admittance into the U.S. foreign-trade zone.

Further, **no duty drawback** shall be available—**nor shall** imports be eligible for **duty-free de minimis treatment** under 19 U.S.C. § 1321.

Only upon the President's determination of sufficient action to alleviate the crisis may the tariffs described in section 2 of the Executive Order be removed.

CHINA'S RESPONSE

On February 2, China condemned the tariffs. It was also suggested that Beijing intends to file a lawsuit concerning the tariffs at the World Trade Organization (WTO). However, the threat of a lawsuit may not be concerning to the Trump administration, as the WTO's ability to handle disputes has effectively been shut down for several years.

EXECUTIVE ORDER IMPOSING DUTIES ON MEXICAN PRODUCTS

On February 1, the President issued an Executive Order titled "Imposing Duties to Address the Flow of Illicit Drugs Across Our Southern Border," imposing duties on goods from Mexico. This Order parallels the Orders imposing ad valorem duties on goods from China and Canada. Like those Orders, the Order addressing the situation on the Southern Border focuses on the health emergency posed by the influx of illicit narcotics, but also addresses the "influx of illegal aliens" and the corresponding impact on the U.S. healthcare and infrastructure systems. Similar to the Order imposing duties on goods from China, this Order identifies a link between the Mexican drug-trafficking organizations (DTOs) and "the intolerable alliance with the Government of Mexico."

The Order refers to the January 20 Order "Declaring a National Emergency at the Southern Border of the United States" and establishes that the emergency cannot be resolved without the cooperation of the government of Mexico. As a result of the emergency, the President is imposing **ad valorem** tariffs on articles that are products of Mexico. All articles that are products of Mexico, as defined by the *Federal Register* notice, are subject to **an additional 25% ad valorem rate of duty**. Such rate of duty shall apply with respect to goods entered for consumption, or withdrawn from warehouse for consumption, on or after **12:01 a.m. Eastern Time on February 4, 2025**, except that goods entered for consumption, or withdrawn from warehouse for consumption, after such time 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**, shall not be subject to such additional duty. In order to take advantage of this exception, the importer must provide a certification of compliance with these conditions to CBP.

As with the Orders imposing tariffs on goods from China and Canada, retaliatory actions may result in additional tariffs and other actions, as appropriate.

Consistent with the Canada and China Orders, the Secretary of Homeland Security is responsible for any necessary modifications to the Harmonized Tariff Schedule of the United States (HTSUS).

Products eligible for admission under "**domestic status**" as defined in 19 C.F.R. § 146.43 must be admitted as "privileged foreign status" as defined in 19 C.F.R. § 146.41. Such articles will be subject upon entry for consumption to the rates of duty related to the classification under the applicable HTSUS subheading in effect at the time of admittance into the U.S. foreign-trade zone.

As with the Canadian and Chinese products Orders, **no duty drawback** shall be available with respect to the duties imposed under this order. Further, there **is no duty-free de minimis treatment** under 19 U.S.C. § 1321.

Upon the President's determination of sufficient action to alleviate the crisis, the tariffs described in section 2 of the Executive Order will be removed.

MEXICO'S RESPONSE

In response, Mexico announced that it intended to resort to "Plan B," which included tariffs and other retaliatory measures. Ultimately, however, Mexico and the United States reached a deal as of February 3, 2025. As a result, Mexico is placing 10,000 soldiers at the Mexico–U.S. border and tariffs on Mexican-origin goods are **on pause for 30 days**.

HOW COMPANIES SHOULD PREPARE FOR ALL TARIFFS

Because it is unclear whether and when agreements will be reached such that the tariffs will be eliminated between the United States and Canada, China, and Mexico, businesses should prepare for potential increased prices, consider the ability to take advantage of duty-savings strategies (including, but not limited to, foreign-trade zones, bonded warehouses, first sale for export, and eliminating certain costs from the dutiable value), and diversify supply chains to mitigate risk.

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