Deloitte.

Deloitte Tax LLP | 3 February 2025

US International Tax Alert

New US tariffs on products of Canada, China, and Mexico trigger negotiations and other actions

Overview

President Trump has ordered sweeping supplemental tariffs on imported products of Canada, Mexico, and China, including:

- 10% on "energy and energy resource" products of Canada;
- 25% on all other products of Canada;
- 25% on all products of Mexico; and
- 10% on all products of China.

The supplemental tariffs will apply to products of China effective February 4, 2025. While originally set to apply to products of Canada and Mexico on the same date, both countries reached agreements with the United States on February 3, 2025, to postpone the effective date "one month" for products of Mexico and 30 days (*i.e.*, until March 6, 2025) for products of Canada in exchange for certain actions each country would take on border security.

These tariffs will be collected on top of all other existing customs duties and supplemental tariffs owed. Moreover, they will not be eligible for duty drawback, nor will duty relief be available under the 19 USC § 1321 *de minimis* threshold on imports under US $800. The executive orders issued on February 2, 2025, do not provide for a process to apply for exclusions from the tariffs, and the Trump administration has not indicated an intention to create one.

Mexico, Canada, and China have all publicly stated their intentions to impose retaliatory tariffs and/or other countermeasures in the event of US tariffs. Canada was the first to announce retaliatory tariffs of 25% on certain products of the United States effective February 4, 2025, with more products to be included in the coming weeks. However, these were postponed for 30 days following an agreement on border security actions reached with the United States on February 3, 2025. Retaliatory action by Mexico was also pre-empted due to continued negotiations between the United States and Mexico and an agreement achieved between them on February 3, 2025, to delay the effective date for tariffs on Mexico products by "one month" for border security actions.

These supplemental tariffs, where implemented, will have a significant impact across various sectors within the economies of the countries involved and could have global economy-wide repercussions. As a result, multinational importers in the impacted jurisdictions may want to consider implementing customs duty planning strategies, reevaluating their supply chains to determine new sourcing patterns, and examining whether shifts of distribution or production are necessary. Further, North American importers that have historically received duty-free treatment for certain imports under the US-Mexico-Canada Agreement may need to adjust to a new supplemental tariff regime.

US supplemental tariffs

On February 1, 2025, President Trump issued three executive orders implementing new supplemental tariffs (collectively, the "Executive Orders"), as well as a related fact sheet:

- Imposing Duties to Address the Flow of Illicit Drugs Across Our Northern Border;
- Imposing Duties to Address the Situation at Our Southern Border;
- Imposing Duties to Address the Synthetic Opioid Supply Chain in the People's Republic of China; and
- Fact Sheet: President Donald J. Trump Imposes Tariffs on Imports from Canada, Mexico and China

The Executive Orders identified the International Emergency Economic Powers Act (1977) (IEEPA), 50 U.S.C. §1702(a)(1)(B), as the primary legal basis for these tariffs. IEEPA allows the President to regulate imports based on a "national emergency" to "deal with any unusual and extraordinary threat, which has its source in whole or substantial part outside the US, to the national security, foreign policy, or economy of the US." On January 20, 2025, President Trump declared a national emergency related to migration and illicit narcotics at the southern border (Proclamation 10886: Declaring a National Emergency at the Southern Border of the United States). To fulfill the prerequisite required by IEEPA, the Executive Orders expanded the scope of that national emergency to address human trafficking and the smuggling of illegal drugs into the United States across all borders.

Targeted imports and corresponding tariffs include:

- 10% tariff on products of Canada that are "energy and energy resources" as defined by Executive Order 14156: Declaring a National Energy Emergency; these products 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);"
- 25% tariff on all other products of Canada;
- 25% tariff on all products of Mexico; and
- 10% tariff on all products of China.

Additionally, the Executive Orders include the following provisions:

- Duty drawback will not be permitted for the supplemental tariffs;
- Products subject to the supplemental tariffs will be excluded from the *de minimis* exemption from duties for certain shipments under US $800;

- In a US foreign trade zone (FTZ) context, products subject to the supplemental tariffs must be admitted into a FTZ under "privileged foreign status" (*i.e.*, when removed from the FTZ, tariffs will apply to these products based on the condition when admitted into the FTZ. Thus, additional duties on the components and materials imported into the United States for manufacturing cannot be reduced or eliminated);
- The President can increase the amount, or amend the scope, of the supplemental tariffs in response to retaliatory actions by Canada, Mexico, or China; and
- Minor exemptions under 50 U.S.C. §1702(b) include:
    - Personal communication (*e.g.*, by mail) that "does not involve a transfer of anything of value;"
    - Donations for use as humanitarian aid;
    - Information or informational material, including "publications, films, posters, phonograph records, photographs, microfilms, microfiche, tapes, compact disks, CD ROMs, artworks, and news wire feeds"; and
    - Personal exemptions related to travel to the United States.

Retaliatory actions from Canada, Mexico, and China

On February 1, 2025, Canada, Mexico, and China publicly announced their own plans for retaliatory actions against the United States. Among the actions announced:

- Canada issued the "United States Surtax Order (2025)" implementing a 25% supplemental tariff, effective from February 4, 2025, on a variety of US-origin goods totaling approximately CA $30 billion. Canada published the initial tranche of impacted goods in its list of 1,200+ tariff classifications subject to the supplemental tariffs;
- Canada further indicated that it plans to expand the scope of products covered by its 25% supplemental tariff to cover an additional CA $125 billion in goods after a 21-day public comment period;
- Mexico planned to implement tariffs and countermeasures, originally indicating that details would be provided as soon as February 3, 2025. However, such details were pre-empted on February 3, 2025, by an agreement with the United States to a postpone the implementation of tariffs on products of Mexico by one month; and
- The Chinese Ministry of Commerce stated that China intends to challenge the US's supplemental tariffs through the World Trade Organization's Dispute Settlement procedures and will "take necessary countermeasures to firmly safeguard its rights and interests."

On February 3, 2025, Mexico and Canada both reached agreements with the United States postponing the effective date of the tariffs—30 days for Canada and "one month" for Mexico—based on actions they each agreed to take to improve border security.

What importers and businesses can do

It is important that importers into the impacted jurisdictions respond now to the tariff increases mentioned above, and any other actions that the Trump administration and the other governments may take, by strategically evaluating their supply chains in a holistic manner. Effective tariff planning requires coordination across multiple functions within the company (including tax, finance, supply chain, manufacturing, etc.) and takes time to properly complete and additional time to implement. Importers and businesses should consider the following strategies:

- Understand your supply chain and import activity through analytics of declaration data available from the customs authorities.
- Quantify exposure in impacted jurisdictions and in other markets (from potential retaliatory tariffs) through scenario planning.
- Evaluate pricing and agreements for intangibles to identify and separate non-dutiable charges from the customs value to lower duty costs.
- Evaluate transfer prices to determine optimal margins within interquartile ranges and, in the United States, utilize the CBP Reconciliation program to report customs value adjustments stemming from transfer pricing adjustments and enable duty refunds when applicable.
- For imports into the United States, create or leverage existing multi-tiered transactions preceding importation to remove non-dutiable costs and support First Sale for Export.
- Assess feasibility of, and design, various duty reduction strategies that remain available.

Contacts

Kristine Dozier (Denver)

Helen Cousineau (Chicago)

Deloitte.com | Legal | Privacy

30 Rockefeller Plaza
New York, NY 10112-0015
United States

This alert contains general information only and Deloitte is not, by means of this alert, rendering accounting, business, financial, investment, legal, tax, or other professional advice or services. This alert is not a substitute for such professional advice or services, nor should it be used as a basis for any decision or action that may affect your business. Before making any decision or taking any action that may affect your business, you should consult a qualified professional advisor. Deloitte shall not be responsible for any loss sustained by any person who relies on this alert.

As used in this document, “Deloitte” means Deloitte Tax LLP, a subsidiary of Deloitte LLP. Please see www.deloitte.com/us/about for a detailed description of our legal structure. Certain services may not be available to attest clients under the rules and regulations of public accounting.

Copyright © 2025 Deloitte Development LLC. All rights reserved.