



US International Tax Alert

Trump administration's America First Trade Policy, potential tariffs on horizon for Mexico/Canada/China goods, CBP proposed action to limit *de minimis* rule

President Trump started his second term as US President by taking several actions to implement his campaign proposals on tariffs and trade. US importers should consider preparing now for the potential impacts from Trump administration actions that seem to be coming soon.

On January 20, 2025, President Trump issued a Presidential Action setting forth his administration's "[America First Trade Policy](#)" and ordering various federal agencies to conduct multi-faceted, wide-scale investigations on a multitude of trade topics – from unfair foreign trade practices; currency manipulation; and discriminatory action or extraterritorial taxes on US citizens or corporations; to US-Mexico-Canada Agreement's (USMCA) impact on imports that may threaten national security based on import quantity or circumstance. Most reports must be completed by April 1, 2025. Many topics of investigation point toward current pieces of legislation that grant the President the power to issue tariffs to address specifically determined circumstances.

Also on Day 1, President Trump declared a national emergency at the US southern border, which lays the groundwork for further action on potential near-term tariffs on imports from Mexico, Canada, and China. He offered commentary that evening that 25% tariffs on imports from Canada and Mexico could commence on February 1, 2025. He followed up the next day by commenting that supplemental 10% tariffs on imports from China could also commence on February 1, 2025. The timing, when considered with the national emergency declared on the US southern border, suggests that the basis of authority for these tariffs would likely be the International Emergency Economic Powers Act (IEEPA).

Separately, on January 21, 2025, the *Federal Register* published a notice of proposed rulemaking issued by US Customs and Border Protection (CBP) during the Biden administration on January 17, 2025, and developed pursuant to an Executive Order on "Trade and National Security Actions and Low-Value Shipments." The proposed rules seek to prohibit the administrative duty exemption for low-value (*de minimis*) imports under \$800 for "merchandise that is subject to specified trade or national security actions," for example, low-value shipments from China that are otherwise subject to Section 301 of the Trade Act of 1974. The Trump administration must now determine the disposition of this rulemaking.

What US importers and businesses can do to prepare

It is important that US importers prepare now for potential increases to tariff exposure, whether from the above-mentioned processes or other actions that this administration 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. US importers and businesses should consider the following strategies to prepare for these potential tariffs:

- Understand your supply chain and import activity through analytics of CBP declaration data;
- Quantify exposure in the US and in other markets (from potential retaliatory tariffs) through scenario planning;
- Evaluate pricing 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 utilize the CBP Reconciliation program to report transfer pricing adjustments and enable duty refunds when applicable;
- Create multitiered transactions preceding importation to remove non-dutiable costs and support First Sale for Export; and
- Assess feasibility of, and design, various duty reduction strategies.

Detail on the actions ordered in the “America First Trade Policy”

The Presidential Action orders the Secretaries of State, Treasury, Defense, Commerce, and Homeland Security, the Director of the Office of Management and Budget, the US Trade Representative, the Assistant to the President for Economic Policy, and the Senior Counselor for Trade and Manufacturing to simultaneously undertake 23 distinct investigations of various trade issues. In most cases, they are to report to the President by April 1, 2025.

We summarize below the initial actions that have been ordered, grouped by the lead party responsible for undertaking the action, developing recommendations, and reporting to the President.

- Actions led by the Secretary of Commerce to be reported by April 1, 2025:
 - Investigate the causes, and the economic and national security implications and risks, of the US’s trade deficits in goods;
 - Review current policies and regulations applying antidumping and countervailing duty laws to transnational subsidies, cost adjustments, affiliations, and “zeroing,” and review the effectiveness of procedures intended to induce compliance during verification proceedings;
 - Assess legislative proposals on the Permanent Normal Trade Relations status of China;
 - Assess the treatment of US intellectual property rights granted to China “persons”;

- Conduct a full economic and security review of the US industrial and manufacturing base to determine if investigations under Section 232 of the Trade Expansion Act of 1962 are warranted;
- Review and assess the effectiveness of the exclusions, exemptions, and other import adjustment measures on steel and aluminum implemented in 2018 under Section 232 of the Trade Expansion Act of 1962;
- Review the US export control system to address changes to “strategic adversaries and geopolitical rivals” and to maintain, obtain, and enhance the US’s technological edge and to identify and eliminate loopholes;
- Review the final rule published by the Bureau of Industry and Security on January 16, 2025, under the Biden administration, “Securing the Information and Communications Technology and Services Supply Chain: Connected Vehicles”; and
- Assess the impact of unlawful migration and fentanyl flows, primarily from Canada, Mexico, and China, but also from other relevant countries.
- Actions led by the US Trade Representative to be reported by April 1, 2025:
 - Identify and review countries with unfair trade practices;
 - Commence a public consultation process and assess the impact of the USMCA in preparation for the July 2026 review of the USMCA;
 - Review the impact of existing US free and sectoral trade agreements to identify revisions “necessary or appropriate to achieve or maintain the general level of reciprocal and mutually advantageous concessions”;
 - Identify countries with which the US can partner through agreements to “obtain export market access for American workers, farmers, ranchers, service providers, and other businesses”;
 - Review the impact of all trade agreements, including the World Trade Organization Agreement on Government Procurement, on the volume of federal procurement under Executive Order 13788, “Buy American and Hire American”;
 - Review China’s compliance with its obligations under the “Economic and Trade Agreement Between the Government of the United States of America and the Government of the People’s Republic of China” dated January 15, 2020;
 - Assess the May 14, 2024, report by the Biden administration on the “Four-Year Review of Actions Taken in the Section 301 Investigation: China’s Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation” to determine potential additional tariff modifications and other actions needed under Section 301 of the Trade Act of 1974; and
 - Investigate “other acts, policies, and practices by [China] that may be unreasonable or discriminatory and that may burden or restrict US commerce.”

- Actions led by the Secretary of the Treasury to be reported by April 1, 2025:
 - Investigate the feasibility of establishing an External Revenue Service to collect tariffs, duties, and other foreign trade-related revenues;
 - Review and assess the foreign exchange policies and practices of US trading partners with respect to the currencies exchanged with the US dollar;
 - Assess the loss of revenues and risks arising from imports of counterfeit goods and illicit drugs using the Section 321 administrative exemption for imports of under \$800;
 - Investigate whether any foreign country subjects US citizens or corporations to discriminatory or extraterritorial taxes;
 - Identify countries for designation as currency manipulators and recommend corrective measures; and
 - Review Executive Order 14105, “Addressing US Investments in Certain National Security Technologies and Products in Countries of Concern,” as well as the final rule published by the Department of the Treasury on November 15, 2024, “Provisions Pertaining to US Investments in Certain National Security Technologies and Products in Countries of Concern.”
- Actions led by the Director of the Office of Management and Budget to be reported by April 30, 2025:
 - Assess the impact of foreign subsidies and other foreign financial contributions on US federal procurement programs.

The actions and reports outlined above are expected to lead to the Trump administration’s promised issuance of significant supplemental tariffs and other trade measures and actions based on various pre-existing grants of legal authority by Congress that provide for the imposition of tariffs and other trade measures by the President for a variety of reasons, including:

- A large and serious US balance-of-payments deficit; the imminent and significant depreciation of the dollar in foreign exchange markets; the correction of an international balance-of-payments disequilibrium (Section 122 of the Trade Act of 1974);
- The injury or threat of injury to domestic industries (Section 201 of the Trade Act of 1974);
- To respond to or retaliate against an act, policy, or practice of a foreign government that violates a trade agreement, is unjustified, unreasonable, or discriminatory, and burdens or restricts US commerce (Section 301 of the Trade Act of 1974);
- To remedy an article being imported into the US in such quantities or under such circumstances as to threaten or impair national security (Section 232 of the Trade Expansion Act of 1962);
- A foreign country’s discrimination against products of the US or the e-commerce of the US (Section 338 of the Tariff Act of 1930); or
- A national emergency (Section 203(a)(1)(B) of the IEEPA).

Depending on their scope, such measures could have wide-scale impacts to numerous sectors of the US economy as well as to individually affected companies. Further, they could likely result in retaliatory measures being undertaken by impacted foreign trade partners.

Potential tariffs on Canada, Mexico, and China

On his first evening in office, President Trump signed 58 executive orders and other presidential actions. During the signing event in the Oval Office, he commented on long-threatened tariffs of 25% on imports from Canada and Mexico, stating that such tariffs may be imposed on February 1, 2025. In addition, he indicated that a long-threatened increase to current supplemental tariffs on goods of Chinese origin by 10% may be imposed on February 1, 2025. In either case, a new Presidential Action and/or Executive Order addressing the authority and rationale for such actions would be needed to implement such tariffs. The basis of authority for these tariffs would likely be IEEPA based on the declaration of a national emergency.

Proposed rule to modify *de minimis* imports

Finally, on January 21, 2025, the *Federal Register* published a notice of proposed rulemaking submitted by CBP that proposes to amend the CBP regulations related to the administrative exemption from duties for certain shipments under \$800 (*e.g.*, the *de minimis* exemption). Of note, the proposed rule seeks to make goods that are subject to specific trade or national security actions—Section 201, 232, and 301—ineligible for the *de minimis* exemption. Certain shipments claiming the exemption would also be required to provide the 10-digit US tariff classification of said goods. While the notice seeks public comments on the proposed rulemaking by March 24, 2025, this timing may be impacted by the regulatory freeze ordered by President Trump on January 20, 2025, although, notably, it appears to align with the Trade Policy issued by President Trump.

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