

THOUGHT LEADERSHIP

LEGAL UPDATES

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Trump Administration Kicks Off February with Major Trade-Related Actions

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Our team's annual report on international trade, published in December 2024, alerted readers that the incoming Trump administration would likely be quick to impose additional tariffs on goods from major U.S. trading partners, including the use of the International Emergency Economic Powers Act of 1977 (IEEPA) to accomplish this end, even though no prior administration had ever sought to impose tariffs via IEEPA. On February 1, 2025, the Trump administration did precisely that, issuing three Executive Orders (EOs) that threatened to impose additional tariffs on goods from Canada, Mexico, and China. The EOs were premised on Section 1702(a)(1)(B) of the IEEPA and declared a national emergency due to increased immigration and fentanyl flows into the U.S.

The impacts of the EOs are as follows:

Products from Canada subject to tariffs:

An additional 25% tariff will be applied to any already applicable duties, fees or charges unless an "energy or energy resource" article as referenced below. An additional 10% tariff will be applied to "energy or energy resources" which is currently defined as the following: crude oil, natural gas, lease condensates, natural gas liquids, refined petroleum products, uranium, coal, biofuels, geothermal heat, hydropower, and critical minerals.

The additional duties will not apply to articles admitted into a Foreign Trade Zone under "domestic status."

Products covered: The EO applies to “[a]ll articles that are products of Canada” which has not yet been defined; however, reporting suggests that this definition will include those products with Canada as the Country of Origin, including USMCA goods.

Products from Mexico subject to tariffs

An additional 25% tariff will be applied to any already applicable duties, fees or charges.

The additional duties will not apply to articles admitted into a Foreign Trade Zone under “domestic status.”

Products covered: The EO applies to “[a]ll articles that are products of Mexico” which has not yet been defined; however, reporting suggests that this definition will include those products with Mexico as the Country of Origin, including USMCA goods.

On Monday February 3, 2025, President Trump announced that he would be delaying the imposition of tariffs on Mexico and Canada for one month pending negotiations with Mexican President Claudia Sheinbaum and Prime Minister Justin Trudeau. This delay follows Mexico’s announcement that it would station 10,000 national guard troops at the US-Mexico border in an effort to stop the flow of drugs, including fentanyl, into the U.S. Canada also stated that it would send 10,000 frontline personnel to the border and Prime Minister Trudeau stated he had signed a directive on organized crime and fentanyl.

Products from China subject to tariffs

An additional 10% tariff will be applied to any already applicable duties, fees or charges. This will be in addition also to any existing Section 301 duties on specific products.

The additional duties will not apply to articles admitted into a Foreign Trade Zone under “domestic status.”

Products covered: The EO applies to “[a]ll articles that are products of the PRC” which has not yet been defined; however, we believe that this definition will include those products with China as the Country of Origin.

Additionally, the 10% tariff will not apply to goods properly entered under a provision of HTSUS Chapter 98 pursuant to applicable CBP provisions, with the clarification that for goods entered under HTSUS 9802.00.80 the 10% tariff will be owing on the value of the article attributable to assembly in

China and for goods entered under HTSUS 9802.00.40, 9802.00.50, or 9802.00.60 the 10% tariff will apply to the value of any repairs, alterations, or processing performed in China.

Based on the language in the EO^s, the new IEEPA tariffs will remain in effect until the President determines that the Governments of Canada, Mexico, and China have taken “sufficient action to alleviate the crisis” including through cooperative enforcement actions. For information regarding specific provisions in the Canada-related EO, please consult our team’s February 2 blog post.

An Escalation in Trade Friction

Predictably, the Trump administration orders have prompted a retaliatory response from Canada, Mexico, and China. Each of those three countries has indicated that if the IEEPA tariffs are imposed, it plans to enact countermeasures, although the scope of those actions is not yet fully known. On February 1, 2025, Canada imposed retaliatory tariffs against the U.S. Prime Minister Trudeau announced 25% tariffs on certain U.S.-origin imports, (i.e., those goods eligible to be marked as a good of the U.S. in accordance with the Determination of Country of Origin for the Purposes of Marking Goods [CUSMA Countries] Regulations). The Canadian retaliatory tariffs were originally anticipated to begin Tuesday, February 4, and were anticipated to cover \$30 billion of U.S. goods. Additional Canadian retaliatory tariffs were scheduled to take effect on February 21 on \$125 billion of U.S. goods. Canada’s tariffs were expected to cover U.S.-origin food and beverages, including beer, wine, spirits, and fruit, in addition to apparel, household appliances, and a variety of other items. The full list of items identified by tariff code can be found [here](#).

Canada stated that its tariffs “will remain in place until the U.S. eliminates its tariffs against Canada.” U.S. goods that were in transit to Canada on February 1 were not intended to be subject to the Canadian retaliatory tariffs.

In addition to the retaliatory tariffs, certain Canadian provinces including Ontario, British Columbia, and Nova Scotia, announced “non-tariff” measures in response to the U.S. IEEPA tariffs, including the removal of U.S.-origin liquor and other alcohol beverages from government stores.

Mexico and China have also signaled their intention to counter any U.S. IEEPA tariffs, including a mix of tariff and non-tariff measures, as well as World Trade Organization litigation. Neither Mexico nor China has provided further specifics on their next steps.

What this means to you

Given its unprecedented use of IEEPA to impose tariffs, the Trump administration is likely to face legal challenges, even though IEEPA grants the President broad powers to address any “unusual or extraordinary threat to national security, foreign policy, or economy of the United States” with respect to which the President has declared an emergency. The novel circumstances of these EO^s will test how

broad these powers actually are, and litigants will likely contest the definitions of key terms and language, such as “national emergency,” “unusual and extraordinary threat,” and “national security, foreign policy, or economy.”

Having said this, courts have generally deferred to the President in matters of national security and foreign policy. Businesses impacted by the latest round of import tariffs or actions of trading partners are advised to review their supply chain and consult with experts to evaluate mitigation strategies.

Our team will continue to closely monitor international trade policy, both in the U.S. and globally, and provide updates as needed.

Contact us

If you have questions regarding the latest round of IEEPA-related tariffs or other questions related to trade policy, please contact our International Trade & Supply Chain team or your Husch Blackwell attorney.