

Trump Administration Announces New Tariffs on China, Canada, Mexico Effective February 4; Retaliatory Measures by Target Countries in Process

February 2, 2025

On February 1, 2025, President Trump signed three Executive Orders imposing additional tariffs on goods from Canada, Mexico, and China, pursuant to the International Emergency Economic Powers Act (IEEPA). The President cited “the extraordinary threat posed by illegal aliens and drugs, including deadly fentanyl,” as the basis for the tariffs in a White House fact sheet describing the reasons for the actions.

Details regarding the tariffs, including the precise product coverage as defined by the classification of goods under the Harmonized Tariff Schedule of the United States, and the country-of-origin rules to be applied, are pending. These details are expected to be provided in a forthcoming *Federal Register* notice that is referenced in the Executive Orders, and which is expected on February 3. In the meantime, the following information has emerged:

- **Duty Rates:**

- *Canada:* A 25% duty to be imposed on covered goods, except “energy products,” for which the duties will be 10%. “Energy products” include crude oil, natural gas, lease condensates, natural gas liquids, refined petroleum products, uranium, coal, biofuels, and critical minerals as defined by the Department of Interior Secretary.
- *Mexico:* A 25% duty to be imposed on covered goods, without exception.

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- *China*: A 10% duty to be imposed on covered goods, without exception.
- **Effective Date:**
 - For all three orders, the tariffs apply to goods entered for U.S. consumption as of 12:01 a.m. on Tuesday, February 4, 2025, unless the goods were loaded onto their final mode of transport prior to entry into the United States before 12:01 Eastern time on February 1, 2025.
- **Scope:**
 - The orders each state that tariffs will apply to “**all** articles that are products of the [relevant country], as defined by the *Federal Register* notice described in section 2(d) of this order.” The *Federal Register* notice(s) are likely to be released on Monday, February 3.
 - The orders do not indicate that there will be any process by which importers can petition for product-specific exclusions from the tariffs. That said, the *Federal Register* notices implementing the tariffs may include further details.
- **De Minimis Treatment:**
 - The articles subject to the additional tariffs are ineligible for duty-free entry under the “de minimis” entry program established under 19 U.S.C. 1321. This program allows certain low-value shipments to pass without duties and has widely been used to facilitate direct-to-consumer e-commerce shipments.
 - De minimis shipments currently enter the United States duty-free with minimal entry requirements. The language in the Executive Orders appears to provide that all benefits of de minimis treatment no longer apply to products of the three countries. As a result, importers may need to pay any other duties applicable to the products, in addition to those imposed in this action.
- **Retaliation:**
 - All three orders note that tariff levels may increase or expand in scope if the target countries impose retaliatory tariffs.

Canada has already announced that it will impose 25% retaliatory tariffs against \$155 billion in American goods.

- An initial group of products, accounting for \$30 billion in annual imports, will be subject to the retaliatory tariffs starting on February 4, 2025; the remaining group of products, accounting for \$125 billion in annual imports, will be subject to retaliatory tariffs effective February 25, 2025.
- Canada has released the list of goods that will be covered by the initial, \$30 billion round of retaliatory tariffs. They include:
 - beer, wine, and bourbon
 - fruits and fruit juices
 - certain wood and paper products

- carpets, clothing, and shoes
- sports equipment
- household appliances
- certain hand tools, knives, razors, and scissors
- motorcycles
- drones
- revolvers, pistols, and rifles
- certain furniture

Mexico has also announced that it will retaliate but has not yet released details. China has not yet indicated whether it intends to retaliate.

Legal Authority

As noted above, the legal tool that the President is using to enact the tariffs is IEEPA. Although U.S. courts have been highly deferential to Presidential action based on national security determinations, IEEPA has primarily been used to apply sanctions and there is no language in the law that explicitly allows for the application of tariffs. As a result, there may be court challenges to the tariffs. It is possible that a U.S. court may enjoin the tariff actions until they determine that the President has the legal power to apply tariffs under the law. Congress also has the authority to stop any action taken under IEEPA powers through the passage of a joint resolution, but it has never taken that step.

For any questions or further information on these new tariffs, please contact any of the attorneys listed on this notice.

To stay informed on all of the Executive Orders and announcements from the Trump Administration, please visit our dedicated resource center below.

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