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# President Trump's Tariffs: Navigating Responses for Companies

May 14, 2025



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# CUSTOMS 101

# TARIFFS = DUTY

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**ALL IMPORTS MUST BE DECLARED TO CUSTOMS (CBP) AT TIME OF IMPORTATION**

**IMPORTER OF RECORD (IOR) SOLELY RESPONSIBLE FOR PAYING DUTY UPON ENTRY AND ADDITIONAL DUTY WHICH MAY BE DUE UPON LIQUIDATION (NORMALLY 314 DAYS FROM ENTRY)**

**DUTY DUE MUST BE PAID WITHIN 10 DAYS OF ENTRY; GOODS CAN BE RELEASED BEFORE PAYMENT**

**IMPORTER REQUIRED TO POST BOND AS SECURITY BOND AMOUNT SET BY CUSTOMS**

**SURETY MAY DEMAND COLLATERAL TO SECURE BOND**

**FIRST U.S. BUYER NORMALLY ACTS AS IOR**

**IOR ALSO CAN BE FOREIGN SELLER OR AGENT**

**IOR REQUIRED TO EXERCISE REASONABLE CARE IN ENTERING GOODS**

**DUTY DUE IS FUNCTION OF C X V X COO**

**C = CLASSIFICATION**

**IMPORTS CLASSIFIED IN ONE OF SEVERAL THOUSAND HARMONIZED TARIFF SCHEDULE (HTS) SUBHEADINGS**

**DUTY RATES DEPEND ON CLASSIFICATION**

**V = VALUE**

**DUTY RATES BASED ON VALUE DECLARED TO CBP NORMALLY PRICE PAID BY BUYER TO SELLER WITH EXCEPTIONS AND QUALIFICATIONS**

**COO = COUNTRY OF ORIGIN**

**DUTY RATES DEPEND ON COO**

**COO BASED ON MANUFACTURE – NOT EXPORTATION**

**SUBSTANTIAL TRANSFORMATION TEST APPLIES TO GOODS PROCESSED IN MULTIPLE COUNTRIES**

# OVERVIEW OF THE PRE-TRUMP TARIFF REGIME

Tariffs, which are taxes imposed on imported goods, can significantly impact the cost of goods, influence trade balances and impact relationships between trading nations.

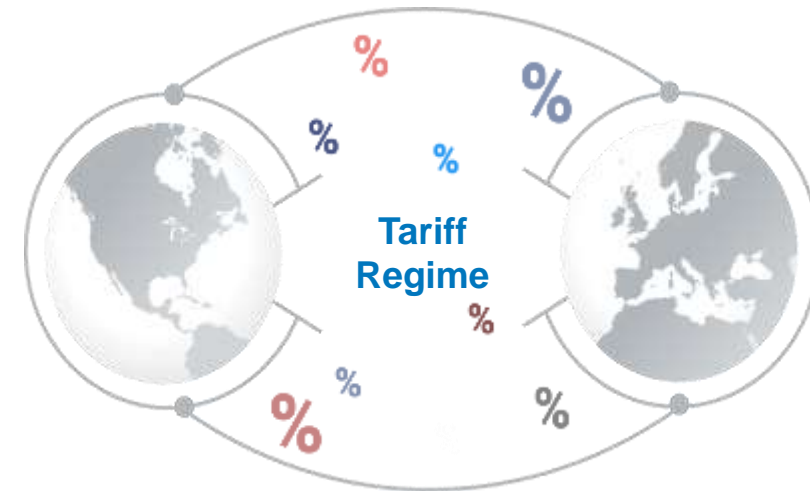
The U.S. maintains a multi-faceted tariff regime to regulate imports, protect domestic industries and address trade imbalances:

- Simple average final bound tariff rate of approximately 3.4% on imported goods.
- Tariffs on industrial, including machinery, vehicles and electronics, and agricultural products vary by product type, trade agreement and country of origin.

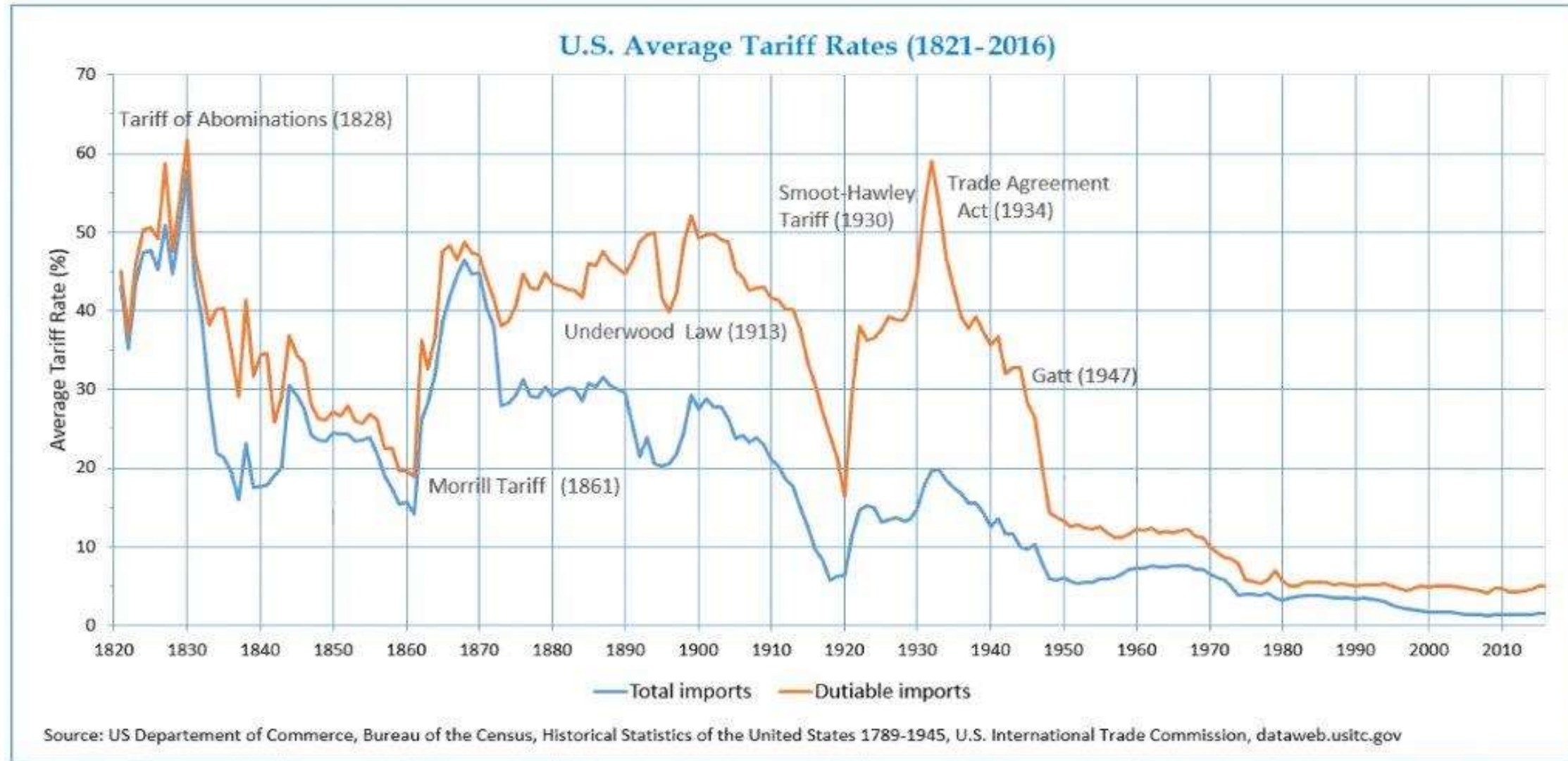
Since 2018, the U.S. has imposed additional tariffs on Chinese imports ranging from 7.5% to 100% depending on product category.

Most goods imported from Mexico and Canada have entered the U.S. duty-free; however, there are some agricultural imports that are subject to additional tariffs and quotas.

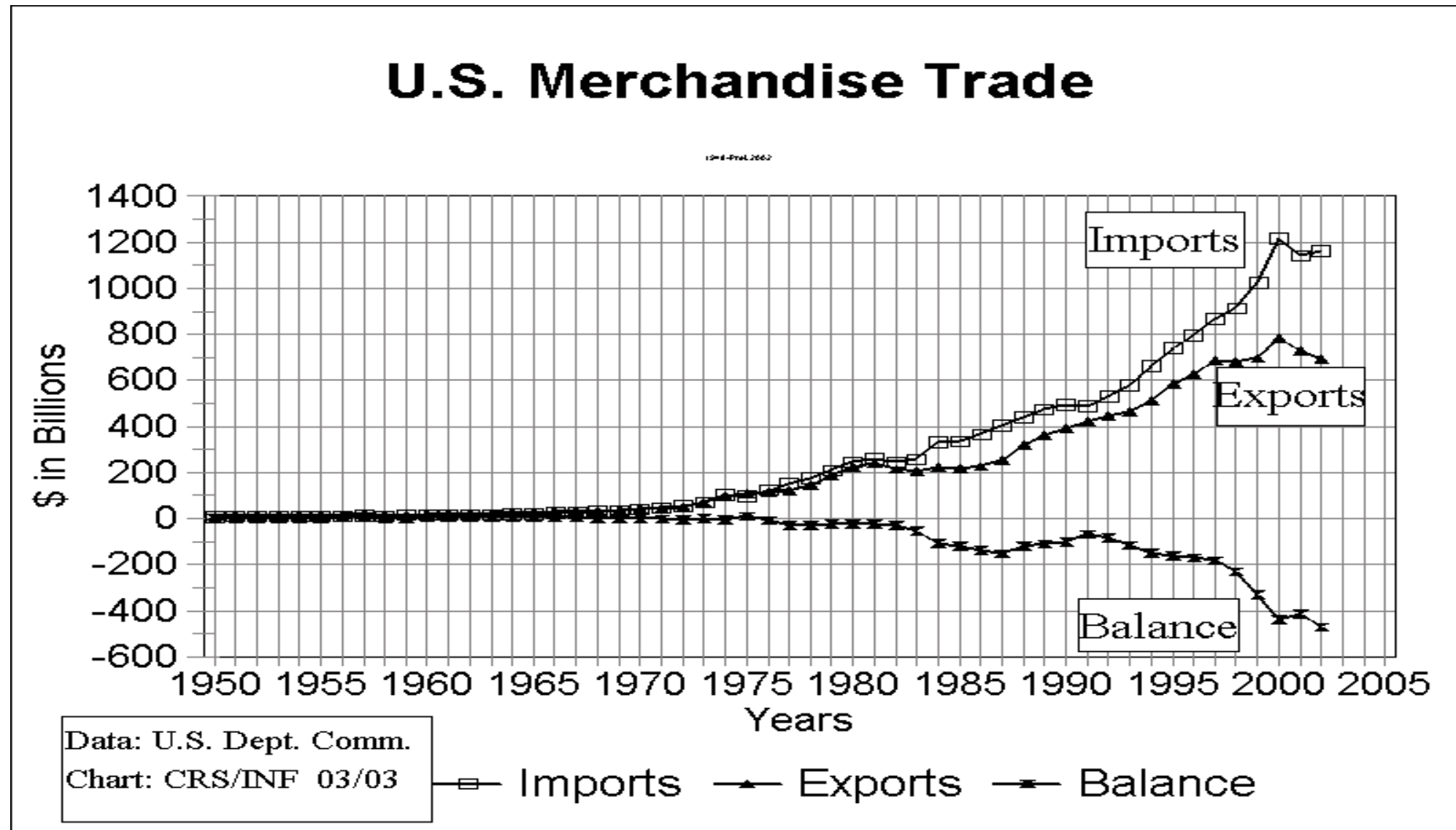
Goods from the European Union are subject to an average tariff rate of approximately 2-3% with additional tariffs of 10% to 25% for certain products, including steel and aluminum, and even higher tariffs for certain agricultural imports.



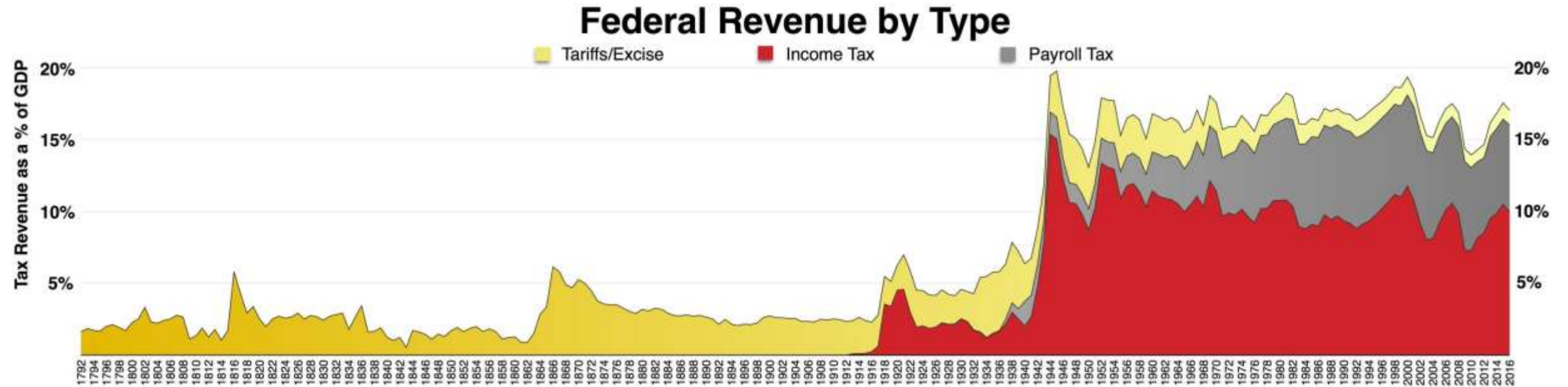
# U.S. Average Tariff Rates (1821-2016)



# U.S. Merchandise Trade Data: 1948-2002



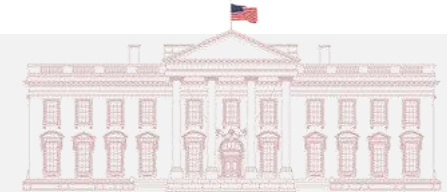
# Federal Revenue by Type





# AMERICA FIRST TRADE POLICY

## Tariffs and Trade





Effective January 20, 2025

## Summary


- Tasks the Secretary of Commerce, the Secretary of the Treasury and the United States Trade Representative (USTR), with examining U.S. trade deficits, assessing implications and recommending measures like a global tariff.
- Directs the Secretaries of the Treasury, Commerce and Homeland Security to explore creating an External Revenue Service for trade-related revenues.
- Tasks the USTR to identify unfair trade practices and recommend counteractions using existing legal authorities; evaluate the U.S.-Mexico-Canada Agreement (USMCA) and provide recommendations on U.S. participation; review and revise trade agreements for reciprocal benefits and identify new agreement opportunities; and review the China trade agreement and recommend tariffs or actions against discriminatory practices.
- Requests the Secretary of Treasury review currency policies of major trading partners for manipulation or misalignment.
- Instructs the Secretary of Commerce to modify antidumping and countervailing duty policies for compliance; evaluate U.S. intellectual property rights with China for balanced treatment; and review the U.S. industrial base for national security, import measures and export controls.



# Fentanyl IEEPA

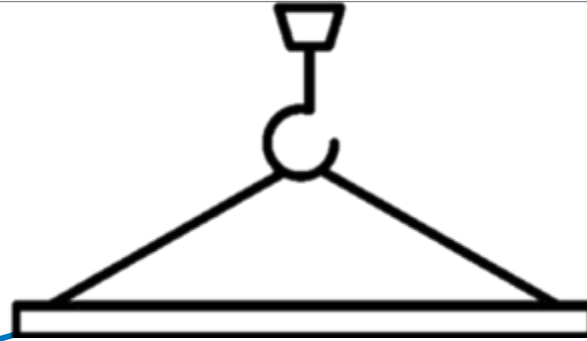
Country	Action	Product	Rationale	Response	Current Status
<div>CHINA</div> <div></div>	<ul style="list-style-type: none"><li>February 1, 2025 – Trump imposed additional 10% tariffs on all imports from China, supplementing existing tariffs, under the International Emergency Economic Powers Act (IEEPA), effective February 4, 2025; tariff raised to 20% effective March 4, 2025</li><li>Applicable to Hong Kong origin goods in contrast to previous 301 and 232 duties against China</li></ul>	<ul style="list-style-type: none"><li>All</li></ul>	<ul style="list-style-type: none"><li>Address the threat posed by illegal aliens and drugs (e.g., fentanyl) that constitutes a national emergency under the IEEPA</li></ul>	<ul style="list-style-type: none"><li>China imposed retaliatory tariffs on U.S. agricultural products, automobiles, energy products and other goods</li><li>China implemented restrictions on the export of several elements / minerals critical to the production of modern high-tech products and launched an antimonopoly investigation into Google</li></ul>	
<div>CANADA</div> <div></div>	<ul style="list-style-type: none"><li>February 1, 2025 – Trump announced an additional 25% tariff on all imports and a reduced 10% tariff for energy and potash from Canada, under the IEEPA. Tariffs took effect March 4, but as of March 7, any USMCA eligible goods are exempt</li><li>IEEPA duties can increase in response to retaliation</li></ul>	<ul style="list-style-type: none"><li>All</li></ul>	<ul style="list-style-type: none"><li>Address the threat posed by illegal aliens and drugs (e.g., fentanyl) that constitutes a national emergency under the IEEPA</li></ul>	<ul style="list-style-type: none"><li>Canada pledged a 25% tariff against CA\$155 billion worth of U.S. goods in two stages: (1) immediate tariffs on approximately CA\$30 billion worth of U.S. products; and (2) further tariffs on CA\$125 billion worth of U.S. products, subject to public consultation</li></ul>	<ul style="list-style-type: none"><li>Tariffs in effect for non-USMCA eligible good</li></ul>

# Fentanyl IEEPA (cont.)

Country	Action	Product	Rationale	Response	Current Status
<div><div>MEXICO</div><div></div></div>	<ul style="list-style-type: none"><li>February 1, 2025 – Trump announced an additional 25% tariff on all imports from Mexico, and a reduced 10% tariff for energy and potash from Mexico, under the IEEPA; tariffs took effect March 4, but as of March 7, any USMCA eligible goods are exempt</li><li>IEEPA duties can increase in response to retaliation</li><li>U.S. owned Mexican maquiladoras receive no special treatment</li></ul>	<ul style="list-style-type: none"><li>All</li></ul>	<ul style="list-style-type: none"><li>Address the threat posed by illegal aliens and drugs (e.g., fentanyl) that constitutes a national emergency under the IEEPA</li></ul>	<ul style="list-style-type: none"><li>Mexico announced a “Plan B,” which included non-specific tariff and non-tariff measures</li></ul>	<ul style="list-style-type: none"><li>Tariffs in effect for non-USMCA eligible good</li></ul>

# Fentanyl IEEPA

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- Foreign Trade Zones (FTZs) cannot be used to store goods temporarily as a way to avoid the new duties. Goods entering the FTZ will be subject to the additional duty upon withdrawal from the FTZ.
- Drawback (i.e., refund of customs duties, taxes, and tariffs paid on imported goods) is not available with respect to these IEEPA duties.
- The IEEPA duties are in addition to any other duties owed (e.g., 301 duties).
- There is no limit for how long the IEEPA duties can remain in place.



# NEW STEEL AND ALUMINUM TARIFFS

Country	Action	Product	Rationale	Response	Current Status
ALL APPLICABLE COUNTRIES*	<ul style="list-style-type: none"><li>February 10 and 11, 2025 – Trump issued two Presidential Proclamations under Section 232 of the Trade Expansion Act of 1962, making major changes to U.S. tariff policy on steel and aluminum imports. Imposes 25% tariff on affected products from all countries.</li></ul>	<ul style="list-style-type: none"><li>Steel and aluminum and their derivative products</li></ul>	To remove the threatened impairment of the national security of the U.S.	<ul style="list-style-type: none"><li>The EU planed retaliation but after Trump’s pause on tariffs, also paused tariff retaliation; In response to the 232 tariffs on steel and aluminum, as of 12:01 am on March 13 Canada imposed 25 percent reciprocal tariffs on C\$12.6 billion worth of steel products, C\$3 billion worth of aluminum products, and C\$14.2 billion worth of additional goods imported from the US</li></ul>	<ul style="list-style-type: none"><li>Tariffs took effect March 12, 2025</li></ul>



# UNDERSTANDING THE NEW STEEL AND ALUMINUM TARIFFS



- The Proclamation on steel imports reinstated 25% tariffs on all steel imports and derivatives covered by the prior Section 232 actions for all countries, effective March 12, 2025. Imposed tariffs on new steel derivatives.
  - The Proclamation on aluminum imports increased tariffs on aluminum and aluminum derivative articles covered by the prior Section 232 actions – regardless of origin – from 10% to 25%, effective March 12, 2025, cumulative with any other applicable tariffs. Imposed tariffs on new aluminum derivatives.
  - All imports of derivative aluminum articles that are the product of Russia and all imports of derivative aluminum articles where any amount of primary aluminum used in the manufacture of the derivative aluminum articles is smelted in Russia, or the derivative aluminum articles are cast in Russia, will be subject to a 200% duty.
- Countries that once benefitted from reduced tariff agreements under the prior Section 232 actions – Australia, Canada, Mexico, South Korea, Brazil, Argentina, the EU, Japan and the UK – will now face the same treatment as all other exporting countries.
  - The product exclusion process is eliminated and granted product exclusions currently in place will remain effective until their expiration date or until the excluded product volume is imported, whichever occurs first.
  - The U.S. Customs and Border Protection (CBP) is directed to strictly enforce perceived misclassifications that avoid the steel and aluminum tariffs and to seek the maximum penalty for any such violation.
  - No mitigation of any penalty assessed will be permitted.

# UNDERSTANDING THE NEW STEEL AND ALUMINUM TARIFFS (CONT.)

- The Proclamations include the steel and aluminum derivative products previously covered by the Section 232 tariffs.
  - The Proclamations instruct the Secretary of Commerce, within 90 days, to establish a process to identify additional derivative products that may become subject to the 25% tariffs.
  - On February 14, 2025, the Trump administration released an initial list of additional derivative products that will be subject to the 25% steel and aluminum tariffs. These tariffs took effect on March 12.
  - Effective April 4, there will also be a 25% tariff on beer and beer cans.
  - For derivatives classified in Chapter 73 or 76, the 25% tariff will apply to the full product value.
  - For derivatives classified outside of Chapter 73 or 76, the 25% tariff will only apply to the value of the steel or aluminum content, not the entire product.
  - Importers must declare country of melt and pour (steel) or smelt and cast (aluminum) for any steel or aluminum content, even if country of origin of total product is different.
- The steel and aluminum derivative tariffs will impact a broad range of downstream products, including the following:
    - Nearly all of Chapter 73, including gazebos, canopies and the like; certain household articles of aluminum; steel and aluminum furniture; parts of lighting; stoves, ranges, barbecues, and their parts; steel and aluminum cookware; aluminum doors, windows, and their frames; parts for electric water heaters, hair dryers, and similar household appliances; some exercise and sporting equipment.



# AUTOMOBILE AND PARTS TARIFFS

Country	Action	Product	Rationale	Response	Current Status
ALL APPLICABLE COUNTRIES	3/26/2025, Trump issued a proclamation imposing a 25% tariff on automobiles and certain automobile parts under Section 232; importers of automobiles under USMCA will be assessed the 25% tariff only on the value of their non-U.S. content; USMCA-compliant automobile parts will remain tariff-free until the Secretary of Commerce, in consultation with U.S. Customs and Border Protection (CBP), establishes a process to apply tariffs to their non-U.S. content	<ul style="list-style-type: none"><li>• Passenger vehicles and light trucks, as well as key automobile parts</li></ul>	Addressing a critical threat to U.S. national security		April 3, 2025, for vehicles, May 3 for parts
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# AUTOMOBILE AND PARTS TARIFFS

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Proclamation issued March 26, 2025 imposing tariffs on passenger vehicles and light trucks; and specified automotive parts, under Section 232 pursuant to a Report issued in 2019.

Effective April 3 for automobiles.

USMCA eligible vehicles -- Importers can obtain approval from Secretary of Commerce to have duty assessed only on value of non-US content

Effective May 3 for parts listed in Annex. Covered parts listed in Chapter 99 Note 33

USMCA qualifying parts currently exempt until Commerce/CBP have process to apply tariff exclusively to value of non-US content

232 tariffs are in addition to any other tariffs (MFN, IEEPA, 301), *including steel/aluminum tariffs subject to 232*

No drawback

No exemptions under Chapter 98

FTZ admissions in privileged status



# RECIPROCAL IEEPA TARIFFS

Country	Action	Product	Rationale	Response	Current Status
ALL APPLICABLE COUNTRIES	<p>Reciprocal Tariffs. Trump signed a proclamation on April 2, 2025, imposing 10% additional tariffs from all countries, invoking IEEPA.</p> <p>Country-wide tariffs at various rates were imposed on selected countries starting April 9. However, the higher rates were paused from 4/10/25 for 90 days until 7/9/2025 on most countries other than China, instead implementing a base tariff of 10 percent on most goods.</p> <p>Canada/Mexico remain under the first IEEPA (“fentanyl tariffs”). Certain products exempt (e.g., goods subject to Section 232 tariffs). This tariff is in addition to all other tariffs.</p>	<ul style="list-style-type: none"> <li>All products unless specifically exempted</li> </ul>	To correct longstanding imbalances in international trade and ensure fairness across the board	<p>The EU planned retaliation but after Trump’s pause on tariffs, also paused tariff retaliation;</p> <p>China has retaliated</p>	<p>April 5, 2025, 10% tariff all countries; April 9 higher country-wide tariffs for specified countries; then the higher rates have been paused from April 10 until July 9.</p>

# THE FAIR AND RECIPROCAL PLAN

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The Fair and Reciprocal Plan is aimed at addressing trade imbalances between the U.S. and other countries around the world.

- The Plan instructs the relevant government agencies to investigate non-reciprocity among trading partners and, ultimately, to “counter non-reciprocal trading arrangements with trading partners by determining the equivalent of a reciprocal tariff with respect to each foreign trading partner.”
- Specific additional tariffs will not be announced until the relevant agencies deliver their investigation results, and proposed remedy, to the President on April 1, 2025 with additional tariffs ready by April 2, 2025.
- The Plan did not indicate whether an exemption or exclusion process will be available or whether stakeholders will have input on the proposed application of reciprocal tariffs.



Non-reciprocal arrangements to be investigated include:

- Tariffs imposed on U.S. exports (e.g., the U.S. tariff on ethanol is 2.5% yet Brazil charges the U.S. ethanol exports a tariff of 18%).
- Unfair, discriminatory, or extraterritorial taxes imposed on U.S. businesses, workers, and consumers, including a value-added tax.
- Costs to U.S. businesses, workers, and consumers arising from nontariff barriers or measures and unfair or harmful acts, policies, or practices, including subsidies, and burdensome regulatory requirements.
- Policies and practices that cause exchange rates to deviate from their market value, to the detriment of Americans; wage suppression; and other mercantilist policies that make U.S. businesses and workers less competitive.
- Any other practice that, in the judgment of the USTR, imposes any unfair limitation on market access or any structural impediment to fair competition with the market economy of the U.S.

# UNDERSTANDING THE NEW RECIPROCAL TARIFFS

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Proclamation of April 2, 2025 (aka Liberation Day) amended on April 8, 2025 for China, invoking IEEPA, imposes *additional* tariffs on nearly all countries, and most products. Tariffs are in addition to regular “General” (MFN) rate, Section 301.

Subject to certain exceptions –

- All countries subject to base rate of 10% effective April 5.
- Select 60 countries targeted for higher “country-specific” rates set forth in Appendix I to take effect April 9, 2025. These *should* be in lieu of base rate of 10%, not additional.
- Effective April 10, 2025, the higher reciprocal tariff rates are paused for 90 days until July 9, 2025 except for China (125%). Beginning May 14, 2025, China too subject to base rate of 10% for 90 days.
- US content exempt from tariffs if total US content of goods is over 20%

Eliminates use of *de minimis* entry under 1321(a)(1)(C) (\$800 limit)

## Exclusions from Reciprocal Tariffs –

- 50 USC 1702(b) (e.g., informational materials, including but not limited to, publications, films, posters, phonograph records, photographs, microfilms, microfiche, tapes, compact disks, CD ROMs, artworks, and news wire feeds.)
- Articles that are donations, by persons subject to the jurisdiction of the United States, of articles, such as food, clothing, and medicine, intended to be used to relieve human suffering.
- Steel and Aluminum, and derivatives, subject to 232 tariffs
- Automobiles and parts subject to 232 tariffs
- Products specified in Annex II (copper, pharmaceuticals, semiconductors, lumber articles, critical minerals, energy products) and electronics excluded based on Clarification of Exceptions Under Executive Order 14257 of April 2, 2025, as Amended dated 4/11/2025
- Products HTSUS Column 2 countries (Russia, Belarus, Cuba, N Korea)
- For articles in which at least 20% of the value of article is U.S. originating, the U.S. content will not be subject to the reciprocal tariff. The reciprocal tariff will be assessed on the non-U.S. content.
- Future 232 actions
- Chapter 98 Exemptions

Canada and Mexico –

- Not subject to Reciprocal IEEPA Tariffs while still covered under the Fentanyl IEEPA tariffs of 25%. USMCA originating goods exempt under the fentanyl IEEPA tariff, will continue under reciprocal IEEPA tariff. If fentanyl IEEPA tariffs end, Mex/Canada will be subject to 12% Reciprocal IEEPA tariff, but USMCA qualifying goods exempt

# UNDERSTANDING THE NEW RECIPROCAL TARIFFS (cont.)

## Annex I to EO regarding Reciprocal Tariffs

Countries and Territories	Reciprocal Tariff, Adjusted	Countries and Territories	Reciprocal Tariff, Adjusted	Countries and Territories	Reciprocal Tariff, Adjusted
Algeria	30%	Iraq	39%	Nigeria	14%
Angola	32%	Israel	17%	North Macedonia	33%
Bangladesh	37%	Japan	24%	Norway	16%
Bosnia and Herzegovina	36%	Jordan	20%	Pakistan	29%
Botswana	38%	Kazakhstan	27%	Philippines	17%
Brunei	24%	Laos	48%	Serbia	37%
Cambodia	49%	Lesotho	50%	South Africa	30%
Cameroon	12%	Libya	31%	South Korea	25%
Chad	13%	Liechtenstein	37%	Sri Lanka	44%
China	34%	Madagascar	47%	Switzerland	31%
Côte d'Ivoire	21%	Malawi	17%	Syria	41%
Democratic Republic of the Congo	11%	Malaysia	24%	Taiwan	32%
Equatorial Guinea	13%	Mauritius	40%	Thailand	37%
European Union	20%	Moldova	31%	Tunisia	28%
Falkland Islands	41%	Mozambique	16%	Vanuatu	22%
Fiji	32%	Myanmar (Burma)	44%	Venezuela	15%
Guyana	38%	Namibia	21%	Vietnam	46%
India	26%	Nauru	30%	Zambia	17%
Indonesia	32%	Nicaragua	18%	Zimbabwe	18%



## DE MINIMIS EXCEPTION

On April 2, 2025, President Trump issued an Executive Order addressing the *de minimis* exception, “*Further Amendment to Duties Addressing the Synthetic Opioid Supply Chain in the People’s Republic of China as Applied to Low-Value Imports*”. On April 8, 2025 President Trump issued amendment to the EO regarding China “*Amendment to Reciprocal Tariffs and Updated Duties as Applied to Low-Value Imports from the People’s Republic of China*”. On April 9, 2025, President issued amendment again “*modifying reciprocal tariff rates to reflect trading partner retaliation and alignment.*”

The EO eliminates the duty-free treatment of imported goods valued at or under \$800 from China, including Hong Kong and Macao. The below provisions took effective on May 2, 2025.

Here are the main points:

- **Non-postal shipment**
  - Non-postal shipments are subject to all applicable duties.
  - These shipments must be entered by a party qualified to make entry under another appropriate entry type in the ACE.
- **Postal shipments (sent through the international postal network)**
  - The duty rate options below are imposed in lieu of other duties. Carriers may elect either of the options, but they must apply the same methodology to all shipments:
    - 54% of the value of the postal item containing Chinese origin goods effective May 14, 2025, or
    - \$100 per postal item containing Chinese goods up through May 31, 2025; and then \$200 per postal item from June 1, 2025.
  - Carriers must report the total number of postal items containing goods and, if electing the *ad valorem* duty rate, the value of each, and pay the applicable duties.
- **Carriers: Carriers must have international carrier bonds if transporting postal items from China including Hong Kong and Macao to the U.S.**
- **Formal Entry: CBP can require formal entry upon request, in which case the regular duty assessment rules apply.**
- **Exemptions: All items already excluded from trade restrictions under 50 U.S.C. § 1702(b) (for example, personal communication, donations, informational materials, personal baggage)**

The rules for *de minimis* shipments from countries other than China remain unchanged.

# TARIFF STACKING SCENARIOS

On April 29, 2025, President Trump issued an executive order providing that some of the import tariffs he has imposed this year will not have a cumulative (or “stacking”) effect on covered goods.

Source: [Addressing Certain Tariffs on Imported Articles – The White House](#)

## As a Reference Table: (Sec. 2 Applicability)

- a) Section 232 on Automobiles and Auto Parts
- b) IEEPA Fentanyl – Canada
- c) IEEPA Fentanyl – Mexico
- d) Section 232 on Aluminum – Primary and Derivative Articles
- e) Section 232 on Steel - Primary and Derivative Articles

## **Sec. 3 – Non-Stacking of Tariff Measures – Summary: “Order of Operations”**

- (i) Item subject to Section 232 Auto will NOT stack with IEEPA Mexico/Canada Fentanyl and Section 232 Aluminum / Steel
  - (ii) Item subject to IEEPA Mexico/Canada Fentanyl will NOT stack with Section 232 Aluminum / Steel
  - (iii) Section 232 Aluminum and Steel tariffs will still overlap if both steel and aluminum are present in a covered item.
- c) Other tariffs not listed in Sec. 2 still stack/apply

## **Sec. 4 - Non-applicability to Other Tariff Measures – Summary**

- a) Other Customs fees, IRS Excise Taxes and such still apply
- b) [Other tariffs apply such as Section 201, 301, ADD/CVD and General/MFN.](#)

## **Sec. 5 – Implementation –**

- Order applies retroactively to all entries of merchandise subject to any applicable tariffs outlined in section 2 of this EO and made on or after March 4, 2025. Any refunds will be processed pursuant to applicable laws and U.S. Customs and Border Protection’s standard procedures for such refunds.

# DEFENDING AMERICAN COMPANIES AND INNOVATORS

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- On February 21, 2025, President Trump directed Treasury, Commerce, and the USTR to investigate foreign digital services taxes (DSTs) and regulations that unfairly burden U.S. companies and restrict cross-border data flows.
- Tariffs or other measures may be imposed after Section 301 investigations or similar proceedings to counteract harm to the U.S. and repair any resulting imbalance.
- Investigations may include:
  - Renewing or initiating Section 301 investigations into DSTs from Canada, France, Austria, Italy, Spain, Turkey, the UK and any other country that may discriminate against U.S. companies or burden or restrict U.S. commerce.
  - Reviewing EU and UK policies that restrict U.S. companies' services, impacting free speech and content moderation.
  - Assessing discriminatory foreign tax measures that undermine U.S. competitiveness or violate tax treaties.
  - Identifying tools to establish a global moratorium on customs duties for electronic transmissions.

# WHAT STRATEGIES EXIST FOR REDUCING TARIFFS FOR COMPANIES

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## Review the Customs Valuation

- Customs value is the basis on which the ad valorem tariff rate is applied.
- Customs valuation is based in a hierarchy of valuation formulas that must be applied in order.
- Similar to income taxes, strategies exist to lower the customs value depending on the factual scenarios, e.g., related party transaction, unbundling costs.



## Review the Tariff Classification

- All imported goods must be classified pursuant to the Harmonized Tariff System of the United States (HTSUS). The tariff code assigned dictates the duty rate to be applied to the customs value.
- The HTSUS is a complex nomenclature that seeks to provide a classification code for all existing goods.
- Often, there are more than one tariff code that can apply to an imported product with differing duty rates.
- Goods can also be “tariff engineered” to qualify for a lower duty rate provision.
- *Caution* when changing HTSUS from a covered steel/aluminum derivative HTS to a non-covered HTS



# WHAT STRATEGIES EXIST FOR REDUCING TARIFFS FOR COMPANIES (CONT.)

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## Review the Country of Origin

- Shifting the country of origin can often avoid the imposition of the tariff especially with targeted tariff increases.
- Changing the entire production is not the only way to change country of origin.
- Multi-country processing can be used and the country of origin will be determined by the last country that effected a “substantial transformation.”
- A substantial transformation is when a new and different article of commerce has been created. CBP interprets this to be where the essential component or character is imparted.

## Examples:

- Fragrance oil sent from France then sent to China where it was diluted and mixed with other ingredients to be packaged in an aerosol can. CBP held that France was the country of origin by virtue of the essential fragrance oil. The goods were not subject to tariffs on Chinese goods.
- Dishwasher hose-rubber inner tube made in Thailand and sent in rolls to China where it was cut to length, encased in a steel sheathing, and fittings were added on each end. CBP held country of origin was Thailand because the inner tube imparted the main function of the finished hose. The China operations were considered minor assembly.
- Digital thermometer-integrated circuit programmed in Israel and sent to China where it was assembled with temperature probe, LED display and plastic case. CBP held Israel was the country of origin based on the integrated circuit without which the thermometer could not function.

# CONCLUSION

- ▶ **Tariffs should not be considered fixed costs**
- ▶ **There may be opportunities to reduce or eliminate oppressive tariffs**
- ▶ **All must be done with transparency**
- ▶ **Presentation to Customs must be carefully researched**
  
- ▶ **Customs planning should not be done in a vacuum**
- ▶ **Before implementation, firms should confer with tax or corporate lawyers**
- ▶ **Without consultation with Customs counsel – problematic. We can usually generate the best results when we collaborate**

## PRESIDENT TRUMP'S IEEPA TARIFFS TO BE REVIEWED BY U.S. COURT OF INTERNATIONAL TRADE

President Donald Trump's use of the International Emergency Economic Powers Act (IEEPA) to impose sweeping tariffs on imported goods will face judicial review in a closely watched case before the U.S. Court of International Trade (CIT). The case, *V.O.S. Selections, Inc. v. Trump*, Court No. 25-66, challenges the legality of these tariffs and could have wide-reaching implications for U.S. importers and international trade policy.

Filed in New York, the lawsuit contests the President's authority under IEEPA to implement tariffs, including the 10% duties on a broad range of products from nearly all countries and the 125% tariffs on imports from China. It also encompasses the proposed higher tariff rates on products from numerous countries announced by the President on "Liberation Day," which are currently delayed until July 9. **Importantly**, the suit does **not** contest the separate 25% tariffs on automobiles, steel, aluminum, and related products assessed under Section 232 of the Trade Expansion Act of 1962. The suit also does not directly contest the 20% tariff imposed under IEEPA on goods from China and the 25% IEEPA tariffs imposed on certain goods from Canada and Mexico in connection with the fentanyl crisis.

The CIT has placed the case on an expedited schedule. A three-judge panel has been appointed, briefs have been submitted, and oral argument is scheduled for **May 13, 2025**, with proceedings to be **live-streamed**.

The plaintiffs have requested a **national preliminary injunction** to bar U.S. Customs and Border Protection (CBP) from collecting IEEPA-based tariffs on all imports while the case is pending. If successful, the Court could also order CBP to refund all IEEPA duties collected to date. Plaintiffs argue that the tariffs are contrary to law and should be halted immediately.

While the CIT has authority to issue such an injunction, it is uncertain whether it will do so. Potential outcomes under consideration include:

- Limiting any relief to the named plaintiffs, requiring other importers to file separate lawsuits;
- Instructing CBP to suspend "liquidation" (finalization) of all entries while requiring importers to seek their own relief to avoid paying duties until the case is finally decided after appeal;
- Allowing importers to defer payment of IEEPA duties upon posting a bond, subject to CBP or Court approval.

A decision from the CIT is expected within **one to four months** after oral argument. The losing party may appeal to the U.S. Court of Appeals for the Federal Circuit (CAFC), which typically issues decisions within **9 to 18 months**, but may expedite review given the significance of the matter. Any CAFC decision may be further appealed to the U.S. Supreme Court. If the CIT issues a nationwide injunction, that ruling could potentially be appealed directly to the Supreme Court.

Please contact one of our attorneys if you have any questions.

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