Holland & Hart

The Tariffs Keep on Coming

David Glynn

Of Counsel
303.295.8071
Denver
djglynn@hollandhart.com

Christine Garson

Associate
303.293.5977
Denver
cmgarson@hollandhart.com

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The “Liberation Day” tariffs are here. In his Executive Order dated April 2, 2025, President Trump cited “underlying conditions, including a lack of reciprocity in our bilateral trade relationships, disparate tariff rates and non-tariff barriers, and U.S. trading partners' economic policies that suppress domestic wages and consumption” as the underpinnings of his rationale for implementing new and sweeping so-called reciprocal tariffs on countries worldwide. The White House also published a Fact Sheet to accompany this Order.

President Trump is again utilizing his authority under the International Emergency Economic Powers Act (IEEPA) to tackle trade related issues vis-à-vis a declared “national emergency posed by the large and persistent trade deficit.”

To summarize the effect of the April 2nd Order:

- A new 10% tariff is imposed on all countries beginning April 5, 2025 at 12:01 a.m. EDT.
- Countries with which the United States has the largest trade deficits will be subject to higher reciprocal tariffs, which will take effect April 9, 2025 at 12:01 a.m. EDT. These rates are listed in Annex 1 to the Order. Of note, China is subject to a staggering 34% tariff (in addition to the previously implemented 20% tariff rate), the European Union to a 20% tariff, and Japan to a 24% tariff. Numerous other countries face higher tariff rates as well.
- There is no expiration date for the tariffs.
- President Trump may adjust the tariffs in response to trading partners' actions. Retaliation may be met with increases in tariffs, while efforts to “remedy non-reciprocal trade arrangements” may be met with corresponding decreases.

Exclusions:

According to the Fact Sheet, goods not subject to the reciprocal tariffs include:

1. Articles subject to 50 USC 1702(b), which includes postal and other communications not involving transfers of value, donations related to humanitarian efforts, informational materials, and personal baggage;
2. Steel/aluminum articles and autos/auto parts already subject to Section 232 tariffs;
3. Copper, pharmaceuticals, semiconductors, and lumber articles;
4. All articles that may become subject to future Section 232 tariffs;

5. Bullion; and
6. Energy and other certain minerals that are not available in the United States.

Furthermore, the prior orders specific to the fentanyl and migration crises at the Canadian and Mexican borders are still in effect and not modified by the reciprocal tariffs. As such, goods qualifying for USMCA are not subject to tariffs; non-USMCA qualifying goods are subject to a 25% tariff; and certain energy resources and potash are subject to a 10% tariff. If these orders are cancelled, the Fact Sheet states that "USMCA compliant goods would continue to receive preferential treatment, while non-USMCA compliant goods would be subject to a 12% reciprocal tariff."

Conclusion

The tariff landscape remains dynamic and uncertain. The administration has signaled that it will consider adjustments to these tariffs, so changes are expected as countries negotiate for reductions. These rates likely will change but clearly a base import tariff rate structure is likely to remain in place. However, we now have more clarity on treatment of USMCA qualified items, as well as items subject to Section 232 national security tariffs. Importers seeking to mitigate reciprocal tariffs should consider whether these or any other exclusions described above would result in a lower duty impact.

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