



## CANADA, MEXICO, AND CHINA IEEPA TARIFF INCREASES (February 3, 2025)

On February 1, President Trump issued three (3) Executive Orders (“E.O.s”) which imposed (1) 25% additional Tariffs on all Canadian and Mexican origin products, except for 10% on Canadian origin “[energy or energy resources](#)” (including petroleum, natural gas, electricity, etc.) and (2) 10% additional Tariffs on all Chinese origin products. Significantly, the Tariffs are effective on goods entered for consumption or withdrawn from warehouse effective Tuesday February 4, 12:01 am Eastern time. The immediate impact will be significant. Canada, Mexico, and China are the largest exporters to the U.S. and the largest purchasers of U.S. exports.

On February 3, the White House announced a one month “suspension” of the proposed Mexico Tariffs. Mexico is sending 10,000 military troops to the U.S. border. Negotiations continue with Canada and China.

Two [Federal Register](#) notices on [Canada](#) and [China](#) were issued today and two CSMS messages were posted (CSMS #[63988467](#) and CSMS #[63988468](#)). The text makes no substantive changes to the E.O.s except for providing HTS Chapter 98 exemptions. All new documents are silent on Foreign-Trade Zone (“FTZ”) on-hand inventory.

Specifically, President Trump issued Executive Orders for [Canada](#), [Mexico](#), and [China](#). The White House [Fact Sheet](#) cites an “emergency situation” involving an “[t]he extraordinary threat posed by illegal aliens and drugs, including deadly fentanyl, [which] constitutes a national emergency under the International Emergency Economic Powers Act (IEEPA).” The E.O.s provide:

- **Exception to February 4 Effective Date.** Goods entered for consumption, or withdrawn from warehouse for consumption, on or after Tuesday February 4, 12:01 am Eastern time that were **loaded onto a vessel at the port of loading or in transit on the final mode of transport prior to entry into the United States before 12:01 a.m. eastern time on February 1, 2025**, shall **not be subject** to such additional duty. The importer must provide a certification.
- **Additional Tariffs.** IEEPA Tariffs are in addition to NTR duties, any Section 232 or Section 301, or antidumping/countervailing duties, etc. Note that all Chinese-origin products are included. I.e., not just Chinese-origin goods subject to China Section 301 Lists 1, 2, 3, and 4A.
  - New HTS Chapter 99 numbers have been created.
- **Exclusions/Exemptions.** No exclusions are provided in the E.O.s., This is a departure from recent Trade Remedies. Today’s [Federal Register](#) notices and CSMS Messages provide HTS Chapter 98 exemptions.
- **De Minimis.** No Canadian, Mexican, or Chinese origin products are eligible for Section 321 *de minimis* treatment. This represents a very significant change in 321 imports, as all such activity will require full Customs entry immediately.
- **Drawback.** No duty drawback of these additional Tariffs. This is a consequential restriction only previously implemented for Section 232 steel and aluminum Trade Remedies. Use of FTZs for exports is not restricted.
- **FTZ Privileged Foreign Status Admission Requirement.** Privileged Foreign (“PF”) status is required on all Canada and China FTZ admissions starting February 4, 2025. “Such articles will be subject upon entry for consumption to the rates of duty related to the classification under the applicable HTSUS subheading in effect at the time of admittance into the United States foreign-trade zone.”

- Note the PF status requirement eliminates FTZ Board tariff-inversion benefits for Canada and China origin goods used in FTZ Board-authorized FTZ production, except for FTZ scrap benefits.
- **U.S. Trade Retaliation.** The E.O.s provide that if Canada or China impose retaliatory duties on U.S. products, the U.S. may increase or expand the scope of these additional Tariffs. To the best of our knowledge, this is the first time similar retaliation language has been included in a U.S. Trade Remedy action.
  - Canada has already [announced](#) retaliatory Tariffs, including 25% Tariffs on [\\$30 billion](#) in U.S. goods effective February 4 and an additional second phase of Tariffs on \$125 billion U.S. goods including passenger vehicles, trucks and buses, steel and aluminum products, certain fruits and vegetables, aerospace products, beef, pork, dairy products, and others at a later date.
  - China and Canada have suggested they will file World Trade Organization (WTO) cases on the subject.
  - Canada and China purchases of U.S. agricultural products can be expected to be reduced.

## FTZ On-Hand Inventory Options

Unfortunately, the [Federal Register](#) notices and Customs Headquarters CSMS messages provide only limited detailed guidance. We are unable to provide definitive advice on the handling of FTZ on-hand inventory. However, the following are potential strategies for distribution and production FTZs:

### (1) FTZ Warehousing

- **FTZ Weekly Entry Strategy.** We previously provided guidance on utilizing the CBPF 3461 FTZ Weekly Estimate Cargo Release entry to add on-hand inventory from Canada and China to the current weekly estimate that had an elected entry date prior to February 1. For several weeks, increased Weekly Entries to include all on-hand inventory and Non-Processing Stipulations have been filed/accepted at CBP Ports. We understand that CBP Headquarters issued guidance Friday reminding CBP Ports that this is permissible. Filing CBPF 3461 Weekly Estimates covering Canada or China on-hand inventory with the elected entry date prior to February 4 would allow FTZs to pay duties on Canada and China inventory at current duty rates. Customs Ports must be advised and Non-Processing Stipulations secured in order to use this process.
- **PF Status Election – Potential Consideration.** Consideration should be given to filing e214 Status Designation to change Canadian and Chinese origin goods currently in Non-Privileged Foreign (“NPF”) zone status to Privileged Foreign (“PF”) status on Monday February 3, 2025 in an attempt to lock-in the classification and duty rate for such goods without the new HTSUS Chapter 99 Tariffs that become effective February 4, 2025. Please be aware that a zone status change from NPF to PF status will not guarantee that the increased Tariff will not apply to FTZ on-hand inventory at the time of U.S. Customs consumption entry, because there is no clear guidance at this time for these additional Tariffs, and other Trade Remedy actions have treated PF status duty rates differently. However, PF status will support an argument that the additional Tariffs should not apply.

### (2) FTZ Production

- **FTZ Weekly Entry Strategy.** We previously provided guidance on utilizing the CBPF 3461 FTZ Weekly Estimate Cargo Release entry to add on-hand inventory from Canada and China to the current weekly estimate that had an elected entry date prior to February 1. For several weeks, increased Weekly Entries to include all on-hand inventory and approvals for production with duty-paid (domestic status) parts have been filed/accepted at CBP Ports. We understand that CBP Headquarters will advise CBP Ports that production with duty-paid (domestic status) parts is permissible. Filing CBPF 3461 Weekly Estimates covering Canada or China on-hand inventory with the elected entry date prior to February 4 would allow FTZs to pay duties on Canada and China inventory at current duty rates. Customs Ports must be advised and approval for production with duty-paid

domestic status parts secured in order to use this process.

- **FTZ Entry Origin.** If Canadian or Chinese origin goods in inventory in NPF status to be used in production, the goods will become classifiable under the HTS classification provision of the finished article (assuming the FTZ Operator has production authority from the FTZ Board to use those goods in the production of the finished article). If the finished article has been substantially transformed in the U.S. FTZ, then it is possible to declare U.S. as the origin. If the country of origin of the finished product is Canada or China, then the value of the finished article, not just the value of the Canadian or Chinese origin components, will be subject to the additional Tariffs.
- **PF Status Election – Potential Consideration.** Consideration should be given to filing e214 Status Designation to change Canadian and Chinese origin goods currently in Non-Privileged Foreign (“NPF”) zone status to Privileged Foreign (“PF”) status on Monday February 3, 2025 in an attempt to lock-in the classification and duty rate for such goods without the new HTSUS Chapter 99 Tariffs that become effective February 4, 2025. Please be aware that a zone status change from NPF to PF status will not guarantee that the increased Tariff will not apply to FTZ on-hand inventory at the time of U.S. Customs consumption entry, because there is no clear guidance at this time for these additional Tariffs, and other Trade Remedy actions have treated PF status duty rates differently. However, PF status will support an argument that the additional Tariffs should not apply.
- **Small Window of Opportunity.** It is possible that the Tariff increases will be suspended or dropped. The Trump Administration has negotiated a one month pause with Mexico and is still negotiating possible settlements with Canada and China that could cancel or modify these Tariff increases.

Contact [Marshall Miller](#), [Brian Murphy](#), [Sean Murray](#), or [David Ostheimer](#) with questions/guidance prior to February 4.

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