



Tariff and International Trade Update

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Trump Tariffs: Where Are We Now?

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Where are We on the Trump Tariffs?

- **Bucket 1: Normal Chapter 1-97 Duties:** Still in Place (0-7%).
- **Bucket 2: Global 10% Tariffs:** Not subject to negotiation – Revenue + “Price of Entry” to Sell to U.S.
- **Bucket 3: Reciprocal Tariffs (Up to 50%):** Paused for country-by-country negotiations.
- **Bucket 4: China Tariffs (up to 170%):**
 - **Section 301 Tariffs (Up to 25%):** Been in place for 7 years.
 - **IEEPA 20% Tariffs (fentanyl-based):** Not suspended.
 - **Global and Reciprocal Tariffs:** 125%; suspended for many electronic products.
- **Bucket 5: Sectoral Section 232 tariffs**
 - **Steel & Aluminum (25%)**
 - **Automotive (25%):** suspended for USMCA-compliant goods. Will apply to non-U.S.-origin content.
 - **Future Sectoral Tariffs** on copper, lumber, pharmaceutical, semiconductor goods, and trucks.
Carved out of reciprocal tariffs.

Where Are We Going on the Trump Tariffs?

- **Bucket 1: Normal Chapter 1-97 Duties:** Permanent.
- **Bucket 2: Global 10% Tariffs:** Likely permanent.
- **Bucket 3: Reciprocal Tariffs (Up to 50%):** Will decline; amount unknown.
- **Bucket 4: China Tariffs (up to 170%):**
 - **Section 301 Tariffs (Up to 25%):** Been in place for 7 years. Permanent.
 - **IEEPA 20% Tariffs (fentanyl-based):** Not suspended; unclear path forward.
 - **Global and Reciprocal Tariffs:** 125%; unclear path forward. Suspension is to make way for sectoral tariffs.
- **Bucket 5: Sectoral Section 232 tariffs**
 - **Steel & Aluminum (25%).** Likely permanent.
 - **Automotive (25%):** Likely to be resolved in 2026 review of USMCA.
 - **Future Sectoral Tariffs** on copper, lumber, pharmaceutical, semiconductor goods, and trucks. Tariffs likely to be permanent. Scope unknown.

Where Are We on the Reciprocal Tariff Negotiations?

- USTR Proceeding with Broad Template.
 - Tariffs and quotas; non-tariff barriers; digital trade; rules of origin; and economic security.
 - Tailored by country.
 - Negotiations on 18 major trading partners is priority, on rolling basis.
- At 90 days, will either be deals or an additional 90-day extension.
- Mexico and Canada on separate track, because reciprocal tariffs do not apply to them for USMCA-compliant goods.
- China on separate track due to heightened concerns and retaliation by Chinese government.

What Are the Implications of the Trump Tariffs?

There are five elements working to create a sharply increased risk profile for importers:

1. Heightened tariff levels, which make it possible to run up tariff underpayments and associated penalties very quickly.
2. Customs' increased attention to tariff underpayments, particularly for the new Trump tariffs. In a high-tariff environment, Customs compliance is thus more important than ever.
3. In an environment where Customs assesses penalties without considering mitigating factors, making voluntary self-disclosures is an essential tool to minimize Customs penalty risks, because Customs does not assess penalties for voluntarily disclosed conduct without analyzing aggravating and mitigating factors.
4. The threatened use of alternative enforcement tools on top of normal Customs penalty procedures, including the FCA and potential criminal penalties.
5. The increasing incentives for employees, competitors, and other potential relators to become whistleblowers, and the enhanced ability of Customs and plaintiff law firms to target and identify tariff underpayments, make concerns about whistleblowers paramount.



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Most Frequently Asked FAQs

Some Things to Know – and
Some Things to Forget

Frequently Asked Questions

- *How is the Trump administration able to impose tariffs?*
 - Novel use of existing statutes:
 - Unfair trade practices (Section 301); national security (Section 232), national emergency (IEEPA).
 - Unclear if courts will strike down, but the trade courts upheld expansive use of section 232 in first Trump administration.
- *How have the Trump tariffs impacted customs compliance?*
 - Trump tariffs shift focus to country-of-origin determinations.
 - HTS classifications remain important, particularly for determining applicability of Section 232 tariffs.
 - Classification Index for all products critical to ensure consistency.
 - Valuation concerns become much more important in high-tariff environment.
 - Importance of post-entry checks.
 - Increased importance of voluntary self-disclosures.

Frequently Asked Questions

- *How can I tell which tariff applies?*
 - Sectoral and reciprocal tariffs set up as either-or proposition.
 - A well-grounded classification analysis is key.
- *Do the automotive and steel tariffs stack?*
 - The administration has clarified that they do not.
- *Will the issuance of new tariffs ever slow down?*
 - Yes for broad tariffs.
 - But issuance of new section 232 truck investigation within last week shows sectoral tariffs still viewed as viable strategy.
- *What is the future of the USMCA, and how does it impact tariffs on Canada and Mexico?*
 - Mandatory review must be completed by 2026.
 - We expect all tariffs will be rolled up into the review, with emphasis on “Fortress North America.”

Frequently Asked Questions

- *Is China+1 still a viable strategy?*
 - China+1: Manufacturing Chinese parts and components into finished goods in a third country (i.e., the “+1” country).
 - Close monitoring of reciprocal tariff negotiations; high rates for many +1 countries.
 - Critical to ensure that parts and components substantially transformed in +1 country.
- *Will my product be duty-free if it complies with USMCA?*
 - Generally, yes; must have certification at time of importation.
 - But note that Section 232 tariffs still apply.
 - Auto and auto parts (non-U.S. content); steel and aluminum (non-U.S. origin).
 - And Section 301 tariffs may still apply if no substantial transformation.
 - Even if tariff-shift analysis is satisfied under USMCA.

Frequently Asked Questions

- *Is there an exception for electrical components?*
 - Reciprocal tariffs carved out certain products, including “semiconductors.”
 - Trump administration later identified HTS codes qualifying under “semiconductor” category.
 - But Trump administration since has started a Section 232 investigation into national security considerations relating to semiconductors.
 - Meaning that separate tariffs on semiconductors are likely after investigation concludes.
- *What is a reasonable care memo?*
 - Memo to document that company used reasonable care to reach determination.
 - HTS classification
 - Substantial transformation
 - Application of exceptions (e.g., Chapter 98)

Strategies to Forget

- Using “alternative” payment methods to reduce value of imports.
 - Issue commonly arises in related-party transactions.
 - Importers required to declare related-party transactions on Form 7501.
 - Practice Pointer: Important to have a Customs-specific transfer pricing study.
 - New Application: Unrelated entities agreeing to reduce price of imported product.
 - Agreement to “true up” through other means (e.g., IP licensing, service-and-handling payments, other side payments).
 - Imports must reflect arms-length value of product; purposeful attempts to undervalue product through creative payment arrangements could constitute Customs fraud.
- Shipping parts and components for mere assembly in third country.
- Reclassifying products to HTS codes with favorable tariff treatment.



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Concluding Thoughts & Action Items

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Key Takeaways

- New tariffs are *here*, and increases are *substantial*, and will only *increase*.
- Uncertainty will last for several years, at least through 2026 review of USMCA.
- As Kate Wegrzyn will shortly discuss, now is the time to be reviewing both buy- and sell-side contracts to determine how to incorporate tariff-related flexibility.
- In a high-tariff environment, where CBP has unprecedented visibility into import information, Customs compliance is key.
- Many importers are performing a Customs audit and supply chain integrity review, updating their compliance, and putting reasonable care memos in place.

Tariff & International Trade: Coping Resources

- **Tariff & International Trade Resources:** The Foley [Tariff & International Trade Resources](#) page includes resources to help multinational companies understand the rapidly changing international trade world, including many resources to help companies understand and navigate the rapidly changing tariffs and their impact on international supply chains.
- **White Papers:** Our companion white papers on [“Managing Import and Tariff Risks During a Trade War”](#) and [“Managing Supply Chain Integrity Risks”](#) provided practical advice to help importers identify and manage rising tariffs and the risks arising from supply chain integrity issues such as forced labor, human trafficking, and the Uyghur Forced Labor Prevention Act.
- **Article Series:** Our biweekly articles, sortable by topic, on “What Every Multinational Company Should Know” about pressing international trade topics, at our [Tariff & International Trade Resources](#) page. Sign up for ongoing updates [by clicking here to register](#).

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