Customs & Global Trade Alert

April 2025

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Trump administration executive action alert

Implications for Vietnam businesses

The alert emphasizes:

- The United States (US) President Donald J. Trump, on 2 April 2025, imposed baseline tariffs on all US trading partners and reciprocal tariffs on imports from certain countries.
- The President's action ends the duty-free de minimis treatment for certain goods from Mainland China and Hong Kong, introducing either a 30% ad valorem duty or US$25 specific rate of duty.

On 2 April 2025, President Trump signed an Executive Order imposing a 10% baseline tariff for all US trading partners, effective from 5 April 2025. The Executive Order also announced reciprocal tariffs against specific countries, effective from 9 April 2025.

Background

On 20 January 2025, President Trump issued the America First Trade Policy Presidential Memorandum, directing his administration to investigate the root causes of the trade deficits and assess their economic and national security implications. The findings of these investigations were finalized on 1 April 2025 and, according to the 2 April Executive Order, revealed that the deficits have contributed to the decline of the US manufacturing base, undermined critical supply chains, and increased dependency on foreign adversaries for essential goods. The 2 April Executive Order also notes that the investigations pointed to the historical principle of reciprocity in US trade policy, which has been compromised in recent years, leading to an unbalanced trading environment.

In response to these findings, President Trump declared a national emergency, invoking his authority under the International Emergency Economic Powers Act and the National Emergencies Act, and announced a policy to impose additional tariffs on imports at a baseline of 10%. These tariffs will apply to all imports from all trading partners, with specific increases outlined for certain jurisdictions, as detailed in Annex I to the order.

Key elements of the EO on reciprocal tariffs include the following

Tariff amounts and timing

- Baseline tariff (effective 5 April): 10% tariff on most countries
- Reciprocal tariffs (effective 9 April): Individualized "reciprocal" higher tariffs on goods imported from jurisdictions with which the US has the largest trade deficits (see table below)

Jurisdiction	Tariff rate
Cambodia	49%
Laos	48%
Vietnam	46%
Mainland China	34%
Taiwan	32%
South Africa	30%
India	26%
South Korea	25%
Japan	24%
EU	20%
Nicaragua	18%
Israel	17%
Venezuela	15%
Australia, Brazil, Chile, Colombia, Costa Rica, Dominican Republic, Ecuador, El Salvador, Guatemala, Honduras, Panama, Peru, UK, Uruguay	10%

Goods not subject to the retaliatory tariffs

Certain goods will be exempt from the ad valorem rates of duty outlined in the order, including:

- Articles covered by 50 USC 1702(b), including personal communications without value transfer, donations, the importation and exportation of informational materials (excluding those controlled for nonproliferation or antiterrorism), and transactions related to personal travel, including baggage importation and living expenses
- Steel and aluminum products subject to existing duties under Section 232 of the Trade Expansion Act, including those specified in various proclamations from 2018 and 2025
- Automobiles and automotive parts also subject to Section 232 duties
- Products listed in Annex II, such as copper, pharmaceuticals, semiconductors, lumber, critical minerals and energy products
- Articles from trading partners with which the US does not have normal trade relations (i.e., countries subject to Column 2 of the Harmonized Tariff Schedule of the US)
- Articles that may be subject to future duties under Section 232

Moreover, the additional duties only apply to the non-US content of an article if at least 20% of its value originates from the US.

De minimis

Duty-free de minimis treatment will continue for the goods subject to the retaliatory tariffs, except for those from People's Republic of Mainland China and Hong Kong, as discussed below. The de minimis program allows goods valued at less than US$800 per person, per day to enter the US free of duty. The treatment will remain in effect until the Secretary of Commerce notifies the President that systems are in place to process and collect duty revenue for eligible articles. After this notification, the de minimis treatment will no longer apply to those articles.

In addition to the retaliatory tariff Executive Order, the US President also signed an Executive Order on 2 April 2025 effectively ending the duty-free de minimis treatment for certain goods originating from Mainland China and Hong Kong.

Specifically, the order introduces a 30% ad valorem duty on goods entering the US on or after 2 May 2025, along with a specific duty of US$25 per item for goods entered before 1 June 2025, and US$50 per item for those entered on or after 1 June 2025. Additionally, carriers transporting these goods are required to maintain an international carrier bond to ensure the payment of duties. The US Customs and Border Protection will require formal entry for certain packages, which will be subject to all applicable duties, taxes, and fees.

The Secretary of Homeland Security has been tasked with implementing this order and has the authority to adopt necessary regulations to ensure compliance. Furthermore, within 90 days of the order's issuance, the Secretary of Commerce, in consultation with the United States Trade Representative, will submit a report to the President assessing the order's impact on American industries, consumers and supply chains. This report will include recommendations for further actions, potentially extending the ineligibility for de minimis treatment to other countries to prevent circumvention of the new regulations.

Implications and considerations for Vietnamese businesses

Companies that export to the US should immediately identify the potential impact of these measures and explore potential mitigation strategies. For example:

From a trade perspective

1. Overall policy considerations

- Review the *Federal Register* notice that will follow the Executive Order to understand the operational details including Chapter 98 exemptions and drawback considerations.
- Conduct quick mini-assessments to evaluate the potential impacts to prepare for any sudden changes and to be confident to negotiate with your US business partners.
- Closely monitor developments in the US trade policies and reactions from the Vietnam Government and other governments as it expected this issue could keep evolving. Furthermore, we suggest you proactively contribute any ideas to the Vietnam Government.
- Focus on your product competitiveness, quality and cost-sharing. Not all products can be produced effectively in the US, and in many cases your US business partners and consumers will still need and buy your products. Consider your willingness to share the cost of the additional customs duties as a result of the reciprocal tariffs, with your business partner in the US. Review contracts with suppliers and customers to clarify contractual liabilities for duties and taxes.

2. Operational considerations

- Carefully manage inventory — pay attention to inventory levels, especially materials imported into Vietnam for manufacturing exports to the US, to avoid over-importation. Consider stockpiling finished goods in the US to buffer against supply chain disruptions.
- Review and optimize your supply chain costs — conduct a comprehensive review of your supply chain to identify opportunities for cost savings in transportation, insurance, warehousing, etc. with an aim to build a leaner, more resilient, and cost-efficient organization. Additionally, embrace digital transformation to further optimize input costs.
- Manage exchange rate risks — monitor VND/USD exchange rate fluctuations and plan accordingly. Instruments such as forward contracts or futures contracts can help mitigate currency risks in export transactions.
- Keep an eye on US interest rate trends and track changes in interest rates set by the Federal Reserve as a response to the reciprocal tariffs, as they can influence the purchasing power and demand of US importers.

3. Duty optimization considerations

- Consider customs valuation planning to mitigate customs duties exposures for US business partners, such as First Sale for Export, warranty push down, and bifurcating product and non-product costs (e.g. exclusive distribution rights).
- Consider aligning customs valuations with transfer pricing policies. US tax reform has resulted in companies' migrating intellectual property (IP) back to the US. With IP in the US, and in a direct-import model the customs value may have decreased. For customs value, certain design and development costs must be added to value, but US research and development (R&D) can be excluded. For R&D-intensive companies with significant R&D in the US, the value reduction can be significant.
- Consider using the Foreign Trade Zone (FTZ) program for duty deferral on long-lead-time inventory items to provide cash-flow benefits as well as to help mitigate duties to the extent the imported items are ultimately exported from the FTZ — either re-exported without any change or re-exported after being incorporated into other manufactured articles.
- Review US-continuous-import-bond sufficiency to help prevent goods being stuck at the border due to insufficient bond and stacking liability.
- Assess current supply chains, redesign product specifications or bills of materials, explore alternative materials, and enhance sourcing strategies with an emphasis on country of origin planning to achieve at least a 20% US-origin content and mitigate tariff impacts. Additionally, ensure thorough documentation to substantiate US origin claims.
- Evaluate the feasibility of duty drawbacks for reciprocal tariffs on the US side, ensuring that all necessary conditions and documentation for the drawbacks are fully met.

4. Market diversification considerations and preparation

- Diversify markets to reduce dependence on the US Explore new markets such as the EU to diversify your customer base and leverage the existing Free Trade Agreements - however, be prepared to meet new regulatory requirements like the Carbon Border Adjustment Mechanism (CBAM) and the EU Deforestation Regulation (EUDR).
- Prepare relocation scenarios with headquarters. Although relocating operations is complex, companies should develop scenario plans in coordination with their headquarters, to ensure they have proactive and flexible response options.
- Review thoroughly your supply chain to determine if it is feasible to carry on any production shifting as it may not always be easy to find a new source of input materials supply.

From a Vietnam customs compliance perspective:

1. Be cautious with Vietnam origin rules. Pay special attention to the origin of your products, as the US may suspect that some goods exported from Vietnam originate from countries subject to higher scrutiny or trade restrictions. It was one of the reasons for the imposed reciprocal tariffs. It is therefore expected Vietnam customs authorities will scrutiny the declared Vietnam origin of exported products to the US in near future. Non-compliance in this area might be subject to significant penalties in Vietnam, equal to the value of violated goods.

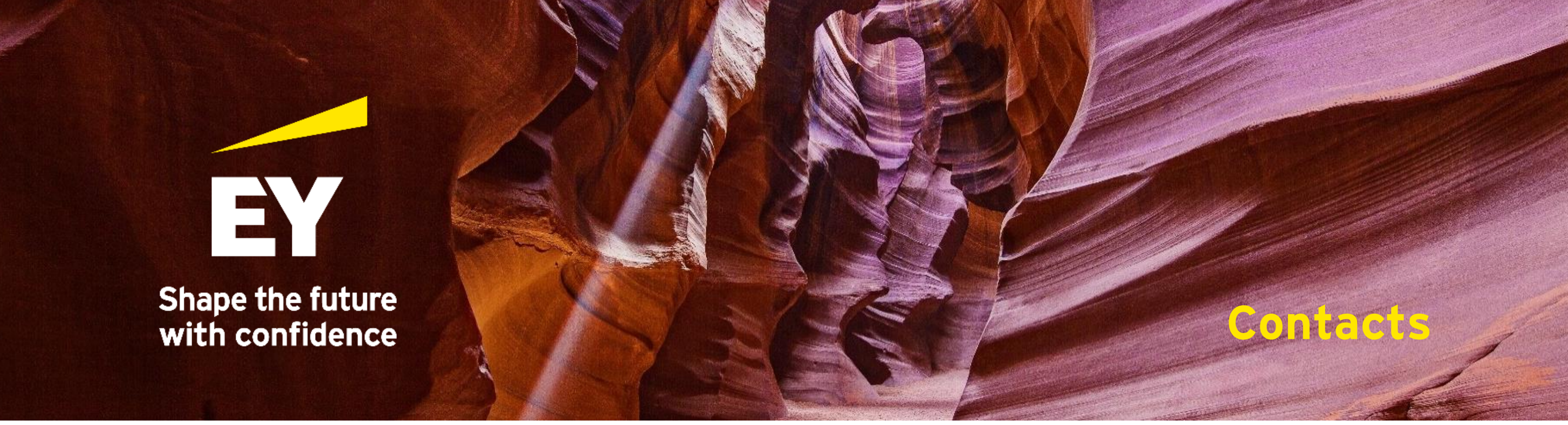
2. Redundant and excess materials re-exported out of Vietnam (which cannot be put into production) should be entitled to an import duty refund. However, there are some rules of declaration and documentation that businesses should ensure they do correctly, to avoid complications in receiving the duty refund. The same considerations apply for refunds of import Value Added Tax.

3. The Vietnam customs authorities will tend to immediately facilitate the customs procedures for exports to the US including applying leniency on the documentation required, however as there is post-customs clearance processes under the Vietnam Customs Law, businesses should still pay attention to their compliance to avoid underlying non-compliance costs in future.

4. The interplay between customs valuation and transfer pricing adds complexity for businesses striving to comply with both tax and customs regulations in all countries, including Vietnam. For instance, if Vietnamese exporters and their US related parties agree on retroactive transfer pricing adjustments, the exporter may be subject to several challenges, such as:

   - Amending customs declarations to reflect accurate values.
   - Substantiating the arm's length principle for customs valuation determinations.
   - Navigating increased scrutiny during Value Added Tax (VAT) refund applications.
   - Evaluating the eligibility for tax incentives related to these transfer pricing adjustment amounts.
   - Disputing the appropriate VAT rate associated with transfer pricing adjustment amounts.

Every company will have different issues to navigate, and any mitigating tactics need to be carefully thought through, taking into account your specific circumstances. EY global trade team in conjunction with our business consulting professionals are uniquely placed to guide your company through these challenging times. For further discussion, please contact our professionals below.



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