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MEMORANDUM

April 3, 2025

BY ELECTRONIC MAIL

FROM: Olsson Frank Weeda Terman Matz PC

RE: Trade War Update: Reciprocal tariffs and other Tariff Actions Taken on "Tariff Liberation Day"

As anticipated, President Trump announced and implemented significant trade-related actions yesterday, "Tariff Liberation Day." The announcements and actions include: 1) Reciprocal tariffs, 2) End to de minimis exemptions for Chinese goods; 3) Publication of Annexes detailing the HTSUS provisions subject to new tariffs on automobiles and automobile parts; and 4) Addition of beer imported in aluminum cans and empty aluminum cans to the list of aluminum derivative products subject to Section 232 tariffs.

1. **Reciprocal Tariffs**

The most significant action taken yesterday was the announcement of sweeping "reciprocal tariffs" on goods originating in all countries. As outlined in an Executive Order issued by President Trump and accompanying explanatory Fact Sheet and as further explained below, two levels of reciprocal tariffs (tariffs intended to "rebalance global trade flows") will be imposed: (a) a 10% rate applied to all products of all countries (with certain exceptions outlined below)(b) a higher (in many cases, substantially higher) rate applied to all products (again, with certain exceptions) to be imposed on certain specified countries with a higher trade imbalance with the U.S. The list of country-specific reciprocal tariffs is contained in Annex I to the Executive Order.

As in the 25% tariffs recently imposed on products of Canada and Mexico and 20% tariffs imposed on products of China, President Trump utilized the International Emergency Economic Powers Act (IEEPA) as the statutory basis for the reciprocal tariffs. The IEEPA allows the President to regulate imports if he first declares a national emergency arising from an "unusual

and extraordinary threat" to the national security, foreign policy, or economy of the United States. Here, President Trump declared a national emergency arising from "large and persistent annual U.S. goods trade deficits" arising from both "non-reciprocal" tariff rates imposed by U.S. trading partners and non-tariff barriers such as high value-added taxes (VAT) imposed by other nations, currency manipulation, suppressed domestic production (wage suppression), and weak labor and environmental protections.

a. Baseline Reciprocal or "Universal" tariff

All articles imported into the United States will be subject to an *additional* ad valorem rate of duty of 10%. These additional 10% tariffs will apply to all goods entered for consumption or withdrawn from a warehouse for consumption on or after **12:01 a.m. eastern daylight time on April 5, 2025**.

Significantly, the EO provides an in-transit exclusion to these 10% baseline tariffs: goods loaded onto a vessel at the port of loading and in transit on the final mode of transit **before 12:01 a.m. eastern daylight time on April 5, 2025**, and entered for consumption or withdrawn from warehouse for consumption after 12:01 a.m. eastern daylight time on April 5, 2025, are not subject to the additional 10% duty.

b. Country-specific Reciprocal Tariffs

Certain specifically named countries will be subject to the higher country-specific rates listed in Annex I to the EO. This Annex was provided by the White House late last night, and will presumably be published in the Federal Register shortly. Many of the country-specific rates listed in the Annex are extremely significant, including 34% on China, products, 46% on Vietnam, 49% on Cambodia , and 32% on Taiwan and Indonesia; the EU will be subject to a 20% tariff, and India will be subject to a 27% tariff.

The country-specific reciprocal tariffs listed in Annex I will apply to all goods entered for consumption or withdrawn from a warehouse for consumption **on or after 12:01 a.m. eastern daylight time on April 9, 2025**. It is not entirely clear whether goods imported from the Annex I countries will be subject to the 10% baseline tariffs during the period prior to the effective date of the country-specific tariffs (i.e., entered for consumption after 12:01 a.m. on April 5 but prior to 12:01 a.m. on April 9).

As in the 10% baseline tariff, the EO provides an in-transit exclusion to the country-specific reciprocal tariffs: goods loaded onto a vessel at the port of loading and in transit on the final mode of transit **before 12:01 a.m. eastern daylight time on April 9, 2025,** and entered for consumption or withdrawn from warehouse for consumption after 12:01 a.m. eastern daylight time on April 9, 2025, are not subject to these country-specific tariffs..

c. Provisions applicable to both the 10% baseline tariffs and the country-specific reciprocal tariffs

The 10% baseline reciprocal tariffs and the country-specific reciprocal tariffs are aggregate, i.e. they will be imposed in addition to any other duties, fees, taxes, exactions, or charges applicable to the imported articles (with certain exceptions outlined below).

Both the 10% baseline tariffs and the country-specific reciprocal tariffs are subject, however, to certain significant exclusions as outlined in the EO and in Annex II to the EO[1]:

- All articles and derivatives of steel and aluminum subject to the 25% duties imposed pursuant to section 232 will not be subject to the reciprocal tariffs.
- All automobiles and automotive parts subject to the 25% duties imposed pursuant to section 232 will not be subject to the reciprocal tariffs.
- All articles that may become subject to duties under future actions under section 232 will not be subject to the reciprocal tariffs.
- "Other products enumerated in Annex II" to the EO will not be subject to the reciprocal tariffs. The Annex II list covers a wide range of "pairings" of HTSUS provisions and descriptions of the exempted products which they cover, including a large variety of metals and metal products, various energy-related products classified in Chapter 27 of the HTSUS, an extremely wide range of chemicals, medicaments, and other pharmaceutical products, a wide range of wood and wood products (including certain paper and paper products), and various semiconductors and associated goods (diodes, transistors, etc.). We note that many of these products are either the subject of currently pending Section 232 tariff investigations (lumber, copper) or have been identified by President Trump as the likely targets of specific tariff actions in the future (pharmaceuticals, semiconductors).
- All articles from a trading partner subject to Column 2 duty rates (currently, Russia, Belarus, Cuba, and North Korea) will not be subject to the reciprocal tariffs.

In addition, so long as at least 20 percent of the value of an imported good is "U.S. originating," the reciprocal tariffs (both 10% baseline and country-specific) will only apply to the *non-U.S. content* of the imported good. The EO defines "U.S. content" as the "value of an article attributable to the components produced entirely, or substantially transformed in, the United States."

d. Articles of Canada and Mexico

Articles "imported from Canada or Mexico" will not be subject to either the 10% baseline reciprocal tariff or to country-specific reciprocal tariffs. Rather, the EO specifies that articles imported from Canada and Mexico will simply remain subject to the 25% IEEPA-based tariffs (10% on Canadian-origin energy products and potash) previously imposed in March of 2025.
Effective March 7, 2025, President Trump excluded USMCA-qualifying goods from the 25% IEEPA-based tariffs. While he had previously stated that that exclusion would expire on April 2, the Fact Sheet accompanying the EO on reciprocal tariffs makes clear that the exclusion for USMCA-qualifying goods will remain in effect: "For Canada and Mexico, the existing fentanyl/migration IEEPA orders remain in effect, and are unaffected by this order. This means

[1] The White House made an unpublished version of Annex II available late last night; it will presumably be published shortly in the Federal Register.

USMCA compliant goods will continue to see a 0% tariff, non-USMCA compliant goods will see a 25% tariff, and non-USMCA compliant energy and potash will see a 10% tariff."

If the Mexico and Canada IEEPA tariffs are terminated or suspended, the EO specifies that all items of Canada and Mexico that qualify as originating under USMCA will continue to receive preferential treatment (will not be subject to any additional ad valorem rates of duty), while articles not qualifying as originating under USMCA will be subject to an additional 12% duty rate (as opposed to the 25% duty rate that is currently imposed). However, the 12% duties will not be imposed on energy or energy resources, potash, or any articles eligible for duty-free treatment under the USMCA that are parts or components of an article that is "substantially finished" in the U.S.

e. Chinese, Hong Kong, and Macau Origin Goods

By contrast, a 34% country-specific reciprocal tariff will apply to all Chinese-origin goods (with the exception of the various products listed above). To reduce the risk of transshipment and evasion, the reciprocal tariffs will apply equally to articles of Hong Kong and Macau. This is broader than Section 301 applicability (China origin only) and the previous IEEPA-based tariffs (China and Hong Kong only). As noted above, the reciprocal tariffs will be applied in the aggregate, leading to a potential 79% (or higher) tariff rate on certain products (i.e., 25% Section 301 tariff rate + 20% IEEPA-based tariff rate + 34% reciprocal tariff rate).

f. FTZ applicability

Goods admitted on or after 12:01 a.m. eastern daylight time on April 9, 2025, must be admitted as "privileged foreign status" as defined in 19 CFR 146.41.

g. *De minimis* treatment

Duty-free de minimis treatment will remain available for now for the articles subject to the Executive Order, except those subject to a separate EO closing the *de minimis* exemption for Chinese goods (discussed further below); it will end, however, when the Secretary of Commerce notifies the President that adequate systems are in place to fully and expeditiously process and collect reciprocal tariffs for articles that would otherwise be eligible for de minimis treatment

h. Duty drawback

Unlike the other recent tariff-related Executive Orders, the EO is silent as to whether reciprocal tariffs will be eligible for duty drawback.

i. Modification

Finally, the EO specifies that the President has the authority to increase or expand the scope of the reciprocal tariffs if any trading party retaliates against the US in response to the EO through import duties or other measures; the President also may decrease or limit the scope of the duties if any

trading partner takes "significant steps to remedy non-reciprocal trade arrangements and align sufficiently with the United States on economic and national security matters."

2. **End to De Minimis Exemptions for Chinese Goods.**

President Trump issued a separate Executive Order on April 2 ending duty-free de minimis treatment for all Chinese- and Hong Kong-origin goods entered for consumption or withdrawn from warehouse for consumption **on or after 12:01 a.m. eastern daylight time on May 2, 2025.**

Goods that are *not* contained in postal items (items that are *not* sent to the United States through the international postal network from China or Hong Kong and transported by carriers) that would ordinarily qualify for duty-free de minimis entry (goods valued at $800 or less) will now be required to be entered by a party qualified to make entry under an entry type other than de minimis, and will be subject to all applicable duties and fees.

Goods that are contained in postal items (sent to the U.S. through the international postal network from China or Hong Kong and transported by carriers) will be subject to *either* a 30 percent ad valorem duty (i.e. 30% of the value of *each* postal item containing goods to be entered for consumption into the United States) or a "specific duty" of $25 per postal item for goods entered before 12:01 a.m. eastern daylight time on June 1, 2025, rising to $50 per postal item for goods entered on or after that date. Transportation carriers delivering shipments of these goods will be responsible for collecting and remitting these duties to CBP, and will have the choice of collecting the duties at either 30% ad valorem rate or the "flat fee" of $25 (rising to $50) per postal item. The carriers will be required to have an international carrier bond sufficient to account for these duties.

3. **Annexes to Automobiles and Auto Parts Tariffs are Published**

The annex to the Section 232 automotive tariff proclamation has been released, listing tariff classifications subject to the new 25% tariffs on passenger vehicles and light trucks effective as to all goods entered for consumption, or withdrawn from warehouse for consumption, on or after **12:01 a.m. eastern daylight time on April 3, 2025**, and setting the effective date for tariffs on auto parts as all goods entered for consumption, or withdrawn from warehouse for consumption, on or after **12:01 a.m. eastern daylight time on May 3, 2025.**

4. **Beer imported in aluminum cans and empty aluminum cans added to Section 232 Aluminum Derivative List.**

Beer imported in aluminum cans on or after 12:01 a.m. ET April 4, and empty aluminum cans imported on or after the same date and time, will have to pay 25% tariffs under Section 232 on the value of the aluminum in the products. The annex of derivative products has been amended by adding subheadings 7612.90.10 and 2203.00.00.

5. **Summary of Tariff Actions**

We have compiled a summary below of certain significant tariff-related actions, both currently in

effect and proposed. There may be limited exclusions available for certain tariff actions. Please contact us for more information.

Country of Origin	Tariff Rate	Authority	Effective Date	Scope
China	7.5%, 25%, 50% or 100%	Section 301	2018 onward	A large percentage of classifications
China and Hong Kong	20%	IEEPA	February 4, 2025 (10%), March 4, 2025 (increased to 20%)	Universal
Canada	25% / 10%	IEEPA	March 4, 2025	Universal (25%)/ Energy Products (10%), USMCA-compliant products excluded for now
Mexico	25%	IEEPA	March 4, 2025	Universal, USMCA-compliant products excluded for now
All Countries	25%	Section 232	March 12, 2025	Steel and aluminum products and derivative articles
All countries	25%	Section 232	April 3, 2025, for Automobiles May 3, 2025, for certain automobile parts	Automobiles and certain automobile parts; value of "US content" may be excluded for USMCA-qualifying automobiles and automobile parts (individual parts only)
All Countries	Reciprocal Tariffs 10% non-named countries, except for Canada and Mexico Country-specific tariff rate	IEEPA	April 5, 2025, for non-named countries, except for Canada and Mexico April 9, 2025, country-specific tariffs	Various limitations on scope. *See* memo above.
All Countries importing oil from Venezuela directly or indirectly	25%	IEEPA	May be imposed on or after April 2, 2025, but none are imposed at present	Universal

All countries	TBD	Section 232	TBD (currently under investigation with findings to be issued by Nov. 26, 2025, although can be issued at earlier date)	Timber, lumber, and derivative products
All countries	TBD	TBD	Supposed effective date after April 2	Semiconductors
All countries	TBD	TBD	TBD	Pharmaceutical Products
All countries	TBD	TBD	TBD	Unnamed "agricultural products"
All countries	TBD	Section 232	TBD (currently under investigation with findings to be issued by Nov. 22, 2025, although can be issued at earlier date)	Copper and derivative products

The previous memoranda sent discussing presidential actions regarding these fast-moving trade developments are:

1. American First Trade Policy, Jan. 20, 2025
2. U.S. Imposes Tariffs on Mexico, Canada, and China, Feb. 2, 2025
3. Update: U.S. Imposes Tariffs on Mexico, Canada, and China, Feb. 3, 2025 (Canadian/Mexican tariffs suspended; Effective date of 10% tariff on products of China and Hong Kong)
4. Update on Trade War, Feb. 5, 2025(China's Response to New U.S. Tariffs, Impacted Industries, Potential Forthcoming U.S. Trade Activity, and Tariff Mitigation for Machinery and Parts of Machinery for Agricultural and Horticultural Use)
5. Update on Trade War: U.S. Imposes Tariffs on Steel and Aluminum, Response from Targeted Countries, and China Imposes Retaliatory Tariffs, Feb. 12, 2025
6. Update on Trade War: U.S. Releases Lists of Additional Derivative Articles of Steel and Aluminum Which Will be Subject to Section 232 Tariffs, and Issues a Presidential Memorandum on Reciprocal Trade and Tariffs, Feb. 17, 2025
7. Update on Trade War: U.S. to Move Forward with 25% Tariffs on Mexico and Canada Products and Double Tariff on Chinese-Origin Products to 20%; Section 232 Investigation on Copper Imports; USTR Requests Comments, Feb. 28, 2028.
8. Trade War Update, U.S. Tariffs on Canadian and Mexican Origin Goods; Increase in U.S. Tariffs on China; New Section 232 Tariffs on Derivative Articles of Steel and Aluminum Go into Effect; Tariff Investigations on Timber, Mar. 4, 2025.
9. Trade War Update: New Section 232 Tariffs on Derivative Articles of Steel and Aluminum Go into Effect Today – March 12, 2025.
10. Trade War Update: U.S. Imposes Automotive Tariffs; "Secondary Tariffs" on Countries Importing Oil or Gas from Venezuela; CBP Issues FAQs on Steel and Aluminum Derivatives; April 2 Reciprocal Tariff Actions; and Anticipated Sectoral Tariffs on Pharmaceuticals and Lumber, March 29, 2025.

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We will continue to monitor this situation closely and will report all significant developments. In the interim, please do not hesitate to reach out to us with questions or requests for additional information at Jessica Rifkin (jrifkin@ofwlaw.com) or Denise Calle (dcalle@ofwlaw.com).