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NAIROBI PROTOCOL AND US TARIFFS 2025

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TRUMP 2.0: “TARIFF MAN”

- 20 January [America First Trade Policy](#) presidential memorandum
- 1 February EOs impose 25% IEEPA Tariffs on products of Canada + Mexico, postponed to 4 March; 20% tariff on products of China from 4 February
- 10 February renewal/expansion of **25%** Section 232 tariffs on aluminum, steel + “derivative products” – effective 12 March, **increased to 50%** as of 4 June; **steady expansion** to downstream products
- 2 April: “Liberation Day” [EO 14257](#): reciprocal tariffs on almost all countries; bilateral negotiations April – July; some “deals”
- 31 July: [EO 14326](#) Further Modifying the Reciprocal Tariff Rates: 39% ad valorem reciprocal tariff on US imports of Swiss products

THE TARIFF MENU

- **International Emergency Economic Powers Act (IEEPA)** ([50 U.S.C. §1701](#) et seq.): If President declare a national emergency based on a foreign threat, “regulate” imports to deal with a national emergency based on a foreign threat; tariffs 2025
- **Section 232** ([19 USC §1862](#)): If Commerce Department finds imports of an article threaten to impair national security, President can “adjust the imports” of that article “and its derivatives” to eliminate the threat; tariffs on aluminum + steel + derivatives since 2018, renewed and enlarged 2025; added copper 2025
- **Section 122**, Trade Act of 1974 ([19 USC §2132](#)): President may proclaim non-discriminatory tariffs up to 15% for up to 150 days, to deal with “large and serious US balance-of-payments deficits” where “fundamental international payments problems require special import measures” – can be extended by act of Congress
- **Section 338**, Tariff Act of 1930 ([19 USC §1338](#)): President may proclaim tariffs on goods of a foreign country that discriminates against US goods compared to like goods of third countries: no maximum duration; never used yet
- **Section 301**, Trade Act of 1974 ([19 USC §2411](#) et seq.): USTR may investigate unfair trade, impose tariffs/ import restrictions to obtain elimination of foreign country’s unreasonable or discriminatory act, policy or practice; tariffs on Chinese goods 2018



New Tariff Requirements for 2025

Send questions to:
traderemedy@cbp.dhs.gov
Updated 8/20/2025
CBP Publication No. 5117-0825

Through Executive Orders and Proclamations, the President has imposed new tariffs on goods imported into the United States pursuant to the International Emergency Economic Powers Act (IEEPA) and Section 232 of the Trade Expansion Act of 1962. **This is a high-level overview. Many exemptions and other detailed provisions may apply that are not summarized below.** For complete information, visit the CBP.gov website using the QR code below.

Autos, Auto Parts

As of May 3: 25%

Section 232: 25% on passenger vehicles and light trucks and auto parts of all countries, except UK and USMCA. See below for unstacking.

Copper

As of August 1: 50%

Section 232: 50% on imports of semi-finished copper products and intensive copper derivative products of all countries. See below for unstacking.

Steel

As of June 4: 50%

Section 232: 50% on imports of steel (including derivatives) of all countries, except UK (25%). See below for unstacking.

Aluminum

As of June 4: 50%

Section 232: 50% on imports of aluminum (including derivatives) of all countries, except Russia (200%) and UK (25%). See below for unstacking.

Brazil

As of August 6: 40%

IEEPA: 40% on all nonexempted goods. Stacks with Reciprocal rate.

Russian Oil (India)

As of August 27: 25%

IEEPA: 25% on all nonexempted goods of India. Stacks with Reciprocal rate.

Canada

As of August 1: 35%, 10% Energy & Potash

IEEPA: 35% on all goods except 10% on energy and potash; exemptions for USMCA-originating goods. See below for unstacking.

Mexico

As of March 7: 25%, 10% Potash

IEEPA: 25% on all goods except 10% on potash and exemptions for USMCA-originating goods. See below for unstacking.

China/Hong Kong

As of March 4: 20%

IEEPA: 20% tariff on all goods. Additional IEEPA reciprocal rate of 10%.

Reciprocal

As of August 7: 10% to 41%

IEEPA: 10% minimum for all countries, then specific rates for all nonexempted goods; 10% to 41% for 95 countries.

Unstacking Certain Tariffs

1. Products subject to Auto/Auto Parts 232 are not subject to Copper/Aluminum/Steel 232, Reciprocal, Brazil/Russian Oil/Canada/Mexico IEEPA.
 - 2a. Content subject to Section 232 Aluminum/Steel is not subject to Reciprocal, Brazil, Russian Oil, or Canada/Mexico IEEPA.
 - 2b. Content subject to Section 232 Copper is not subject to Reciprocal, Brazil, or Russian Oil.

Products with a mixture of copper, steel, and/or aluminum content continue to be subject to all of the applicable Copper/Steel/Aluminum 232 tariffs.

De Minimis

As of August 29, de minimis duty free entry is no longer available for goods from any country.



EXEMPTIONS FROM RECIPROCAL TARIFFS

- Goods **outside the scope of IEEPA** (50 USC §1702(b): information, informational materials, donations (by persons subject to US jurisdiction) of articles intended to be used to relieve human suffering
- Goods currently subject to Section 232 tariffs; Products listed in [Annex II of EO 14257](#)
- US content (if goods have at least 20% US content by value)
- Goods properly claimed under **HTSUS Chapter 98: including 9817.00.96 – Nairobi Protocol:** see [Annex III of EO 14257](#) (p. 15):

The additional duties imposed by these headings shall not apply to goods for which entry is properly claimed under a provision of chapter 98 of the tariff schedule pursuant to applicable regulations of U.S. Customs and Border Protection (“CBP”), and whenever CBP agrees that entry under such a provision is appropriate, except for goods entered under heading 9802.00.80; and subheadings 9802.00.40, 9802.00.50, and 9802.00.60. For subheadings 9802.00.40,

NAIROBI PROTOCOL AND US TARIFFS 2025

EO or Proclamation	Effective date	CBP/CSMS guidance	HTSUS 98
EO 14193 (Canada), EO 14194 (Mexico), EO 14195 (China) (Fentanyl)	4 March (CA + MX), 4 February (CN)	CSMS 64297449 (CA), 64297292 (MX), 63988468 (CN)	Exempt – see CSMS
EO 14257 (Reciprocal tariffs)	5 April	CSMS 64649265	Exempt – see EO Annex III + CSMS
Proclamation 10895 (§232 tariffs on aluminum + derivatives)	12 March	BIS notice (90 FR 11251 , 5 March); CSMS 64348288 (12 March)	Exempt – See CBP §232 FAQ
Proclamation 10896 (§232 tariffs on steel + derivatives)	12 March	BIS notice (90 FR 11249 , 5 March); CSMS 64348411 (12 March)	Exempt – See CBP §232 FAQ

NAIROBI PROTOCOL

Nairobi Protocol to the Florence Agreement: adopted 26 Nov 1976, entered into force 2 Jan 1982: Text [here](#) and [status information](#) from UNTS. US signed 1981, enacted implementing legislation 1982 exceeding Nairobi Protocol requirements; legislation reenacted 1988.

[Proclamation 5978](#) (12 May 1989) modified the HTSUS to

- (i) add subheadings 9817.00.92, 9817.00.94, and **9817.00.96** to implement the Nairobi Protocol, and
- (ii) add an important **headnote** to Subchapter XVII of HTSUS Chapter 98 defining scope of these benefits. This headnote is statutory law, not an interpretive rule

See also **US Customs interpretive rule**, “[Implementation of the Duty-Free Provisions of the Nairobi Protocol, Annex E, to the Florence Agreement](#)”, [T.D. 92-77](#). 26 August 1992

Note: 98.17.00.96 does not require end-user certification or other protections against abuse

HTSUS 9817.00.96 + NOTE 4(A)

“Articles **specially designed or adapted** for the use or benefit of the blind or other **physically or mentally handicapped persons**; parts and accessories (except parts and accessories of braces and artificial limb prosthetics) that are specially designed or adapted for use in the foregoing articles”

(9817.00.92 + 94: Articles for the blind. **9817.00.96: Other**)

US Note 4(a) to chapter 98, subchapter XVII:

(a) For purposes of subheadings 9817.00.92, 9817.00.94 and 9817.00.96, the term "blind or other physically or mentally handicapped persons" includes any person suffering from a **permanent or chronic physical or mental impairment which substantially limits one or more major life activities**, such as caring for one’s self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, or working.

(b) Subheadings 9817.00.92, 9817.00.94 and 9817.00.96 **do not cover** --

- (i) articles for **acute or transient disability**;
- (ii) **spectacles, dentures, and cosmetic articles** for individuals not substantially disabled;
- (iii) **therapeutic and diagnostic articles**; or
- (iv) **medicine or drugs**.

NAIROBI PROTOCOL ANALYSIS – [SIGVARIS](#) [V. US](#) (CAFC 2018)

Sigvaris' product: graduated compression hosiery (nylon/spandex + sometimes silicone).

CBP classified imports as HTSUS 6115.10.40 “other graduated compression hosiery... of synthetic fibers” (14.6% duty); Sigvaris protested, sought classification as 9817.00.96; CBP denied; Sigvaris challenged in US CIT; CIT agreed with CBP except for lymphedema sleeves. On appeal, CAFC **affirmed**.

CAFC overall analysis:

- **Is the article “specially designed or adapted for the use or benefit of the blind or other physically or mentally handicapped persons”?** A case-by-case inquiry
 - For whose, if anyone’s, use and benefit is this article designed?
 - Are those persons handicapped?
- **“Specially designed”:** must be **“intended for the use or benefit of a specific class or persons to an extent greater than for the use and benefit of others”**.

NAIROBI PROTOCOL ANALYSIS – SIGVARIS V. US (CAFC 2018)

Sigvaris v. US: the 5 *Sigvaris* factors

1. **Physical properties** – is the article **easily distinguishable in design, form and use from articles useful for non-handicapped persons?**
 - These were low-compression (15-20 mmHg) socks; marketing materials targeted “a variety of persons” including “people with an active lifestyle”, not just those with chronic venous disorder (CVD). Incidental benefits (alleviation of CVD) did not establish that the socks are “specially designed” for specific class of persons
 - *Richards Medical Co. v. US* (CIT, 1989) - Instruments used to implant hip prosthetic devices are “specifically and exclusively designed for prosthetic implantations and have **no other apparent commercial use.**”
 - Is the article **only** useful for the handicapped (pacemakers, hearing aids)?
 - Congress did not intend that an insignificant adaptation would result in duty-free treatment for an entire relatively expensive article - the modification or adaptation must be significant so as to clearly render the article for use by handicapped persons. (*Danzas Inc. v. US*, 2018)

NAIROBI PROTOCOL ANALYSIS (*SIGVARIS*)

2. Probability of general public use (or is the item *only* for the handicapped)

- **Denied:** Broad-based two-handled mugs (labeled as “for children”). [Orthotics](#) and [smart scales](#). [Nutritional foods](#).
- Bedside commode (toilet) is distinctively used by the handicapped ([NY N330412](#)) but compliance with (widely-used) standards for Americans with Disabilities Act does not mean an extra-height toilet is “specially designed” for the handicapped - [Danzas Inc. v. US](#) (2018)

3. Importation by manufacturers/ distributors involved in articles for the handicapped

4. Sale in specialty stores that serve handicapped individuals

5. Indication at time of importation that articles are for the handicapped

NAIROBI PROTOCOL ANALYSIS (4)

[T.D. 92-77](#) more factors to evaluate re. “specially designed or adapted”:

“For the use OR benefit”:

- [Richards Medical Co. v. US](#) (CIT, 1989) - Instruments used to fit and implant hip prosthetic devices are “for the use or benefit” of the handicapped even though not directly used by them

“Physically or mentally handicapped”

- “any person suffering from a **permanent or chronic** physical or mental impairment which substantially limits one or more major life activities” - Articles for **acute or short-term disability** not eligible
- What conditions qualify as chronic handicaps?

Q: what about inputs? [H346403](#) (fabric for bed pads): applying GRI 2(a), unfinished articles can qualify for 9817.00.96, but the article must have the essential character or essential shape of the qualifying, finished article

NAIROBI PROTOCOL ANALYSIS: EXCLUSIONS

- **Articles for acute or transient disability**
 - [H331366](#): internal defibrillators implanted for long-term use qualify for 9817.00.96 but external defibrillators or cardiac monitors are “primarily used to evaluate and treat an acute or transient disability such as an acute cardiac event”. (revoked prior rulings)
 - [H556532](#): canes are predominantly used by the permanently/chronically handicapped but crutches are predominantly for acute or transient disability
 - [H349573](#): ventricular assist devices are not therapeutic; are designed to cope with end-stage heart failure which is a permanent or chronic impairment; qualify for 9817.00.96
- **Spectacles, dentures, cosmetic articles for persons not substantially disabled**
- **Therapeutic and diagnostic articles**
 - [Richards Medical Co. v. US](#) (CIT, 1989) – “therapeutic” articles are used to heal or cure; prosthetic device helps in mobility but does not cure the condition that caused the handicap
 - [N349263](#): reusable pulse oximetry sensors are used in many medical situations, not “specially designed” for use or benefit of handicapped; oximeters are diagnostic devices
 - [H285358](#): Optical microscopes are articles whose purpose is the “complete or partial elimination of disease” (therapeutic articles)
- **Medicine or drugs**

US TARIFF EVENTS TO WATCH 2025-26

- More bilateral reciprocity negotiations
- Change in tariffs to adjust for imbalances/ backfires caused by interaction between serially applied tariff schemes
- Trump administration implementation of reciprocity “deals” (UK, EU, Japan, Korea, others)
- Outcome of litigation on legality of tariffs based on IEEPA – appeal to US Supreme Court; potential refund process
- Expansion of Section 232 tariffs on steel/ aluminum by “inclusion” of more derivative items – September 2025, January 2026
- Additional Section 232 tariffs
- Section 301 port fees on Chinese shipping

FREE SOURCES OF USEFUL INFORMATION

- Events: [White House Press Pool](#) reports; Trump posts on [Truth Social](#); [C-SPAN](#) video; White House [announcements](#) website
- Official publications: [Federal Register](#): [Current issue](#) and [Public Inspection](#) ([how to get free updates](#))
- US Customs [Cargo Systems Messaging Service](#) (CSMS) on implementation: CSMS bulletins also [available via email](#)
- CBP FAQs: [IEEPA tariffs](#), [Section 232](#), [Section 301](#), [E-commerce](#)
- [HTSUS](#) online and [Customs Ruling Online Search System](#) (CROSS)
- Litigation: [USCIT](#), [CAFC](#) (including past opinions); for current documents and oral argument transcripts, [RECAP](#) (Free Law Project)



THANK YOU

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