

US Threatens 25% Tariff on Canadian Exports in Looming Trade Storm

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The second Trump administration is set to deploy several protectionist trade tools to protect the US. economy, respond to national security concerns and achieve foreign policy goals. These tools include increased tariffs, anti-dumping and countervailing duty disputes, outbound investment controls, enhanced sanctions and export controls, in particular with respect to China, and restrictions on the transfer of sensitive data abroad.

US Tariffs

The imposition of increased tariffs by the new administration will be relevant to companies involved in cross-border trade and investment. Canada and other jurisdictions such as Europe and Asia will likely deploy their own retaliatory tariffs in opposition to the US tariffs. *Companies are urged to closely monitor the upcoming changes in international trade rules in the US, Canada and in any country in which they have exposure to protect and promote their interests in the stormy waters that lie ahead.*

President-elect Trump has [proposed](#) to establish a universal baseline tariff of up to 20% on nearly all goods imported into the US and a 60% tariff on all imports from China. He has also expressed continued support for the “Reciprocal Trade Act” which would empower the President to increase tariffs to either the rate imposed by the opposing country or the determined value of the applicable non-tariff barriers.

Canada Singled Out for Immediate 25% Tariff

In a post on social media on Monday, November 25, 2024, Trump said he planned to “charge Mexico and Canada a 25% Tariff on ALL products coming into the United States.”

“This Tariff will remain in effect until such time as Drugs, in particular Fentanyl, and all Illegal Aliens stop this Invasion of our Country! Both Mexico and Canada have the absolute right and power to easily solve this long simmering problem.”

It goes without saying that a flat 25% tariff applicable to only Canadian exports would have significant adverse consequence for Canadian exporters, US importers, purchasers and downstream end-users, not to mention the impact of the trickle down effect in both economies.

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As witnessed in the prior Trump administration, Presidents have broad legislative authority to impose tariffs on goods imported into the US. For example, Section 203 of the *International Emergency Economic Powers Act*¹ may be invoked to authorize universal tariffs on imported goods from all countries on the basis that trade deficits threaten the national security of the US. The tariffs on Chinese goods could be authorized under the Section 301 of the *Trade Act of 1974*² based on findings of unfair trade practices and policies enforced by China. The imposition of these tariffs will likely be challenged by several trading partners under the World Trade Organization dispute settlement regime, although the US implementation of any successful panel findings may be unlikely.

Retaliatory Tariffs

The governments of the US trading partners including Canada have their own legislative authority to impose retaliatory tariffs. For example, Section 53 of the Canadian Customs Tariff allows the Governor in Council, on the recommendation of the Minister of Finance and Minister of Foreign Affairs, to impose surtaxes on goods imported into Canada that originate from a country whose “acts, policies or practices of the government of a country that adversely affect, or lead directly or indirectly to adverse effects on, trade in goods or services of Canada”. This mechanism was used to impose Canadian tariffs on more than \$2.7 billion worth of US goods in response to the US tariffs initially imposed against Canadian goods in first Trump administration.

Mitigation

Notwithstanding that the uncertainty regarding Trump’s plans and how other countries will respond make it difficult for companies to plan, the impact of the US and retaliatory tariffs is likely to greatly enhance tariff risk and wreak havoc on global supply chains.

Companies should be considering immediate actions they can take to mitigate the impact of tariffs. These include:

- Coordinating with departments to develop a duty mitigation strategy
- Enhancing visibility into their supply chains, including mapping them out and identifying the origin of key imported goods, their tariff classification, and current duty rates
- Considering strategies to de-risk supply chains
- Pushing exports into the US forward as much as possible (since the tariffs will be effective on a going forward basis)
- Reviewing contractual provisions that address the risk of additional tariffs, including which party bears their cost
- For Canadian exporters, working with their US customers and purchasers to develop a strategy to

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avoid their exports being subject to any US tariffs, though this may not be possible if universal tariffs are imposed

- For Canadian exporters, preparing to participate in any Section 301 Product Exclusion process initiated by the United States Trade Representative
- For Canadian importers, preparing to participate in the consultation process that will be initiated by the Government of Canada to decide which US imports will be subject to Canadian retaliatory tariffs
- For Canadian importers, preparing to apply to the Government of Canada for a remission of retaliatory duties on their imports
- For Canadian importers and exporters, exploring the applicability of any duty relief programs that may apply to exported goods made with imported components subject to Canadian retaliatory tariffs

The next few years could prove to be tumultuous in terms of changing international trade rules in response to US trade measures. Investors, companies engaged in international trade and Canadian importers and exporters should pay close attention to the potentially dramatic changes on the horizon and be prepared for how they may impact their businesses and investments.

¹ Title 50, §§1701–1707.

² 19 U.S.C. § 2411, Pub. L. No. 93-618, § 301, 88 Stat. 1978.

Trade Turbulence

Webinar

- [Trump Administration's Trade Policies \(including Tariffs\) and What It Means for Canadian Businesses](#) (02/05/2025)

Insights

- [A Temporary Reprieve: US and Canada Agree to 30-day Tariff Implementation Delay](#) (02/04/2025)
- [US and Canadian Tariffs Hit Hard and Fast Beginning February 4, 2025](#) (02/03/2025)
- [America First Trade Policy: Not Just US Tariffs! Start Preparing Now for Tariffs and a Host of Other New US Protectionist Measures – After April 1, 2025](#) (01/21/2025)

Media

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- [Brenda Swick Looks at the North American Trade Policy Review Ordered by US President Donald Trump](#) (01/23/2025)
 - [Brenda Swick Part of “Inauguration and Beyond – Framing the Impacts of the New US Presidency”](#) (01/07/2025)
 - [Brenda Swick Discusses Tariffs with CBC](#) (12/03/2024)
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