

Foreign trade policy is top of mind on both sides of the Canada-U.S. border. With sudden shifts by the new U.S. administration, the prospect of new tariffs introduce uncertainty to the market. However, these tariffs also represent a real opportunity for Canadian business to reorient global trade and take better advantage of existing relationships outside of the U.S. and of interprovincial trade.

What would tariffs mean for Canadian exports, sector by sector? What's the potential impact of retaliatory measures? How would reciprocal tariffs impact Canada-U.S. relations — and your business? How and where can you reposition inbound and outbound trade to other markets?

Keep an eye on this page as BLG's international trade lawyers bring you the latest on the tariff issue, and how your company can adapt.

The inside track on U.S. tariffs and Canadian trade

From [Rambod Behboodi](#)

Feb. 19, 2025 – The return of the steel tariffs

Since November 25, 2024, importers, exporters, manufacturers, and consumers on both sides of the Canada-U.S. border and across all sectors have had to deal with two concurrent challenges: the potential imposition of layers of costs as a result of new tariffs announced in regular intervals by the new Administration, and the extreme uncertainty as to what comes next. The stability in framework rules that governed Canada-U.S. trade can no longer be taken for granted.

What is the likely impact of steel and aluminum tariffs on Canadian exports? How will retaliatory measures affect Canadian producers and consumer? What will yet another layer of "reciprocal" tariffs do to Canada-U.S. relations — and your business? Each sector and each company will be affected in a different way, and will need a bespoke strategy to address and manage the developments ahead.

Destabilizing though they may be – and we should not underestimate the harm of either the tariffs or the uncertainty to Canadian interests – these unprecedented disruptions to global trading order that had been going strong for nearly 80 years also present a real opportunity for Canadian business to reorient trade patters and take better advantage of existing relationships outside of the U.S. – and build new ones – and to expand hitherto less-explored interprovincial trade. This is the time for all Canadian businesses to start thinking about repositioning inbound and outbound trade from and to other, friendlier, more open, and more secure, markets.

[Read the article.](#)

Feb. 17, 2025

In a statement published on Elon Musk's social media platform, X, President Trump announced a sweeping set of new trade measures based on a faulty premise of how taxation and trade frameworks of other countries (and his own) operate. The measures are sure to throw tax and customs administrations of other countries (and his own) into chaos. Every sentence of the announcement gives rise to a concern.

"I will charge a RECIPROCAL Tariff meaning, whatever Countries charge the United States of America, we will charge them - No more, no less!"

Of course, no country charges the *United States of America* tariffs of any kind. Tariffs are paid, by the importer, upon the importation of goods originating abroad. The importer then passes the tariff on to the local consumer. The tariffs are based on *negotiated* and *agreed* rates set out in multilateral (the WTO Agreement), regional (the CUSMA), and bilateral (the Canada-EU CETA, for example) trade agreements. Those rates reflect a balance of negotiations and interests, and basic institutional principles that have governed international trade since 1947. Returning to reciprocity – that is, upending nearly 80 years of stability in trading relations – will have enormous costs, in administration as well as commercial uncertainty. That's just the tip of the iceberg.

"For purposes of this United States Policy, we will consider Countries that use the VAT System, which is far more punitive than a Tariff, to be similar to that of a Tariff."

On the positive side, this is the first time that the US president has acknowledged a tariff is a tax. Be that as it may, it's difficult to discern in which way a value-added tax is "far more punitive," or even mildly more so, than a tariff.

Remember: a "tariff" is an indirect tax, hidden from the consumer, which is paid and absorbed into the price of an imported good. A *value-added tax* – like the GST – applies equally to both domestic and imported goods, and generally operates through a sophisticated system of input tax credits.

Let's say a distributor buys 100 widgets. It pays GST on the wholesale price of those widgets. The distributor then sells those widgets to ten different stores. Each store buys those widgets at a certain price (higher than that paid by the distributor) and pays GST on that transaction.

Wait - what? So, you mean GST is charged twice? Yes and no: the distributor gets to deduct the GST it has paid on its initial purchase, and so it pays the CRA only the difference between the two. The same happens when a store sells a widget to the ultimate consumer. This means that there is really only one GST paid on a widget: the one at the point of consumption on the final sales price.

It gets even better. Unlike with a tariff, an input tax credit may be available in respect of other expenses related to commercial activity. (The CRA site sets out the list.)

There is, in this sense, nothing "punitive" about a VAT, and certainly not in any way shape or form "far more" so than a tariff.

"In addition, we will make provision for subsidies provided by Countries in order to take Economic advantage of the United States."

There already is one. It's the oldest and most sophisticated countervailing duty framework in the world, one with which Canadians – especially exporters of softwood – are very familiar already.

"Likewise, provisions will be made for Nonmonetary Tariffs and Trade Barriers that some Countries charge in order to keep our product out of their domain or, if they do not even let U.S. businesses operate."

I have no idea what a "nonmonetary tariff" is, and how it can be "charged" if it is nonmonetary. Be that as it may, non-tariff barriers are already subject to significant disciplines internationally: Articles III and XI of the GATT prohibit discriminatory domestic measures and import prohibitions; the TBT Agreement governs technical regulations and standards; and the SPS Agreement deals with health and food safety measures.

"We are able to determine accurately the cost of these nonmonetary trade barriers."

And, no, they're not.

"There are no Tariffs if you manufacture or build your product in the United States." [emphasis added]

Finally, we come to the principal point of the announcement. There is a certain beauty in the simplicity of this sentence. It should end the debate, "Why the tariffs?" and "Let's negotiate." The end point of this fast and furious flurry of trade-related announcements is mercantilist autarky. Cooler heads will eventually prevail, but not before enormous damage has been done to the fabric of international business transactions more generally, and the word of the US in its trade agreements more specifically.

Feb. 7, 2025 – Do the CUSMA rules of origin still matter?

Much of commentary on the most recent tariff dispute between the United States and Canada has concentrated on the economics: who pays and what are the effects. These are important considerations, to be sure, and must be front and centre in any conversation about the topic.

At the same time, Canada-U.S. trade relations in goods (setting aside services trade) are far more complex and intertwined than tariffs and counter tariffs. At least two trade agreements set rules for our annual bilateral \$800 billion goods trade. The U.S. tariffs might be illegal (they are), but the treaties are still there, and they still matter: the U.S. has not yet repudiated them, and is not even threatening to do so. The tariff issue raises specific concerns under other provisions of those agreements. We will, in the course of the coming weeks, explore those concerns in more detail. At the moment, one point sticks out: if the U.S. imposes tariffs on Canadian goods, and Canada imposes tariffs on U.S. goods, how do you determine where the goods are coming from?

That is to say, if the tariffs are illegal, do the CUSMA rules of origin still matter?

In a word, yes. How do we know? Well, despite the threat of tariffs, both the WTO Agreement and the CUSMA still govern trade relations on goods between Canada and the United States.

For example, the United States has not changed its customs valuation or classification rules. Nor does it propose to fundamentally alter its tariff administration to make it less objective or transparent, or more discriminatory, than required under the WTO. At least, not yet.

The same is true, in our view, with the CUSMA rules of origin. The tariff disciplines of the CUSMA and the WTO Agreement might well, for the time being, be out the window, but the bilateral — indeed, global — framework within which those tariffs would apply continue to operate.

Of course, that does not mean you're out of the woods: the rules of origin chapter of the CUSMA runs to a dense, mind-numbingly technical 270 pages. But the rules are still relevant. So if you have any questions, give us a call at BLG and we'll sort it out.

Feb. 6, 2025 – Welcome to our one-stop shop on trade tariffs

Starting Aug. 2024, BLG's Trade Team (that is, lawyers from our International Trade & Investment Group) has been making presentations at all our offices and at various meetings across the country to identify the challenges Canada faced regardless of the outcome of U.S. elections. It has been a hectic few months, between trade-related Insights, trade-related advice, public advocacy, and client communication and education efforts.

Since Nov. 25, 2024, Canada, as well as Canadian and U.S. entities engaged in international trade, have lived in a state of uncertainty, which is also true of BLG counsel across most of the firm's business lines. That uncertainty was resolved, in a manner, on Feb. 1, 2025: an Executive Order signed by President Trump targeted "All articles that are products of Canada" with punishing tariffs, ranging from 10 per cent for certain energy products to 25 per cent for the rest. Despite past practice, the EO did not set out a list of products, and did not provide for an exclusion framework.

In response, and on the same day, the government of Canada announced a series of retaliatory measures in two waves:

- First, a specific set of products was targeted for immediate retaliatory measures.
- Second, a more comprehensive list was made subject to a 21-day consultation period.

As is customary in these situations, the government of Canada also provided for a "remissions" framework.

All of these measures were suspended on Feb. 3, after Canada recommitted to a number of initiatives agreed with the previous administration, and announced new positions and spending in respect of "border security."

Over the past months, the Trade Team has produced a number of templates and guides for counsel to be shared with clients. In particular, though not exclusively, we focused on:

- Tariff mitigation
- Supply-chain restructuring
- Change in business relationships between related Canada-U.S. parties
- Transfer pricing concerns
- Rules of origin issues
- Force majeure and related contractual clauses

The Trade Team remains at your disposal for generic or bespoke speaking points, client meetings, association information sessions, and other outreach activities. Contact any of our key contacts further down this page.

Canadian exports

With regulatory changes threatening just about every sector of the Canadian economy, BLG's guidance as a full-service firm will prove a real advantage to Canadian companies looking for strategic solutions on tariff and non-tariff trade barriers. Our [International Trade & Investment Group](#) is the most senior and experienced in Canada, and can provide assistance to clients in all industries, including on:

- Tariff mitigation
- Supply-chain restructuring
- Change in business relationships between related Canada-U.S. parties
- Transfer pricing concerns
- Certification of origin issues
- Force majeure and related contractual clauses


You can't afford to be passive in protecting your interests.

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