Announcement of U.S. Customs Tariffs: Repercussions and Trade Strategies for Canadian and Quebec Businesses

November 27, 2024

Authors

André Vautour

Partner, Lawyer

Édith Jacques

Partner, Lawyer

Christian Chidiac

Senior Associate

Nearly four years after the Canada-United States-Mexico Agreement (the "**CUSMA**" or the "**Agreement**") came into force, U.S. President-elect Donald Trump announced on November 25, 2024, that he would impose 25% tariffs on all products entering the U.S. from Canada and Mexico, starting on the first day of his presidency, that is, January 20, 2025. Mr. Trump added that the tariffs would remain in effect until Canada and Mexico strengthened their border policies, which he blames for the increase in illegal immigration and the trafficking of devastating drugs in the United States.

As a reminder, under the current provisions of the CUSMA, most products made in Quebec and Canada can be sold on U.S. markets without tariffs applying. President Trump has repeated his intention to implement such customs tariffs on several occasions since his announcement at the end of November. However, no real measure has yet been taken to impose these customs tariffs. Still, should he choose to go ahead with his threat, there appears to be several legislative provisions on which his administration could rely to implement these tariffs.

His administration could invoke the CUSMA's essential security exception, which allows a party to the Agreement to apply any measure deemed necessary to protect its essential security interests, the national security exception in the *Trade Expansion Act of 1962*, which President Trump's first administration used in 2018 to introduce tariffs on U.S. imports of certain steel and aluminum products, or the provisions of the *National Emergencies Act*.

Copyright (c) Lavery, de Billy, S.E.N.C.R.L. - L.L.P.

Needless to say, the announcement sent shockwaves through the political and business communities in Canada and Quebec what with the close commercial ties that the U.S. has with Canada, including with Quebec.

In the first quarter of 2024 alone, Quebec's merchandise exports to the U.S. reached CAN$21.2 billion, which accounts for nearly 74.6% of the province's international merchandise exports and makes the U.S. Quebec's main trading partner on the world stage. The imposition of 25% tariffs would therefore significantly affect Quebec businesses. It would make them less competitive on the U.S. market, on which they rely heavily to export their products. The measure could be particularly detrimental to the Canadian forestry industry, which is already severely affected by tariffs of nearly 15% on lumber.

The U.S. economy would also be considerably affected by such protectionist tariffs. While in the short term, tariffs could benefit certain domestic manufacturers and producers, in the longer term, they are likely to harm the U.S. economy as a whole. Many U.S. manufacturers would face higher costs of inputs, and established supply chains would be disrupted, in particular in the automotive and steel industries. To continue to make profits, many U.S. companies could be forced to pass on the additional costs to their end consumers by raising the prices of their products, which would undoubtedly result in another wave of inflation. Worth mentioning also are the retaliatory measures that the Canadian government may want to implement in response to such tariffs, which could affect certain parts of the U.S. economy.

Although the CUSMA provides for dispute resolution mechanisms, they are unlikely to lessen the impact of the measures that the Trump administration is considering in the short term, as a final decision under these mechanisms could take a long time to be issued. The new U.S. administration could use the announcement made on November 25 as leverage in future CUSMA renewal negotiations, the preparatory discussions for which are slated to begin next year, or in negotiations for a separate trade agreement between the U.S. and Canada that would exclude Mexico. Canadian businesses would do well to encourage their various trade associations to take steps to lobby both American decision-makers and their corporate customers in the U.S. and remind them of the harmful effects that the announced tariffs may have on American businesses.

While we wait for a more detailed announcement with information concerning specific tariff exemptions in particular, we suggest that businesses choose their future trading partners with great care. In an increasingly protectionist global economic context, a strategy involving the diversification of trading partners is the best way for businesses to offset the risks associated with a particular country's tariff policies. The Comprehensive Economic and Trade Agreement signed by Canada and the European Union in 2017, which our firm helped to negotiate, may prove to be an interesting solution in this respect.

Our team of commercial law and tax professionals is available to help you find solutions to the issues arising from this announcement. With our expertise, we can assist you in your commercial negotiations and help you develop strategies to mitigate the impact that the announced tariff increase may have on your business.

Copyright (c) Lavery, de Billy, S.E.N.C.R.L. - L.L.P.