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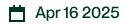
ARTICLE

A new era of global trade tensions

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On April 2, 2025, after weeks of speculation and heightened geopolitical tension, President Trump announced sweeping global tariffs on what he dubbed "Liberation Day". The tariffs included a baseline universal tariff of 10% on most imported foreign goods, in addition to specific "reciprocal tariffs" on several major trading partners. It was initially announced that the universal tariff would go into effect on April 5, while the reciprocal tariffs were due to begin on April 9. However, on April 9, 2025, Trump announced that most of the reciprocal tariffs would be delayed for a period of 90 days.

As the global community grapples with the ramifications, companies are urgently assessing the impact on their operations and supply chains.

In this article, we provide a snapshot of the latest key tariff changes, reactions from major trading blocs, and we explore some of the immediate steps companies should be considering.²

Snapshot of tariff changes

Below is a summary of some of the key tariff changes recently announced by the U.S.

All countries are currently subject to a 10% tariff until the 90-day pause window ends in July, at which point the tariffs are set to increase to the "Liberation Day" rates. Notably, the new tariffs will not apply to products already subject to tariffs, including steel, aluminum, automobiles, and parts. Also exempt are products such as copper, pharmaceuticals, semiconductors, lumber products, gold bullion, energy and minerals that are not available in the U.S., and most recently (in respect of Reciprocal Tariffs), smartphones, computers, and certain other electronic devices and components (although, this appears to be subject to change). Nevertheless, the White House has identified additional products and sectors that merit further investigation, including pharmaceuticals, semiconductors, and certain critical minerals. This may lead to tariffs targeting these sectors.

10% universal tariff 11-25% 26% + E.U.

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*Canada and Mexico were deemed exempt from the "Liberation Day" tariffs because they were already facing 25% tariffs, imposed earlier in March.

Further context

Exercising authority under the International Emergency Economic Powers Act of 1977 (IEEPA), President Trump mandated a universal baseline tariff of 10% on all imported foreign goods (Universal Tariff), effective from April 5, 2025. In addition, reciprocal higher tariffs (Reciprocal Tariffs) were also imposed on countries with which, President Trump argued, the U.S. has the largest trade deficits these Reciprocal Tariffs were due to take effect from April 9, 2025. However, in a decision made by President Trump on April 9, those Reciprocal Tariffs were delayed for a period of 90 days (to the exclusion of China). The Universal Tariffs, on the other hand, are now in effect. For further information on the IEEPA and U.S. tariff regime, please see our article 'Trump's reciprocal tariff program' here.

The U.S. has explained that Reciprocal Tariffs represent the tariff rate deemed necessary to balance the bilateral trade deficits between the U.S. and its trading partners. The U.S. Trade Representative indicated that this calculation assumes that persistent trade deficits are due to a combination of tariff and non-tariff factors that prevent trade from balancing. It is understood the Reciprocal Tariffs have been calculated by reference to the U.S. goods trade deficit with a country. For instance, it was announced that the U.S. will impose a 34% tariff on China by reference to a calculated 67% trade deficit that the U.S. has with China. Notably, the "trade barriers" used to calculate the Reciprocal Tariffs were not confined to tariffs imposed by each country. Rather, these trade barriers were assessed by reference to a wide array of trade measures including value-added tax.

Questions have arisen regarding the countries targeted by Reciprocal Tariffs. More specifically, Russia, North Korea, Cuba, and Belarus are not featured. This has been justified on the basis that these countries already face significant tariffs, and existing sanctions effectively preclude any meaningful trade with the U.S. Nevertheless, the U.S. continues to trade significantly more with Russia than it does with some other jurisdictions that are included on the list of Reciprocal Tariffs.³

The U.S. tariffs are set to continue in place indefinitely. Furthermore, the IEEPA order contains a modification authority that authorizes President Trump to adjust the tariff rate if trading partners choose to either retaliate or

take significant steps to remedy non-reciprocal trade arrangements and align with U.S. economic and national security policies.

Retaliation and beyond

Major trading partners of the U.S. continue to grapple with how best to respond to the seeming breakdown in the global rules-based trading system that has functioned for many decades. While the responses appear to have been mixed, as at the date of this article, the U.S. has indicated that more than 50 world leaders have sought to engage with the administration to reach a new trade deal.

Generally speaking, the U.K. Government appears to have adopted a less confrontational strategy—careful to avoid being targeted with tariffs for U.S. bound goods higher than 10%. The U.K. Business and Trade Secretary, Jonathan Reynolds, initiated a consultation process, inviting businesses to share perspectives on potential retaliatory measures. He has emphasized that, while the U.K. remains committed to negotiating a trade deal with the U.S., it may consider retaliatory measures if an agreement is not reached. As part of this consultation, the U.K. published a 400-page indicative list of U.S. goods that could be targeted in a potential future response.

In Europe, the president of the European Commission, Ursula von der Leyen, has been highly critical of the tariffs, reiterating plans to protect EU businesses and noting that the EU is preparing countermeasures in the event that a trade deal with the U.S. cannot be reached. In particular, the EU says it has offered the U.S. a "zero-for-zero" tariff pact for industrial goods. There is speculation that the EU may invoke its Anti-Coercion Instrument, which would permit the EU to adopt any measures deemed necessary in the event of third party "coercion". Such countermeasures may include sanctions and tariffs, and they can also target specific individuals and companies. It is possible that such countermeasures may include the targeting of U.S. services exported to Europe in addition to tariffs on goods. The European Commissioner for Trade and Economic Security, Maros Sefcovic, says that the EU is "prepared to use every tool in our trade defense arsenal to protect the EU single market".

Asian countries are some of the hardest hit by the new U.S. tariffs. China reacted almost immediately by imposing an equivalent 34% tariff on U.S. imports, to which the U.S. administration reacted by imposing a 104% tariff on China. On April 9, China increased its tariff on U.S. imports to 84%. The U.S. has since imposed a 125% tariff on China. On April 10, China matched this rate for U.S. imports. As part of its retaliation, China has also imposed sanctions on the U.S., adding 12 U.S. companies to an export control list, and six U.S. companies to their unreliable entity list. More broadly in the region, Vietnam, Indonesia, Cambodia and India have stated that they will not retaliate. Likewise, whilst Australia has voiced criticism of the tariffs, it has indicated that it will not retaliate.

Mexico has stated that, whilst it wants to avoid imposing Reciprocal Tariffs on U.S. goods, it does not rule it out. President Claudia Sheinbaum said that her country wants to continue talks with Washington before taking on any other measures, whilst also protecting Mexican industries and companies.

The evident challenge for businesses is that the political context remains highly fluid and unpredictable. Responding to an environment in which the rules may change on a daily basis makes any mitigation strategy difficult to effectively design and implement.

Immediate considerations

Evaluating your supply chains and production hubs

Tariffs will affect the competitiveness and resilience of established supply chains in affected sectors. Some will be more vulnerable than others, particularly where there are multiple components sourced from different markets. The true impact is highly business specific. Each supply chain will need to be assessed to fully determine the impact tariffs and retaliatory measures will have. The immediate answer for some businesses will be to onshore or "friend-shore" production, but this will take time and the benefits of any such moves could be turned on their head by a change in policy

approach. Shifting complex production facilities, and obtaining local regulatory approvals, can take many months if not years for some sectors.

Don't forget the rules of origin

Part of any supply chain (re)assessment will be a detailed review of the actual origin of products and their components.

Rules of Origin (ROOs) determine the economic nationality of goods in international trade. The significance of ROOs stems from their role in the application of tariffs, trade policies, and import restrictions, and they are a cornerstone of free trade agreements (FTAs). Applying the relevant tariff rates hinges on accurately identifying the origin of the goods.

ROOs will be determined under international trade law, but different rules can be applied via FTAs and across goods. The ROOs that apply to trade between, for example, the U.S., Mexico, and Canada under the United States-Mexico-Canada Agreement (USMCA) will be different to those applying to trade between, for example, the U.S. and Singapore under the U.S./Singapore FTA.

One topical example of how ROOs can play a role is the automotive sector. According to the U.S. Government, of the 16 million cars bought by Americans in 2024, 50% were imported. Of the other 50% which were assembled in America, the average domestic content of each vehicle was around 40%. The question, therefore, will be which tariffs apply to which components? Or is the tariff targeting the assembled/finished good? If a good is merely assembled in a country, is that its true origin for tariff purposes? What are the consequences if the majority of a good's components are manufactured in a third country?

As a result, any assessment of the impact of tariffs, and your associated mitigation strategy, needs to consider the ROOs in play and the source of the good in question.

Does the World Trade Organization have a role?

Not in the near term. The rules-based system of international trade has been turned on its head. A key component of that system was the World Trade Organization (WTO), but that has largely been a moribund body for several years. The fact that the WTO dispute mechanism is in suspended animation has not stopped Canada and China from seeing it as a potential route. On April 7, 2025, Canada initiated a WTO dispute regarding the U.S. tariffs on automobiles and automobile parts from Canada. According to the WTO, Canada argues that the tariffs are inconsistent with the obligations the U.S. has under several provisions of the 1994 General Agreement on Tariffs and Trade (GATT). China similarly initiated a WTO dispute on April 8, 2025, on similar grounds.

While tariffs are legally permitted as a trade policy, all WTO member states, including the U.S., have agreed certain upper limits on the tariffs they impose, known as "bound rates". Further, pursuant to the WTO's Principles of the Trading System, WTO member states must observe the most-favored-nation principle (MFN), which means that apart from certain exceptions, countries cannot grant one country a "special favor" without doing the same for all other WTO members.

Violating the MFN principle could potentially lead to a dispute being brought before the WTO Dispute Settlement System (DSS), as we have seen with Canada and China. Each country's request for consultation with the U.S. under the WTO dispute mechanism argues that the U.S. has breached the MFN principle and imposed duties in excess of the bound rates, with disproportionate penalties for breaches of customs regulations. However, the highest authority within this system, the WTO Appellate Body, is currently not functional. This is due to the U.S. persistently blocking the appointment and reappointment of its members, resulting in the Appellate Body lacking the necessary quorum to operate. As a consequence, countries aiming to challenge the legality of U.S. tariffs through the DSS are likely to face significant practical difficulties. The absence of a functioning Appellate Body means that, even if a dispute is initiated, the process may be stalled or unresolved, making it an arduous task for any nation seeking redress. The outcome of Canada's and China's requests for consultation is therefore one

to watch, but companies should not plan on the basis that WTO channels can be effectively utilized to resolve the current crisis in the near term.

Reviewing your contractual risk allocation

Companies impacted by the new tariffs should assess how the tariffs are addressed (intentionally or otherwise) in their existing contracts. In the immediate term, exporters to the U.S. should consider a number of steps including the following:

- Once you are clear on the potential tariffs and associated rates in play (noting the rules of origin above), and who actually bears the obligation to pay, review your existing commercial contracts to determine how the cost of tariffs is addressed (if at all).
- Even if not explicitly addressed, consideration should be given to
 whether the imposition of a tariff could be classified as a force majeure
 event and/or fall within the scope of any tax provisions in the agreement.
 For further discussion of force majeure clauses, see our article <u>'Tariffs</u>
 and force majeure' here.
- Consider the economic burden of the tariffs and potentially engage with suppliers, customers, and intermediaries as regards pricing adjustments or, in the worst case, changes to supplies of products where it is no longer economically feasible to continue.
- Review termination provisions and associated grounds (alongside mechanisms for dispute resolution).
- Ensure you have robust tariff clauses (and related provisions such as termination provisions) in your agreements going forward. These will need to address not just U.S. tariffs but counter-tariffs from third countries.

Disclosure rules

U.K. and EU listed companies subject to market abuse rules will need to be mindful of their disclosure obligations with respect to inside information as part of the market abuse regime. Companies should consider the test for inside information in this new world of tariffs, and how this could trigger disclosure requirements, as follows:

- The information as it relates to the tariffs must directly or indirectly relate
 to the company, its shares or any of its financial instruments, so general
 information about the tariffs will not meet this company nexus
 requirement.
- The information must not be generally available—while information about the tariffs may be generally available, details of the tariffs' specific impact on the company may not be public.
- The information must be sufficiently precise—certain of the tariffs'
 economic impacts might have had a realistic prospect of occurring but,
 in this context, the information must be specific enough to enable a
 conclusion to be drawn about the possible effect of the tariffs on the
 company, its shares, or any of its financial instruments.
- If the precise information were to be made public, companies should assess whether the precise information would likely have a significant effect on the price of the company's financial instruments.

In conducting the above assessment, U.K. and EU listed companies should consider whether any of their disclosure obligations are triggered. Boards and management will need to be actively considering and monitoring this, especially as information surrounding the tariffs is fast-moving and the situation remains fluid.

Engagement with governments

Lastly, negotiations around FTAs and tariff deals are conducted at state-tostate level. It's therefore critical for businesses bilaterally or through trade associations to urgently engage with their governments on the stance to be taken with the U.S., which sectors may need to be prioritized (and otherwise protected), and what levels of tariffs are ultimately tolerable. These negotiations may require governments to lower or even remove their existing tariff (and non-tariff) barriers for U.S. goods, which may have ramifications for certain domestic sectors. Trade negotiations often require difficult trade-offs between domestic sectors.

For those businesses in the U.K., we would encourage you to engage in the government-led consultation process, which was launched on April 3, 2025, and closes on May 1, 2025.

How our team can help

Our award-winning International Trade Group has experience advising organizations across sectors to navigate the legal and regulatory challenges and opportunities of doing business across jurisdictions. Our team of dedicated international trade lawyers provide strategic advice to organizations on issues around trade law, FTAs, trade investigations and remedies, and managing the impacts of state-level trade disputes.

Contacts

For further information on any aspect of this article, please contact any of the following or your usual contact within A&O Shearman.

Footnotes

- 1. The tariffs cover the majority of imports, with some exceptions, including on certain pharmaceuticals and drug compounds; these exceptions were provided by the White House in a separate Annex to the Executive Order.
- 2. The tariffs issued on April 2 and global reactions to the tariffs may evolve rapidly and unpredictably, with new requirements potentially taking effect with little or no prior notice. The information in this article is correct as at the time of writing, and subject to change as developments unfold.
- 3. BBC News, 'Russia not on Trump's tariff list', April 3, 2025.

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