

2025 National Trade Estimate Report

On

FOREIGN TRADE BARRIERS

of the President of the United States

on the

Trade Agreements Program

UNITED STATES TRADE REPRESENTATIVE

CANADA

TRADE AGREEMENTS

The United States-Mexico-Canada Agreement

The United States–Mexico–Canada Agreement (USMCA) entered into force on July 1, 2020. The USMCA maintains the zero tariffs that were in place among the three countries under the North American Free Trade Agreement and modernized the agreement to include strong, enforceable labor and environmental obligations, ground-breaking provisions to combat non-market practices, and provisions covering small and medium-sized enterprises.

IMPORT POLICIES

Non-Tariff Barriers

Agricultural Supply Management

Canada uses supply-management systems to regulate its dairy, chicken, turkey, and egg industries. Canada's supply-management system involves production quotas, producer-marketing boards to regulate price and supply, and tariff-rate quotas (TRQs) for imports. Canada's supply-management system severely limits the ability of U.S. producers to increase exports to Canada above TRQ levels and increases the prices that Canadians pay for dairy and poultry products. Under the current system, U.S. imports above quota levels are subject to prohibitively high tariffs (e.g., 245 percent for cheese and 298 percent for butter). The USMCA expands market access opportunities for dairy products through new TRQs exclusively for U.S. products. Canada has also opened new TRQs for U.S. chicken and U.S. eggs and egg products. In addition, Canada expanded market access for U.S.

turkey. Canada and the United States also agreed to strong rules to ensure TRQs are administered fairly and transparently to help ensure exporters benefit from the full market access negotiated in the USMCA. In May 2021, the United States requested and established a dispute settlement panel under the USMCA to review Canada's dairy TRQ allocation measures that undermined the value of the TRQs by setting aside and reserving access to in-quota quantities exclusively for processors. The final panel report was released to the public in January 2022. The panel agreed with the United States that Canada's allocation of dairy TRQs—specifically the set-aside of a percentage of each dairy TRQ exclusively for Canadian processors—is inconsistent with Canada's commitment in Article 3.A.2.11(b) of the USMCA not to “limit access to an allocation to processors.” Canada made changes to its dairy TRQ allocation measures following the release of the panel report, but the United States rejected those changes as a basis to resolve the dispute. In May 2022, the United States—for the second time—requested dispute settlement consultations with Canada under the USMCA to address Canadian allocation measures that impose new conditions on the allocation and use of the TRQs and prohibit eligible applicants, including retailers, food service operators, and other types of importers, from accessing TRQ allocations. In December 2022, the United States requested new dispute settlement consultations, expanding its challenge of Canada's dairy TRQ allocation measures to include Canada's use of a market-share approach for determining TRQ allocations, which applies different criteria for different segments of applicants, and Canada's failure to allow importers the opportunity to fully utilize TRQ quantities. On January 31, 2023, the United States requested and established a second dispute settlement 40 | FOREIGN TRADE BARRIERS panel under the USMCA to address Canada's continued failure to abide by its USMCA commitments with its dairy TRQ allocation measures. The final panel report was released to the public on November 24, 2023. The panel found that Canada's measures are not inconsistent with the USMCA provisions cited by the United States. The panel split on the U.S. claims that Canada's exclusion from eligibility of retailers, food service operators, and other entities, and Canada's historical market share approach to allocate its USMCA dairy TRQs breach Canada's USMCA obligations. A dissenting panelist agreed with the United States that by excluding retailers and others, Canada was breaching its commitment to make its dairy TRQs available to all applicants active in the Canadian food or agriculture sector. The United States remains committed to securing the full benefit of the market access that Canada committed to under the USMCA and full compliance with Canada's USMCA obligations. The United States also remains concerned about potential Canadian actions that would further limit U.S. exports to the Canadian dairy market and continues to monitor closely any tariff reclassifications of dairy products to ensure that U.S. market access is not negatively affected.

Customs Barriers and Trade Facilitation

On October 21, 2024, the Canadian Border Services Agency (CBSA) officially launched the CBSA Assessment and Revenue Management (CARM) system to assess and collect duties and taxes for commercial goods imported into Canada. The new system requires importers of record to register in the CARM Client Portal and post a financial security with the CBSA. Previously, these steps could be taken by a customs broker on behalf of an importer. Since the launch date, importers attempting to register have reported difficulty accessing the CARM Client Portal. A warning message on the website stated “The CBSA is experiencing intermittent issues with access to its portals, including the CARM Client Portal (CCP), the eManifest and Canadian Export Reporting

System (CERS) portals. We are investigating and will take corrective measures to improve access to the portals as soon as possible.” As of December 31, 2024, CBSA had made no other alternatives available for paying duties and taxes. Many U.S. exporters to Canada previously relied on the “Non-Resident Importer” program to obtain “Release Prior to Payment.” Release Prior to Payment allows goods to physically clear customs while duties and tax payments were being calculated, in compliance with Canada’s World Trade Organization (WTO) Trade Facilitation Agreement commitments. With the launch of CARM, CBSA is offering a 180day transition period for Release Prior to Payment. After this transition period ends, unless an importer has set up an account in the CARM Client Portal and posted a financial security or cash deposit with CBSA, its goods will be held by customs until payment is made. Because of the transition period, most goods are able to physically clear customs while issues with access to CARM and financial instruments are resolved. However, some categories of imports, such as temporary entries, may be unable to move across the border until the importer’s online accounts are processed. To date, about 100,000 importers have registered in the CARM Client Portal. In recent years, the number of importers of goods into Canada has reached about 160,000 entities. The U.S. Government will continue to monitor this situation.

Milk Classes

Canada establishes discounted prices for milk components provided to domestic manufacturers of dairy products used in processed food products under the Special Milk Class Permit Program (SMCPP). These prices are “discounted,” as they are lower than regular Canadian milk class prices for manufacturers of dairy products and pegged to U.S. prices or world prices. The SMCPP is designed to help Canadian manufacturers of processed food products compete against processed food imported into Canada and in FOREIGN TRADE BARRIERS | 41 foreign markets. An agreement reached between Canadian dairy farmers and processors in 2016 introduced a new national milk class (Class 7), with discount pricing for a wide range of Canadian dairy ingredients used in dairy products, to decrease imports of U.S. milk protein substances into Canada and increase Canadian exports of skim milk powder into third country markets. Provincial milk marketing boards (agencies of Canada’s provincial governments) began implementing Class 7 in 2017. Under the USMCA, Canada was obligated to eliminate Class 7 within six months of entry into force. However, U.S. stakeholders have reported continued concerns with Canada’s milk class pricing and dairy exports. In addition, Canada is obligated to ensure that the price for nonfat solids used to manufacture skim milk powder, milk protein concentrates, and infant formula will be no lower than a level based on the U.S. Department of Agriculture price for nonfat dry milk. Transparency provisions obligate Canada to provide information necessary to monitor compliance with these commitments. Canada is obligated to apply charges to exports of skim milk powder, milk protein concentrates, and infant formula in excess of thresholds specified in the USMCA.

Ministerial Exemptions

Canada prohibits bulk imports of fresh fruits and vegetables in packages exceeding certain sizes (typically 50 kilograms) unless Canada grants a ministerial exemption. To obtain an exemption, importers must demonstrate that the supply of a product in the domestic market is insufficient. The import restrictions apply to all fresh produce in bulk containers if grade names are established in the respective regulations. There are no restrictions on bulk imports of horticultural products

without prescribed grade names. In addition, Canadian regulations on fresh fruit and vegetable imports prohibit consignment sales of fresh fruit and vegetables in the absence of a prearranged buyer. The 2007 Technical Arrangement Concerning Trade in Potatoes between the United States and Canada is designed to provide U.S. potato producers with predictable access to Canadian ministerial exemptions. The United States will continue to engage with U.S. potato growers on any concerns that Canada's procedures for granting ministerial exemptions are not providing access to Canada's market as agreed.

Wine, Beer, and Spirits

Most Canadian provinces have province-run liquor control boards, which are the sole authorized sellers of wine, beer, and spirits in those provinces. Market access barriers imposed by Canadian provincial liquor control boards greatly hamper exports of U.S. wine, beer, and spirits to Canada. These barriers include cost-of-service mark-ups, restrictions on listings (products that the liquor board will carry), reference prices (either the maximum prices the liquor board is willing to pay or the prices below which imported products may not be sold), label requirements, discounting policies (requirements that suppliers must offer rebates or reduce their prices to meet sales targets), and distribution policies.

Energy

According to stakeholders, the Alberta Electric System Operator (AESO) has provided separate and unequal points of access to the Alberta energy market for Montana energy producers. For example, during times of surplus or transmission congestion, AESO favors electricity generated within Alberta over equally priced U.S. power flowing across the border. The AESO has also proposed additional fees and other restrictions on imported energy. The United States will continue to monitor this issue.

TECHNICAL BARRIERS TO TRADE / SANITARY AND PHYTOSANITARY BARRIERS

Technical Barriers to Trade

Compositional Standards for Cheese

Canada's regulations on compositional standards for cheese limit the amount of dry milk protein products that can be used in cheese making, reducing the demand for U.S. dry milk protein products. The United States continues to monitor these regulations for any changes that could have a further adverse impact on U.S. dairy product exports.

Zero Plastic Waste Agenda

In 2018, Canada announced a comprehensive agenda to achieve zero plastic waste by 2030. As part of this agenda, Canada is developing a range of measures to prevent plastic pollution and improve circularity within the Canadian market, including extended producer responsibility, minimum recycled content, compostability and recyclability labeling, and restrictions on the use of single use plastics. The United States supports Canada's objective of reducing plastic pollution;

however, U.S. industry has raised concerns that some aspects of Canada’s program would create negative impacts for trade and the environment. U.S. industry is concerned that without viable alternatives for plastic packaging, Canada’s proposed reductions in food packaging and packaging compostability requirements could compromise food safety, increase food loss and waste, and restrict U.S. agricultural exports. The United States continues to work closely with Canada to encourage the use of science-based approaches to address plastic pollution, including consideration of technological limitations and environmentally sustainable alternatives to plastics.

Quebec’s Bill 96

Bill 96 became law in the province of Quebec on June 1, 2022 and is intended to strengthen the use of the French language in the province. U.S. businesses have expressed concerns about the impact that Bill 96 will have on their federally registered trademarks for products manufactured after June 1, 2025, which is when the relevant provisions of Bill 96 enter into force. These businesses will need to review their non-French language trademarks on the products’ packaging and labelling and translate into French any part of their trademark that contains a “generic term” or a “description of the product.” In June 2024, the United States engaged with Canada on Quebec’s Bill 96 at the WTO Committee on Technical Barriers to Trade meeting. The United States encouraged the Quebec provincial government to take into consideration business sector concerns and involve businesses in the drafting of further interpretive guidance on this law and the Final Regulation.

Sanitary and Phytosanitary Barriers Restrictions on U.S. Seeds Exports

For many major field crops, Canada’s Seeds Act generally prohibits the sale or advertising for sale in Canada—or import into Canada—of any variety of seed that is not registered with Canada’s Food Inspection Agency (CFIA). Canada’s variety registration gives the CFIA an oversight role in maintaining and improving quality standards for grains in Canada. The registration is designed to facilitate and support seed certification and the international trade of seed; verify claims made, which contributes to a fair and accurate representation of varieties in the marketplace; and facilitate varietal identity, trait identity, and traceability in the marketplace to ensure standards are met. The United States is concerned, however, that the variety registration system is slow and cumbersome and disadvantages U.S. seed and grain exports to Canada. Under the Canada Grain Act, only grain of varieties produced from seed of varieties registered under the Seeds Act may receive a grade higher than the lowest grade allowable in each class. The USMCA includes a commitment to discuss issues related to seed regulatory systems. In January 2021, the CFIA began seed regulatory modernization efforts. The United States will continue to discuss with Canada steps to modernize and streamline Canada’s variety registration system.

INTELLECTUAL PROPERTY PROTECTION

Canada remained on the Watch List in the 2024 Special 301 Report. Canada’s commitments under the USMCA are designed to significantly improve Canada’s intellectual property (IP) environment, addressing areas of longstanding concern, including enforcement against counterfeit goods and online piracy, inspection of goods in-transit, transparency with respect to new geographical indications (GIs), and the broad interpretation of the fair dealing exception for the purpose of education. With respect to GIs, the United States remains highly concerned about countries’

negotiating product-specific IP outcomes as a condition of market access from the European Union and reiterates the importance of each individual IP right being independently evaluated on its individual merits. Poor enforcement with respect to counterfeit or pirated goods at the border and within Canada remains a concern. The Pacific Mall in Toronto is listed in the 2024 Review of Notorious Markets for Counterfeiting and Piracy (Notorious Markets List) for selling pirated and counterfeit goods.

SERVICES BARRIERS

Audiovisual Services

For cable television and direct-to-home broadcast services, more than 50 percent of the channels received by subscribers must be Canadian channels. Non-Canadian channels must be preapproved (“listed”) by the Canadian Radio-television and Telecommunications Commission (CRTC). Alternatively, non-Canadian channels can become Canadian by ceding majority equity control to a Canadian partner, as some U.S. channels have done. Foreign channels are prohibited from owning video distribution infrastructure in Canada.

Canada permits Canadian cable and satellite suppliers to pick up the signals of U.S. stations near the border and redistribute them throughout Canada without U.S. broadcasters’ consent. Content owners can apply for compensation for the use of such content in Canada from a statutorily mandated fund into which Canadian cable and satellite suppliers pay. U.S. broadcasters consider this compensation to be insufficient and have sought the right to negotiate the carriage of their signals on commercially set rates and terms, as can be done in the United States.

Online Streaming

The Canadian Government passed the Online Streaming Act on April 27, 2023, amending the Broadcasting Act to give the CRTC authority to impose conditions on the operation of online streaming platforms. The Canadian Government instructed the CRTC to create a methodology for financial contributions and obligations on streaming platforms to support and promote Canadian programming, and to prioritize a review of how it defines Canadian programs given the foundational nature of these definitions to the regulatory framework. On June 4, 2024, before beginning a review of the definitions, the CRTC announced that streaming services would be required to contribute five percent of their Canadian revenues to support the Canadian broadcasting system, beginning in the broadcast year 2024 to 2025. The rules include criteria that, based on available information, may effectively exclude Canadian streaming services from the new obligations, and under current definitions, would prevent U.S. suppliers from accessing the funding mechanisms that they will pay into. The United States will closely monitor the implementation of the Act and any USCMA implications.

ELECTRONIC COMMERCE / DIGITAL TRADE BARRIERS

Digital Services Taxation

On June 20, 2024, Canada enacted a digital services tax (DST), imposing a three percent levy on certain gross revenues relating to online marketplaces, online targeted advertising, social media

platforms, and user data. The DST entered into force on June 28, 2024. Canada's DST is retroactive to January 1, 2022, and companies are required to remit payments starting on June 30, 2025. The DST applies to taxpayers with annual global revenues of €750 million (approximately \$833 million) and Canadian digital services revenue of CA\$20 million (approximately \$14.3 million).

As the United States noted in comments to Canada in 2021 and 2023, most DSTs have been designed in ways that discriminate against U.S. companies, as they single out U.S. firms for taxation while effectively excluding national firms engaged in similar lines of business. Furthermore, Canada's DST creates significant retroactive tax liabilities with immediate consequences for U.S. companies. Though Canada had joined the October 8, 2021, OECD/G20 Inclusive Framework on Base Erosion and Profit Shifting Statement on a Two-Pillar Solution to Address the Tax Challenges Arising from the Digitalization of the Economy, which called for all Parties to commit not to introduce DSTs in the future, Canada subsequently declined to join the July 2023 Inclusive Framework "Outcome Statement" that extended that commitment. Through bilateral and multilateral engagement, the United States continued to raise serious concerns regarding Canada's DST and to encourage Canada to withdraw or repeal the DST. On August 30, 2024, USTR announced that the United States requested dispute settlement consultations with Canada under the USMCA regarding Canada's DST.

On January 20, 2025, the United States issued a White House Memorandum titled, "The Organization for Economic Co-Operation and Development (OECD) Global Tax Deal (Global Tax Deal)." The memorandum stated:

The Secretary of the Treasury and the Permanent Representative of the United States to the OECD shall notify the OECD that any commitments made by the prior administration on behalf of the United States with respect to the Global Tax Deal have no force or effect within the United States absent an act by the Congress adopting the relevant provisions of the Global Tax Deal.

On January 22, 2025, appropriate representatives of the Treasury Department provided notice to the Director of the Centre of Tax Policy and Administration at the OECD. On January 24, 2025, the U.S. Permanent Delegation to the OECD provided similar notice to the Secretary General of the OECD.

Mandatory Bargaining Code

On June 22, 2023, the Canadian Government passed the Online News Act (Bill C-18). Under the Act, designated platform services companies are required to engage in negotiations with Canadian news providers to pay the news businesses for content accessed via certain services offered on the companies' digital platforms. The Act gives the CRTC new powers to regulate the Canadian news industry, including determining who is a journalist, what is an eligible news business, and calculating compensation. The United States continues to monitor this issue.