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Insight

Tariff Enforcement Will Hit Canada, EU Companies Hardest

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Canadian and European exporters to the US face more than price volatility from shifting tariff policy—they now risk prosecution.

The US Department of Justice has directed its Fraud Section to lead enforcement against alleged tariff evaders, positioning it as the administration's trade war enforcer.

Foreign companies, especially those from Canada and Europe, are likely to be primary targets. These regions account for significant trade and present fewer obstacles for US investigators seeking to build cases.

The enforcement wave to come follows from a trade policy framed as a response to foreign misconduct. President Donald Trump repeatedly has accused US allies of economic treachery, declaring that "Canada cheats," and calling the EU "nastier than China."

The DOJ's leadership faces pressure to back this rhetoric with results. In May, the department issued a directive elevating "trade and customs fraud, including tariff evasion," to the second highest white-collar priority. According to the memo, trade and customs "fraudsters" undermine job creation and investment, and the DOJ vowed to pursue these cases aggressively.

Tariff Evasion Cavalry

The administration has backed its tough talk with action, deputizing federal prosecutors in the DOJ Fraud Section, which has been among the agency's preeminent offices for prosecuting sophisticated economic crime, to pursue tariff evasion cases.

With fewer resources devoted to prosecuting cryptocurrency crimes and foreign bribery schemes, prosecutors have been redirected to this new priority. Additional reinforcements are coming from the soon-to-be disbanded Consumer Protection Branch, whose attorneys will also be reassigned to trade enforcement.

Investigations, of course, require agents. US Customs and Border Protection, the primary agency detecting trade and customs fraud, received billions of dollars in recent appropriations. And the DOJ's whistleblower rewards program now encompasses tipsters reporting criminal trade offenses.

This change is expected to draw insider reports straight to prosecutors' desks, helping build a full-service enforcement apparatus.

Lessons From History

The DOJ's enforcement priorities have shifted over time. While foreign bribery, opioids, and sanctions evasion have all taken turns at the forefront, there has been one constant: When the DOJ commits to a new initiative, scores of investigations and prosecutions ensue.

When the agency turned its focus to foreign bribery, it created a specialized Foreign Corrupt Practices Act Unit, prompting the Securities and Exchange Commission to follow suit. The FBI launched an international corruption squad of its own.

The results were swift: After initiating only a few FCPA cases annually for years, the DOJ and the SEC initiated 43 actions in 2007 alone. Over the next 15 years, they secured dozens of individual convictions and extracted billions of dollars in corporate penalties.

The first Trump administration's crackdown on opioids followed a similar pattern: The DOJ committed resources and results ensued. In 2018, one enforcement sweep charged 601 individuals with health-care fraud totaling $2 billion in losses.

More recently, the DOJ created Task Force KleptoCapture in response to Russia's 2022 invasion of Ukraine. Within two years, it seized nearly $700 million in assets and charged more than 70 people. The deputy attorney general called sanctions evasion "the new FCPA."

Each of these efforts shows how quickly the DOJ can scale up a new enforcement priority. With tariff evasion now in the spotlight, companies should expect history to repeat itself.

Fraud Section's Readiness

While there are questions about whether today's DOJ can deliver long-term results, the Fraud Section is well-positioned to produce.

By sheer manpower, the section brings unmatched experience in tackling cross-border economic crimes. Its work on foreign bribery and sanctions evasion has made it the DOJ's most capable unit for gathering evidence overseas—an essential skill when investigating whether goods falsely claim origin in one country to avoid tariffs from another.

And the mechanics of tariff evasion will be familiar terrain. Tactics such as falsifying the country of origin for imports, deliberate misclassification, and undervaluing goods are variations on the kinds of business fraud the section has long prosecuted.

DOJ Looks Abroad

Canadian and European companies and their executives are among the most accessible and attractive foreign targets.

The trade volume is staggering: In 2024, Canada exported more than $400 billion of goods into the US, second only to Mexico, while EU countries collectively topped more than the $600 billion. Persistent trade deficits with both blocs have long fueled political grievances.

But the risk goes beyond volume. Canada and most European countries maintain robust mutual legal assistance treaties with the US, giving the DOJ access to cross-border evidence from those countries that DOJ doesn't enjoy elsewhere.

Canadian executives are especially vulnerable due to their frequent US travel. At the border, US law enforcement can (with limits) seize electronic devices without a warrant, making mobile data a potential evidentiary goldmine.

Prosecutors looking to vindicate the administration's rhetoric about "foreign cheaters" will find Canadian and European firms both symbolically potent and procedurally convenient targets.

Looking Ahead

Firms that uncover trade-related misconduct internally or come under DOJ scrutiny should approach the situation with open eyes. The Fraud Section's corporate enforcement policy offers incentives for voluntary disclosure, and today's DOJ has shown a willingness to attribute misdeeds to rogue actors rather than punish the company.

But self-disclosure isn't always the right move. When made prematurely or unnecessarily, it can expose a company to more risk than reward.

The same is true for individual targets. The Fraud Section has rewarded cooperation from executives and employees, and prosecutors under pressure to deliver may lean hard on those who could help build a larger case.

Yet a DOJ reeling from losing thousands of experienced attorneys—and stumbling in a series of politically charged cases—is far from immune from the errors that can sink a prosecution. An individual's cooperation decision, like that of their corporate employer, must be made based on a careful assessment of the case and available defenses.

Whichever way these choices play out, one outcome seems inevitable: Canadian and European exporters are about to get become familiar with the DOJ Fraud Section.

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