

Pre-Election Analysis: US-Canada Cross-Border Issues

August 12, 2024 || By [R. Neal Martin](#), [Myria S. Garcia](#), [Matthew T. Simpson](#)

As we look ahead to 2025 and a new US administration and Congress, the relationship between the United States and Canada remains a cornerstone of North American stability and prosperity. However, the landscape of cross-border interactions is evolving rapidly, influenced by a combination of economic shifts, technological advancements, and environmental concerns.

Polls suggest the November elections will be tight at both the presidential and congressional levels. Based on historical positions, we can anticipate where Republican candidate Donald Trump and Democratic candidate Kamala Harris might steer US policies on cross-border issues if elected. Congressional action will hinge on which of the parties controls the House and Senate. A divided government could lead to stalemate or compromise, impeding either party's ability to fully implement their priorities.

This pre-election analysis from ML Strategies will explore some of the most pressing cross-border issues that will be tackled by the next administration and 119th Congress, focusing on:

- **Energy:** Canada and the US are each other's principal source of imported energy. Key US-Canada cross-border energy policy issues revolve around managing the shared infrastructure and regulatory frameworks that underpin cross-border energy flows.
- **Infrastructure:** US-Canada relations on infrastructure policy are increasingly focused on collaboration in digital and technological advancements, reflecting shared strategic priorities. Key areas of cooperation include the CHIPS and ScienceAct, which aims to bolster semiconductor production and reduce reliance on foreign supply chains, and mining, where shared resources and technology are crucial for developing critical minerals.
- **Tax:** US-Canada relations in the context of tax policy involve increasingly complex considerations and are largely influenced by issues related to carried interest and foreign ownership.
- **Trade:** With \$3.6 billion worth of goods and services crossing the border each day, US-Canada cross-border trade issues are integral to the economic relationship between the two countries. Key trade policy issues impacting US-Canada cross-border trade include tariffs, trade agreements, and regulatory differences. Central to US-Canada relations, the United States-Mexico-Canada Agreement (USMCA), with its terms influencing market access and dispute resolution, is up for review in 2026 – and will be a certain focus of the next administration.
- **Technology:** US-Canada cross-border technology issues are increasingly significant as both countries navigate the complexities of a rapidly evolving digital landscape. Key issues include data privacy and protection, intellectual property rights, cybersecurity threats, and harmonization of technology standards and regulations.

[VIEW THE CROSS-BORDER QUICK GUIDE](#)

Donald Trump & Republican Leadership Priorities For The 119th Congress

Former President Donald Trump has had a complex and sometimes contentious approach to US-Canada relations. While his administration negotiated a revised trade agreement with Canada, the United States-

Mexico-Canada Agreement (USMCA), Trump frequently criticized the previous NAFTA deal and voiced his dissatisfaction with trade imbalances, saying "Canada has been very fair to us in some ways, but in other ways, it's been very unfair. We have to have a good relationship, but we also have to be very tough."

Energy

A second Donald Trump presidency would clearly bring a more pro-fossil fuel and competitive stance to cross-border energy issues. For instance, one of his first actions as president in 2017 was to approve the permit for the Keystone Pipeline, which President Biden subsequently canceled on his first day in office. His stance on pipelines and energy independence serves as a rallying point for his base, reflecting his commitment to policies that prioritize fossil fuel development and criticize the current administration's environmental policies. In a second term, he would likely:

- Prioritize an expansion of energy infrastructure, such as pipelines, and seek to reduce regulatory barriers to promote increased fossil fuel production and consumption. The former president's view is that supporting Canadian energy projects is beneficial for both countries and aligns with his broader trade policies aimed at improving economic outcomes for the US.
- Focus on bolstering US energy independence and minimizing constraints on energy projects, potentially leading to a more contentious relationship with Canada on environmental and regulatory matters. In the 2024 election cycle, he has criticized the Biden administration's energy policies, consistently reiterating his commitment to energy independence as a key component of his agenda in a second term.

Congressional Republicans will continue to prioritize energy independence and economic growth, also focusing on policies that support the expansion of fossil fuel infrastructure and reducing regulatory constraints. This would likely mean prioritizing fewer restrictions on new cross-border pipelines and projects, maintaining and growing existing cross-border energy networks, and taking a more competitive stance on energy issues generally, potentially resulting in less emphasis on collaborative environmental goals and sustainability initiatives with Canada.

Republicans on the Senate Energy & Natural Resources Committee will see new leadership in the 119th Congress, whether they are in the majority or minority, with current ranking member Sen. John Barrasso (R-WY) indicating he intends to run for Republican Whip. His likely replacement, Sen. Mike Lee (R-UT), has consistently opposed government subsidies for renewable energy sources and is a vocal advocate for limited government intervention in energy policy, emphasizing free market principles and reducing regulatory barriers.

Rep. Cathy McMorris Rogers (R-WA), chair of the House Energy & Commerce Committee, is not seeking reelection this year. Rep. Brett Guthrie (R-KY), currently chair of the Health Subcommittee, is seeking to replace her as Republican leader at the committee in the next Congress. Guthrie describes himself as an advocate of an all-of-the-above energy strategy with an emphasis on nuclear energy. He has spoken positively about the "US-Canada partnership which helps strengthen the energy future of both nations and promote greater regional security."

Read more about the outlook for US energy policy in the [ML Strategies 2024 Pre-Election Analysis: Energy & Sustainability](#).

Infrastructure

During his presidency, Donald Trump focused on the benefits of bilateral infrastructure investments as essential for economic growth and energy security. In a second term, we might see him:

- Focus on renegotiating trade agreements to benefit US infrastructure projects and industries. He has not directly connected the USMCA to specific infrastructure projects but has suggested that the trade agreement's economic benefits support his broader infrastructure agenda.
- Support energy infrastructure projects, including pipelines and energy transport systems, to facilitate cross-border resource management.
- Seek to revise environmental regulations impacting cross-border infrastructure projects. He has consistently criticized environmental regulations as impediments to cross-border infrastructure projects and has promoted deregulation as facilitating development and economic growth.
- Call for reducing regulatory barriers and enhancing cybersecurity measures while potentially challenging policies or agreements that he perceives as unfavorable to US tech companies or that complicate cross-border digital data flows.

On Capitol Hill, Republican leadership on the House Transportation and Infrastructure Committee and Senate Environment and Public Works Committee is not expected to change in the 119th Congress, with Rep. Sam Graves (R-MO) staying on as Republican leader. One potential focus for Republicans could be modernizing cross-border digital infrastructure, such as aligning US priorities with Canada's first [Enterprise Cyber Security Strategy](#) that was released in May 2024. It is also noteworthy that Canadian Prime Minister Justin Trudeau has been dispatching his senior officials to highlight the importance of Canadian investments in American infrastructure to Republican state governors. In May, Canadian Ambassador Kirsten Hillman and International Trade Minister Mary Ng made a house call to Republican Texas Gov. Greg Abbott to highlight Canada's \$120 billion worth of infrastructure investments in the state.

In March, Canada's Minister of Innovation, Science, and Industry, François-Philippe Champagne, met with South Carolina Republican Gov. Henry McMaster and later capped his first-ever visit to Nebraska with a meeting with Republican Gov. Jim Pillen. Champagne said he's on a mission to reframe Canada's reputation from "the nice guys up north" to something more consequential, like the "strategic partner for the 21st century."

Tax

In a second term, Donald Trump would continue to prioritize policies that protect and incentivize US investments and economic interests. His administration might resist significant reforms to carried interest taxation, maintaining the favorable capital gains treatment to support private equity and encourage investment. His 2017 Tax Cuts and Jobs Act (TCJA) introduced reforms shifting towards a territorial tax system by exempting foreign profits from domestic taxation. Simultaneously, it implemented anti-base erosion measures aimed at high-return foreign profits, intangible income, and income removed from the United States. While these provisions are not among those set to expire in 2025, there will be a significant debate on a new tax bill, so they bear watching as the debate unfolds. If returned to the White House, he could potentially advocate for:

- A more competitive stance on limiting or regulating foreign ownership in key sectors, in alignment with his broader "America First" agenda that prioritizes US economic and security interests. As president, he supported strengthening the Treasury Department's Committee on Foreign Investment in the United States (CFIUS), which reviews foreign investments for national security concerns. His administration expanded the power of CFIUS to scrutinize transactions more thoroughly and to block investments in sensitive sectors.
- Maximizing economic growth and investment opportunities, potentially leading to less emphasis on tax policy reforms that could impact foreign carried interest and cross-border financial flows. He has consistently criticized the preferential tax treatment of carried interest and has advocated for reform to ensure that fund managers pay higher ordinary income tax rates. However, his administration's tax reform efforts in the TCJA did not fully address this issue. It could become a topic of debate in the tax bill expected to be considered in the next Congress.

Republican leadership at the committees of jurisdiction for tax policy, the Senate Finance Committee, and the House Ways & Means Committee, will see no changes in the 119th Congress. A Republican focus in both chambers will be Canada's Digital Services Tax (DST). Senate Finance Committee Ranking Member Mike Crapo (R-ID) last year [joined](#) with the Democratic chair of the committee to call on the Biden administration to make clear that the United States would forcefully defend American employers against the "discriminatory" DST. Rep. Jason Smith (R-MO), Chair of the Ways & Means Committee, will also continue to lead Republican opposition to the DST. All Republican members of the Committee urged the Biden administration to initiate an investigation of the DST under Section 301 of the Trade Act of 1974 in a July 2024 [letter](#).

Trade

As a presidential candidate in the 2024 election, Donald Trump has stated that, if elected, he will impose a ten percent tariff on all products imported into the United States. While taking the position that Canada would be exempt due to the USMCA, the Canadian government is said to be in talks with the former president's allies to ensure this exemption is the case. In addition to this aggressive approach toward international trade, a Trump presidency would likely adopt a confrontational and protectionist stance on trade issues with Canada, potentially including:

- Aggressive negotiations to address tariff disputes and to renegotiate aspects of the USMCA to better align with US economic interests.
- Reducing regulatory constraints and advocating for policies that favor domestic industries, potentially leading to more contentious trade relations.
- Focusing on economic nationalism and leveraging trade policy as a tool to enhance US competitiveness, which could result in stricter trade measures and less emphasis on collaborative regulatory alignment with Canada.
- Renegotiation of existing agreements to better align with Republicans' pro-business stance and to address specific concerns about trade imbalances or Canadian market access.

Republicans on the Senate Finance Subcommittee on International Trade are currently led by Sen. John Cornyn (R-TX). The senator is vying to take over as Republican leader in the Senate in the 119th Congress and if successful would open an opportunity for new leadership at the subcommittee. Next in line is Sen. John Thune (R-SD) who is also seeking to become Republican leader. Senator Cornyn is a vocal advocate of the USMCA and would play a key role in 2026 talks on renewing the agreement. As a southern border senator, his focus has naturally been on US-Mexico trade matters, but in general, the senator has praised the USMCA's "strong protections for intellectual property, which is critical to safeguarding the incredible innovation we see at home. It cuts the red tape that has prevented small businesses from tapping into foreign markets. And it accounts for e-commerce and digital products as these products continue to make up a larger portion of our economy." Senator Thune has also championed USMCA, with a strong focus on agriculture given the economy of his state. The senator has consistently supported strengthening US-Canada trade relations, advocating for policies that enhance cross-border commerce and economic collaboration between the two nations.

Republicans on the House Ways & Means Subcommittee on Trade will continue to be led by Rep. Adrian Smith (R-NE) who has said that the USMCA is a “powerful framework to fight for opportunity on behalf of American workers, producers, and industry.” The congressman has been outspoken about enforcement of USMCA, hosting a roundtable in May 2022 on “Enforce USMCA to Make Trade Work for All Americans” where he discussed his displeasure at Canada’s lack of compliance with USMCA requirements related to dairy products. Food processing is the largest industry in the congressman’s state. We look for him to focus on ensuring that the trade agreement continues to support American agriculture and manufacturing interests while adapting to evolving global market conditions.

Technology

A second Donald Trump administration would approach US-Canada cross-border technology issues with a focus on prioritizing American interests, promoting economic growth, and enhancing national security. For instance, we could see his administration:

- Push for stronger US regulations and standards for data privacy and protection that favor American companies, potentially advocating for policies that limit data transfers unless they align with US interests.
 - Emphasize aggressive enforcement of US patents and copyrights, potentially seeking stronger protections and greater collaboration with Canada to combat intellectual property theft and counterfeiting.
 - Strengthen US defenses against cyber threats and push for enhanced cooperation with Canada on security measures, possibly including joint initiatives to combat hacking and data breaches.
 - Advocate for technology standards and regulations that benefit American tech companies and potentially challenge Canadian policies that he views as restrictive or unfavorable to US interests.
- The Republican focus on Capitol Hill will include a continued effort toward reducing regulatory barriers, in addition to streamlining the handling of data across borders, emphasizing policies that promote business efficiency and economic growth. Sen. Ted Cruz (R-TX), who was born in Canada but moved to the US at a young age, will continue to lead Senate Commerce, Science, and Transportation Committee Republicans. Some of the senator’s policy priorities at the committee have included promoting innovation and competition, enhancing cybersecurity, regulatory reform, and privacy and data protection.

As referenced above, the current chair of the House Energy & Commerce Committee, Rep. Cathy McMorris Rogers (R-WA), is not seeking reelection so Republicans will select a new leader, with Rep. Brett Guthrie (R-KY) the lead contender. One of Rep. Guthrie’s key policy priorities for technology has been blockchain. He was a sponsor of the Consumer Safety Technology Act, a bipartisan bill that would require the Department of Commerce and other agencies to study blockchain technology consumer products and safety. He also secured House passage of his bill the Novel, Advanced Spectrum and Communications Technology Networks Promotion Act.

Kamala Harris & Democratic Leadership Priorities For The 119th Congress

Vice President Kamala Harris, who spent part of her childhood in Montreal, has consistently championed strong US-Canada relations throughout her political career. Her early years in Canada contributed to a deep appreciation for the close ties between the two nations, viewing the relationship as a vital component of North American stability and prosperity, saying, “Our relationship with Canada is one of our most important partnerships. It is rooted in shared values, economic interests, and our commitment to a better future for our citizens.”

Energy

A Kamala Harris administration would likely prioritize cross-border energy policies that are collaborative and focused on environmental and climate change priorities. This might mean:

- Strengthening joint efforts on renewable energy development and regulatory efforts.
- Building upon her work in the Biden-Harris administration for a continued, and perhaps expanded, investment in clean energy technologies and initiatives to reduce greenhouse gas emissions.
- A continued emphasis of the Canada-US Energy Transformation Task Force which was **renewed** for a year in May 2024 to accelerate cooperation on critical clean energy opportunities and strengthen electric vehicle supply chains, critical minerals supply chains, grid integration and resilience, decarbonizing steel and aluminum, and promoting nuclear energy.

- A continued support for allocating Defense Production Act (DPA) funding to US and Canadian companies to mine and process critical materials for electric vehicles and stationary storage batteries. Congressional Democrats will likely emphasize US-Canada collaboration on advancing renewable energy initiatives and addressing climate change, advocating for stricter environmental regulations and, likely, stronger protections for indigenous lands affected by energy projects. We could see legislative proposals on integrating clean energy solutions, harmonizing environmental standards, and promoting joint efforts in reducing greenhouse gas emissions. Further, Democrats will seek to achieve support for policies that align with global climate goals and encourage sustainable energy practices, potentially seeking to reform existing pipelines and infrastructure to enhance environmental and social responsibility.

Senate Majority Leader Chuck Schumer (D-NY), as a border state senator, has recently spoken out against a practice known as “Flagpoling” where Canadian workers travel to the US-Canada border, especially the Rainbow Bridge and Peace Bridge crossings, and enter the US for a few hours to expedite their work permits, instead of facing the long-delays of processing the permit via mail or online.

Regardless of which party wins the Senate majority, we expect a move to the left on energy policy at the Senate Committee on Energy & Natural Resources where the current Chairman, Sen. Joe Manchin (I-WV), is an advocate for the fossil fuel industry of his home state but is not seeking reelection. In the 119th Congress Democrats on the committee will likely be led by Sen. Martin Heinrich (D-NM) who takes a much more progressive view toward energy policy, including advocating for building more long-distance, high-voltage transmission lines and increasing investments in fusion and geothermal energy.

House Energy and Commerce Committee Democrats will continue to be led by Rep. Frank Pallone (D-NJ), who is currently the Ranking Member. The congressman has been a leading voice for progressive energy policies aimed at addressing climate change and promoting clean energy solutions, emphasizing the economic benefits of clean energy innovation and job creation in renewable energy sectors.

Infrastructure

If Kamala Harris is elected president, her approach to US-Canada infrastructure policy will likely emphasize deepening cross-border collaboration and integrating digital strategies. Reflecting her background and appreciation for strong bilateral ties, a Harris administration could:

- Prioritize initiatives like joint investments in clean technology and enhanced cybersecurity measures while maintaining a focus on equitable and secure trade practices.
- Advance initiatives to modernize infrastructure to facilitate trade and ensure efficient transportation networks.
- Support joint efforts aimed at improving cross-border infrastructure, such as ports and transportation links.

Democrats in the House and Senate will likely support collaborative efforts, including focusing on investments in technology and green energy and progressive policies aimed at improving cybersecurity and managing data centers.

The Senate Environment and Public Works (EPW) Committee will see new Democratic leadership in the next Congress, with the current chairman Sen. Tom Carper (D-DE) not seeking reelection in 2024. If Sen. Bernie Sanders (I-VT) wins reelection and chooses to retain his leadership position at the Senate HELP Committee, next in line to replace Carper is Sen. Sheldon Whitehouse (D-RI). Sen. Whitehouse supports efforts to enhance cross-border clean energy infrastructure and cross-border electricity transmission.

Democrats on the House Transportation & Infrastructure Committee will continue to be led by Rep. Rick Larsen (D-WA). As a border state representative, Rep. Larsen has highlighted several policy priorities related to US-Canada infrastructure, including enhancing cross-border transportation links, investing in joint infrastructure projects to improve connectivity, and fostering collaboration on environmental sustainability in infrastructure development. He supports initiatives that streamline customs processes and promote efficient trade routes between the two countries, aiming to strengthen economic ties and support regional growth.

Tax

While Kamala Harris has not specifically outlined US-Canada tax policies in detail, her broader policy framework includes advocating for fair tax practices, closing tax loopholes, and ensuring that multinational corporations pay their fair share of taxes. Her administration would support strengthening economic ties with Canada, which could involve collaborating on tax policies to facilitate cross-border trade and investment. A Harris administration would potentially:

- Advocate for more stringent reforms on carried interest, aiming to close tax loopholes and ensure that fund managers pay ordinary income tax rates on their carried interest earnings.
- Work to foster collaboration with Canada on tax policy to enhance mutual regulatory compliance and economic stability, promoting cross-border investments while ensuring equitable tax treatment.

Democratic leadership on the Senate Finance Committee and House Ways & Means Committee is not expected to change in the 119th Congress with Sen. Ron Wyden (D-OR) and Rep. Richard Neal (D-MA)

staying on in leadership whether they are in the majority or minority.

As noted above, Sen. Wyden joined with his Republican counterpart in writing to the Biden administration in opposition to Canada's digital services tax. Look for him to continue this effort in the 119th Congress. Overall, Sen. Wyden will continue to pursue revenue-raiser tax initiatives, including increasing taxes on multinational companies and billionaires and questioning foreign banks on tax evasion. For example, in May, Sen. Wyden sent a [letter](#) to the CEO of Pfizer requesting information on their international tax practices and accusing drug companies of exploiting subsidiaries in low-or-zero tax jurisdictions to avoid paying income taxes on US prescription drug sales.

Long-time Democratic leader at the Ways & Means Committee Richard Neal has not spoken out about Canada's digital service tax but is currently concentrated on opposing Republican legislative proposals that would increase the endowment tax on institutions that accept foreign students in certain instances.

Trade

Although Harris was one of only ten senators to vote against the USMCA in 2020 because it "did not do enough to address labor and climate change," a Harris administration would likely focus on enhancing trade relations with Canada through collaborative approaches and robust enforcement of trade agreements like the USMCA. She would likely prioritize:

- Addressing tariff disputes through diplomatic negotiations, aiming to reduce trade barriers and promote fair trade practices.
- Harmonizing regulatory standards to facilitate smoother cross-border trade and investments while supporting policies that address environmental and social concerns.
- Streamlining customs and border procedures as part of a broader strategy to strengthen economic ties and ensure that trade policies are equitable and beneficial for both countries.

Look for congressional Democrats to advocate for trade policies that align with Democratic climate and social equity goals, such as increasing regulations on carbon emissions from industries that impact cross-border trade or implementing policies that protect workers' rights on both sides of the border. They may also emphasize the importance of collaborative efforts to address issues like trade imbalances and ensure that trade agreements reflect progressive values.

Leading Senate Finance Democrat, Sen. Ron Wyden (D-OR) could focus on food import safety measures. On July 16, Sen. Wyden led a bipartisan letter to the US Department of Agriculture expressing concern about the potential for potato wart to spread from potato imports originating on Canada's Prince Edward Island to US farms and production facilities. Sen. Wyden is supportive of implementing additional import safety and mitigation measures.

The Ways & Means Committee's Democratic leader Richard Neal has said that the "USMCA not only sets a new high-water mark for future U.S. trade deals, it is emblematic of the progress Congress can achieve when members from across the ideological spectrum unite around worker-focused, environmentally-minded policies."

Technology

As president, Kamala Harris would likely approach US-Canada cross-border technology issues with an emphasis on collaboration, innovation, and regulatory alignment. For instance, her administration could:

- Advocate for robust and harmonized data privacy and protection standards that balance privacy with the need for cross-border data flow.
- Support enhanced cross-border cooperation to protect innovations and patents, promoting a shared framework that addresses intellectual property theft and fosters innovation in both nations.
- Emphasize strengthening joint efforts to safeguard against cyber threats, advocating for increased information sharing and coordinated responses to cyberattacks.
- Call for technology standards and regulations that align practices between the US and Canada, facilitating smoother cross-border operations and encouraging technological innovation.

Regardless of which party is in the majority, Democrats on the Senate Committee on Commerce, Science, and Transportation will continue to be led by Sen. Maria Cantwell (D-WA) while House Energy and Commerce Committee Democrats will continue to be led by current Ranking Member Rep. Frank Pallone (D-NJ). Both leaders have emphasized the importance of maintaining and expanding cross-border data flows as crucial for technology and trade. Democrats in Congress will likely prioritize stronger data privacy protections and more comprehensive regulations to safeguard personal and business information, emphasizing alignment of US and Canadian regulations to ensure a consistent approach to data handling and privacy, reflecting a commitment to higher standards of consumer protection. Democrats could also focus on advancing intellectual property rights in a way that supports innovation while balancing access and equity, strengthening cybersecurity collaboration to address emerging threats and protect critical infrastructure, and working towards harmonizing technology standards to facilitate smoother cross-border operations.

Closing Thoughts

In conclusion, the United States and Canada share a deep economic interdependence and a historical commitment to collaborative solutions that drive mutual prosperity and innovation. The relationship between the two nations is at a pivotal juncture with energy, infrastructure, tax, trade, and technology policies playing crucial roles in shaping the future.

As the two countries navigate these complex issues, ML Strategies is well-equipped to assist stakeholders achieve their policy objectives, and we welcome the opportunity to start a dialogue with you.

[VIEW THE CROSS-BORDER QUICK GUIDE](#)

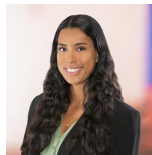
Authors

R. Neal Martin, Senior Director of Government Relations



R. Neal Martin is a Senior Director of Government Relations at ML Strategies. He focuses on transportation, infrastructure, clean energy, trade, and federal appropriations, leveraging his many years of experience in government and government relations.

Myria S. Garcia, Manager of Legislative and Regulatory Affairs



Myria Garcia is a Manager of Legislative and Regulatory Affairs of ML Strategies. She draws on experience with energy and international issues while working at a national lobbying law firm to help clients achieve their legislative goals.

**Matthew T.
Simpson**

Matthew T. Simpson, Co-chair of the Private Equity Practice, is a Mintz attorney who focuses his corporate transactional practice on helping domestic and international companies solve acquisitions, financings, and governance matters. Matt uses his background as an international negotiator to assist clients with transactional arrangements.