

U.S. Government Announces Section 338 Retaliatory Tariffs Against Canadian Goods

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On July 20, 2026, President Trump issued three Presidential Proclamations that impose 50% import tariffs on a broad range of Canadian goods. As the basis for these Proclamations, President Trump alleges Canadian discrimination against U.S. alcoholic beverages, automotive, and dairy products. President Trump is imposing these tariffs under Section 338 of the Tariff Act of 1930 ("Section 338"), which will take effect on August 19, 2026. Notably, Canadian goods that ordinarily qualify for preferential treatment under the U.S.-Mexico-Canada Agreement ("USMCA," or "CUSMA" in Canada) are not exempt.

This latest tariff announcement follows in the wake of the recent U.S. decision not to renew the USMCA, which is now set to expire in ten years unless extended. It is also expected that pending trade investigations will result in additional tariffs shortly. Businesses that depend on U.S.-Canada cross-border trade should monitor these developments closely.

Section 338 Tariff Actions

Section 338 has not been used to implement U.S. tariffs since its enactment during the Great Depression. The provision allows the U.S. President to offset any foreign government's discriminatory treatment against U.S. goods by imposing an import tariff up to 50% against that country's imports into the United States. Section 338 requires the U.S. President to make a finding that the foreign government's discriminatory treatment either burden or disadvantage U.S. commerce; further find that public interest would be served by retaliatory tariffs in an amount commensurate with those disadvantages or burdens; and issue a proclamation that announces the new tariff action to take effect 30 days later. Because of the global consensus after World War II to progressively reduce tariffs through trade negotiations under the framework of the General Agreement on Tariffs and Trade of 1947 ("GATT") and the availability of other legal mechanisms under U.S. law, no U.S. President has invoked Section 338 to impose tariffs since the 1930s until now.

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The Presidential Proclamations identify areas of longstanding trade tensions between the United States and Canada that became exacerbated through Canada's retaliation against U.S. tariff actions in 2025. U.S. dairy exports to Canada have long faced Canada's tariff rate quota ("TRQ") system. However, the Proclamation notes that Canada accords more favorable treatment to E.U.-origin dairy products under a separate trade agreement, the Canada-E.U. Comprehensive Economic and Trade Agreement ("CETA").

U.S. automotive goods became subject to Canadian retaliatory import tariffs in April 2025 after President Trump imposed tariffs on Canadian goods citing a border emergency, which he later expanded under the "global reciprocal tariffs." President Trump reduced the scope of those tariff actions significantly by exempting USMCA -eligible goods. The U.S. Supreme Court later invalidated the U.S. emergency tariffs in February 2026.

In response to the U.S. emergency tariff action in early 2025, many Canadian provincial governments separately took various actions against U.S. alcoholic beverage products. Canadian provincial governments exercise significant power over purchases and sales of alcoholic beverages. President Trump's Proclamation finds their refusal to purchase and to ban sales of U.S. alcoholic beverage products to be unfair and discriminatory.

The scope of the Section 338 tariffs include the following categories of imported goods from Canada. The specific covered goods appear in three separate Annexes to the Proclamations, listed under their tariff classification numbers under the Harmonized Tariff Schedule of the United States ("HTSUS"). There are exemptions for goods that are subject to tariffs under Section 232 of the Trade Expansion Act of 1962 ("Section 232") and certain civil aviation goods. Notably, the Proclamations do not impose tariffs on some categories of Canadian imports, such as energy products, fertilizer, minerals, and seafood.

Here are the categories of covered products:

- Alcoholic beverages;
- Arts, crafts, and antiques;
- Chemical products;
- Cement;
- Dairy and animal products;
- Essential oils;
- Foods, beverages, and ingredients;
- Furniture and lighting;
- Garden plants, flowers, and trees;
- Glassware and jewelry;
- Hides, leather, and fur products;
- Machinery, equipment, and electrical appliances;
- Motor vehicles, and boats and ships;
- Oil seeds and vegetable products;
- Optical instruments;
- Plastic and rubber products;
- Textile and apparel;

- Tools and hardware;
- Toys and recreation equipment;
- Wood products, including paper goods and printed material.

USMCA/CUSMA Renegotiation

On July 1, 2026, the Office of the U.S. Trade Representative (“USTR”) announced the United States’ decision not to renew the USMCA. Under the USMCA’s terms, this refusal to renew the agreement means that the three countries (United States, Mexico, and Canada) will need to annually review the USMCA for the next ten years. If the three countries do not extend the USMCA beyond that point, the trade agreement will expire in 2036.

The timing of the Proclamations could be an effort to support U.S. renegotiation of the USMCA and potentially separate efforts to negotiate more favorable bilateral terms with Canada. There is much at stake in these trade discussions. The USMCA covers well over \$1 trillion in annual trade among the three countries.

Further Trade Actions

The Trump Administration is simultaneously pursuing multiple trade investigations and proposed tariff actions under other laws, as we [previously reported](#). In June 2026, the USTR announced findings on forced labor-related policies and practices and proposed tariffs against 60 countries under Section 301 of the Trade Act of 1974 (“Section 301”). USTR received public comments and conducted a hearing in early July 2026, which may result in new Section 301 tariffs in the imminent future, potentially before the end of this week. At the same time, USTR is also considering comments that it received earlier this year for a separate Section 301 investigation on structural industrial excess capacity of 16 major economies including the European Union. There are also ongoing Section 301 trade actions and investigations targeting Brazil, China, Germany, and Vietnam, among other countries, citing various sources of trade tensions. The U.S. Commerce Department also has ongoing trade investigations targeting the imports of various sectors under its separate trade authority under Section 232.

The Section 301 trade actions both include Canada as well as other major U.S. trading partners. The timing of these Section 301 tariff actions appear to closely track the scheduled expiration on July 24, 2026, of the 10% global import surcharge that President Trump imposed under Section 122 of the Trade Act of 1974 (“Section 122”). President Trump had imposed that temporary Section 122 tariff measure after the U.S. Supreme Court’s decision in February 2026 to invalidate his broad tariff actions in 2025 that had cited the International Emergency Economic Powers Act (“IEEPA”).

The trade community may soon see import tariffs return to the higher rates that the U.S. Government had imposed in 2025 under IEEPA. At the same time, President Trump appears to invite trade partners to enter into trade negotiations to reduce those tariff rates, and the new tariff actions likely will take into account reduced tariffs that the USTR previously negotiated against the backdrop of the now invalidated IEEPA tariff actions.

