

Situation Report
25 August, 2026

US Section 338 Tariffs on Canada

What the US announced on August 22, the situation now, and what Canada matches from 8 September

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Duties in force since 22 August 2026 | Next trigger 8 September 2026 | No negotiations scheduled

● Executive summary

The United States began charging an additional 50% duty on a broad list of Canadian-origin goods at 00:01 ET on 22 August 2026.

The measure covers roughly USD 20bn of annual imports, about 5% of what Canada ships across the border [Associated Press, 22 August 2026]. Prime Minister Carney has said Canada would match it dollar for dollar from 8 September, hitting **steel, dairy, appliances, agricultural equipment, pulp and paper and electronics** [Prime Minister of Canada, remarks on Canada-US trade negotiations, 22 August 2026]. The Department of Finance has not yet published tariff lines or rates.

Trump used Section 338 of the Tariff Act of 1930, an instrument no president had previously used to impose duties and one that requires no investigation, hearing or agency report. The duty applies to covered goods regardless of whether they originate under the United States–Mexico–Canada Agreement (USMCA), a departure from previous Canada measures where a valid certificate of origin meant exemption [White House, Fact Sheet on additional tariffs on Canada, 20 July 2026].

The framework behind North American cross-border sourcing sits separately unresolved. United States Trade Representative Greer declined to renew the USMCA at the first joint review on 1 July. The agreement stays in force, but the parties must now repeat the review every year. Carney has suspended negotiations, and Greer told Fox News on 22 August that no further rounds are planned [Al Jazeera, 22 August 2026].

● 1 What happened

Trump signed three proclamations on 20 July 2026 under Section 338, which sets a 30-day lead time and put the duty on course for 19 August. The Executive Office of the President then issued Proclamation 11056 on 18 August, suspending the duty until 00:01 ET on 22 August while negotiators pursued a broader agreement [US Customs and Border Protection, CSMS # 69606660, 21 August 2026]. Talks collapsed late on Friday 21 August. Carney suspended negotiations that evening and recalled Canada's team [Prime Minister of Canada, statement on Canada-US trade negotiations, 21 August 2026], and CBP began collecting the duty on schedule the following morning. Greer has since said Washington plans no further rounds and will respond to Canadian retaliation.

Section 338 lets the President impose additional duties of up to 50% on a country he finds discriminates against US commerce, acting by proclamation alone. Section 301 obliges USTR to run an investigation first; Section 232 obliges Commerce to make a national security finding. Section 338 obliges the President to do neither. Section 338(b) also gives him an escalation path: if he finds the discrimination continues or increases, he can exclude the country's goods from importation entirely [Holland & Knight, 50 Percent Opening Bid, July 2026].

The White House titled the three proclamations for alcoholic beverages, dairy and motor vehicles, and most coverage stopped there. The annexes attached to each extend the duty across a far wider product range [Presidential Proclamations 11046, 11047 and 11048, Federal Register, 23 July 2026]. CBP directs importers to file under HTSUS headings 9903.03.12 through 9903.03.16, confirms the duty stacks on existing antidumping, countervailing and other duties rather than replacing them, requires privileged foreign status for covered goods admitted to a foreign trade zone, and allows drawback [CBP, CSMS # 69606660, 21 August 2026].

Carney announced Canada's response in Ottawa on 22 August, naming six sectors and setting the start date at Tuesday 8 September. He promised details within days and described the response as focused rather than comprehensive [Prime Minister of Canada, 22 August 2026].

● 2 Affected industries

Trump's proclamations exempt the goods Section 232 already covers, **which removes steel, aluminium, copper derivatives, semiconductors, wood products and most vehicles and parts from the US action**. What remains is consumer and light-manufacturing goods: electronics, furniture, apparel, packaging, building materials, cosmetics, food and drink. Carney's counter-measures point the other way, at heavy industry and capital equipment.

A manufacturer with a North American footprint can therefore sit outside the US annexes on its metals and drivetrain lines while sitting squarely inside Canada's counter-tariff on the same lines from 8 September.

● What the US duty hits (Canadian-origin goods, since 22 August):

Electronics and telecom equipment; furniture and home goods; building materials including lumber, plywood, doors and cement; plastics and packaging; apparel, footwear and luggage; machinery and manufacturing inputs; cosmetics and fragrances; toys and sporting goods; horticultural products including flowers, plants and seeds; alcoholic beverages; dairy [Canadian Federation of Independent Business, reading of the three annexes, 24 August 2026].

● What the proclamations exempt at 0%:

Steel, aluminium and copper derivative articles; certain passenger and commercial vehicles and parts; wood products; semiconductors; patented pharmaceuticals; civil aircraft and related components. Energy products, potash, fish and critical minerals also sit outside the action. Section 232 duties still apply to the metals, semiconductor and wood categories [CBP, CSMS # 69606660, 21 August 2026; Holland & Knight, July 2026].

● What Canada will hit from 8 September (US-origin goods):

Steel; dairy; appliances; agricultural equipment; pulp and paper; electronics. Category-level only until the Department of Finance publishes lines [Prime Minister of Canada, 22 August 2026].

● Cross-cutting

Customs brokers and cross-border logistics operators absorb higher clearance cost. Importers carry a heavier origin documentation and classification workload, because USMCA preference no longer clears covered goods and classification now has to be matched at eight digits against the annexes rather than read off the three headline categories. Manufacturers running North American bills of materials with repeated border crossings take the duty at each covered crossing.

● 3 Indicators to watch

Two governments have now committed themselves in public, and neither has an off-ramp scheduled: Carney has suspended talks, Greer says none are planned, and both sides have promised to answer the other's next move. The near-term questions are how wide Ottawa's schedule turns out to be at line level, whether CBP narrows or broadens annex coverage in follow-up guidance, and whether the courts take up the statute.

Trade counsel broadly expects a challenge at the Court of International Trade, given that the Supreme Court struck down the IEEPA tariffs six months ago on the reasoning that tariff power belongs to Congress. No case had been filed as of mid-August [Zonos, Section 338 Canada guide, 17 August 2026]. A successful challenge would not restore the pre-August position on its own, because CBP cannot stop collecting without a directive from the executive branch, which is what the February ruling required [Holland & Knight, February 2026].

● Dates to monitor

DATE	EVENT
22 Aug 2026	CBP began collecting the Section 338 duty [CBP, CSMS # 69606660]. The proclamations set no expiry date.
Late Aug 2026	Carney has promised Canada's tariff lines and rates within days [PMO, 22 August 2026].
8 Sep 2026	Canadian counter-measures take effect [PMO, 22 August 2026].
Autumn 2026	Carney's government tables Budget 2026, which he said will carry further competitiveness measures [PMO, 22 August 2026].
1 Jul 2027	The Free Trade Commission holds the next annual USMCA review under Article 34.7.4 [CRS, R48964].

● Events to follow

The situation is still unfolding, and upcoming events will change the exposure picture. Six of the signals below sit with named actors who have already stated an intention or are under an obligation to publish; the remaining three are contingent on decisions no party has announced.

- The Department of Finance publishes Canada's tariff schedule, and whether the six sectors Carney named widen or narrow at line level. Carney committed to this within days on 22 August [Prime Minister of Canada, 22 August 2026]
- CBP issues follow-up CSMS guidance adjusting annex coverage, or announces an exclusion process. None exists at present, though industry pressure has produced exclusion mechanisms under other statutes [Zonos, 17 August 2026; ShopAppy trade advisory, August 2026]

- An importer files at the Court of International Trade, and whether the court stays collection pending decision as the lower courts did in the IEEPA litigation [Zonos, 17 August 2026; Holland & Knight, July 2026]
- Washington acts on Greer's warning that it will respond to Canadian retaliation [Al Jazeera, 22 August 2026]
- Trump signs further Section 338 proclamations, against Canada or any other partner, which would establish that he treats the instrument as reusable. Prewave assessment, based on the absence of any procedural gate in the statute [Global Trade Alert, 20 July 2026]
- Trump invokes Section 338(b) to escalate from duties to exclusion, the statutory step above the current measure [Holland & Knight, July 2026]
- Either government restarts talks, or Canada and the United States open text-based USMCA negotiations [Office of the US Trade Representative, 1 July 2026]
- Commerce changes Section 232 scope on the exempted headings, which would shift goods between the two instruments. Ongoing Section 232 investigations cover pharmaceuticals, aircraft, polysilicon, robotics and industrial machinery [Sidley Austin, February 2026]

● Sources

● Primary and official

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- Presidential Proclamations 11046 (alcoholic beverages), 11047 (dairy) and 11048 (motor vehicles), with Annexes I and II, Federal Register, 23 July 2026
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- US Customs and Border Protection, CSMS # 69606660, Guidance: Section 338 Additional Duties on Certain Goods of Canada, 21 August 2026
- Office of the US Trade Representative, Ambassador Greer Issues Statement on the USMCA Joint Review, 1 July 2026
- Office of the US Trade Representative, United States and Mexico to Convene in Mexico City for Third Bilateral Negotiating Round, 17 July 2026
- Prime Minister of Canada, Statement by Prime Minister Carney on Canada-US trade negotiations, 21 August 2026
- Prime Minister of Canada, Prime Minister Carney delivers remarks on Canada-US trade negotiations, 22 August 2026
- Statistics Canada, The Daily: Canadian international merchandise trade, June 2026, 4 August 2026
- Global Affairs Canada, Office of the Chief Economist, Monthly trade report: June 2026
- Supreme Court of the United States, Learning Resources, Inc. v. Trump, decided 20 February 2026
- Congressional Research Service, LSB11398: Supreme Court Rules Against Tariffs Imposed Under IEEPA, 23 February 2026
- Congressional Research Service, R48964: USMCA Joint Review, Background on Prior Negotiations and Selected Issues for Congress, June 2026