CLIENT ALERTS & INSIGHTS

Canada Trade - New Tariff Announcement and USMCA Non-Renewable Stakes for North American Supply Chains

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Featured Industries: Transportation & Logistics, International Trade & Supply Chain Management

Key Takeaways

- New Section 338 tariffs on certain Canada-origin imports are set to begin on August 19, 2026, at 50% ad valorem duty (even if USMCA duty-free status otherwise applies).

- The United States also recently announced its decision not to renew the USMCA trade agreement in its current form while bilateral conversations continue.
- Businesses involved in North American trade and the trillions of dollars in supply chain investment across the region face renewed customs compliance, enforcement, and strategic planning challenges.

On July 20, 2026, the Trump Administration announced a new set of sweeping tariffs on Canada-origin goods. This comes less than one month after the United States decided against renewing the free trade agreement between the United States of America, Mexico, and Canada (the "USMCA") during the required six-year joint review. As a result, the USMCA remains in place, although its long-term viability is now an open question while in parallel new tariff programs target imports from our northern trading partner. The U.S. government has indicated that it will continue engaging with Mexico and Canada to address perceived shortcomings in the USMCA and U.S. trade deficits with both countries. Domestic U.S. businesses that have invested in, or rely upon, North American supply chains now face an ever-challenging regulatory compliance and strategic planning scenario.

Newly Proposed Section 338 Canada Tariffs Escalate Trade Tensions

The President signed three Proclamations on July 20, 2026, imposing additional 50% tariffs on certain Canada-origin goods under Section 338 of the Tariff Act of 1930. The tariffs take effect on August 19, 2026, and are intended to offset what the Administration described as Canada's discriminatory or unequal treatment of U.S. commerce. Section 338 authorizes the President, when the statutory findings are made and the public interest is served, to impose new or additional duties to offset burdens or disadvantages placed on U.S. commerce by a foreign country.

The purported trade disadvantages identified as supporting these tariffs involve goods in the motor vehicle, alcohol, and dairy sectors. Each Proclamation contains Annexes that identify precise HTS codes and special rules for goods subject to this tariff. The Section 338 tariffs do not apply to energy, potash, goods already subject to Section 232 tariffs, or certain other products, including fish and critical minerals. Most significantly, goods that would otherwise qualify for duty-free entry under the USMCA will nonetheless be subject to these Section 338 tariffs.

Our team forecasted that on September 10, 2025, the use of Section 338 could be attempted by the Administration as a replacement for the International Emergency Economic Powers Act (IEEPA) tariffs if those were struck down by the U.S. Supreme Court. Our assessment of alternative tariff measures, including Sections 122 and 301, is available HERE. IEEPA tariffs were, of course, invalidated on February 20, 2026. Section 338 was passed by the U.S. Congress nearly 100 years ago, although it has never been exercised before now.

Non-Renewal of USMCA Challenges Future North American Trade

The United States Trade Representative ("USTR") announced on July 1, 2026, that the United States did not agree to renew the USMCA in its current form. This position is based on purported "shortcomings" in the USMCA trade deal, as well as trade deficits with both Canada and Mexico. Conversations are ongoing regarding the future of our North American trading block, particularly between the United States and Mexico. The timing of this announcement was based on a 6-year joint review requirement found in the USMCA, as entered into on July 1, 2020.

The USTR solicited input from the domestic industry prior to arriving at this conclusion. The USMCA, as ratified by the U.S., required substantial preparation going into the joint review. At least 270 days before the review, the USTR was required to publish a Federal Register notice and provide an opportunity for interested parties to submit views on the operation of the USMCA, including through a public hearing. This process gave businesses, labor groups, environmental organizations, and the public an opportunity to inform the U.S. position before the review. Then, at least 180 days before the review, the USTR was required to report to congressional committees on: the USTR's assessment of the agreement's operation; the precise recommendation for action to be proposed at the review; the U.S. position on whether to extend the USMCA; prior efforts to resolve any concerns underlying that position; and the views of the established advisory committees. Our team alerted clients on the opportunity to participate in this deliberative process HERE.

The USMCA does not immediately terminate based upon this unilateral decision. The USMCA was originally established under a 16-year term, as found in Article 34.7. Now, the USMCA remains in force, although the member countries must continue to hold annual joint review meetings in consideration of whether extension can be agreed upon. The next USMCA joint review will take place by July 1, 2027. Absent a successful extension, the USMCA is scheduled to expire in 2036.

Preparing Supply Chains for Worst-Case Scenarios

If the USMCA entirely ceases to be in force for the U.S., then the Implementation Act and its amendments cease to have effect, except for the termination provision. In practical terms, expiration would eliminate USMCA-derived tariff preferences, rules of origin, dispute settlement mechanisms, and other trade benefits between the U.S. and its neighbors. The tactical challenges that this creates for customs compliance, procurement, and sales teams are clear. Teams must maintain awareness and continuous improvement in processes supporting those operations. The weightier strategic challenge is how to proceed with cross-border investment and sourcing if the ground rules are changing. We had a front-row seat to this type of challenge in the first quarter of 2025 when clients struggled with very similar questions about investment and sourcing during the early days of IEEPA tariffs. Supply chain leadership may need to dust off those contingency plans as we look to the future of cross-border growth and opportunity.

Benesch's team advises and represents clients in ongoing tariff compliance, customs matters, and supplier and customer demands. We are available to assist in developing comments, determining tariff impacts on supply chains and foreign relationships, implementing or strengthening forced labor compliance programs, and defending against enforcement actions (including detentions or seizures at port) as and when those arise. Benesch client alerts and legal publications are available for you to receive by signing up HERE.

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