

Surviving the Great Tariff War As a Customs Professional!

CSCB National Conference 2026

Delivered In-Person September 28, 2026 (Gatineau, Canada)

Presented By:

Robert G. Kreklewetz

David R. West

(Two Fabulous Customs & Trade Lawyers!)

Road Map

- A Little Bit about US
- Canada's Free Trade History
- How did this Trade War Start?
- Current Measures: Where are We Now?
- Other Canadian Surtaxes
- Canada's Remission Process
- Survival Skills



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Robert G. Kreklewetz

Millar Kreklewetz LLP

- 35+ Years in Customs & Trade
- First CITT Case 1989
- First “Major Tax Win” 1993
- First “Major File Own” 1997
- L’Expert Magazine: 1999
“Super-Boutique” / “Brand Name”
- Bio Details 

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David R. West

Millar Kreklewetz LLP

- Senior Associate at MK LLP
- Most Experience w Surtaxes/Tariff
- Most Experience with Remissions
- Partner Level Material ←Rob Says

- Bio Details



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Canada-US Free Trade

- 1935 Free Trade Agreement
- 1965 Autopac Agreement
- 1989 FTA
- 1994 NAFTA
- 2020 CUSMA / USMCA / T-MEC



1935 Free Trade Agreement



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1965 Autopac Agreement



1989 Free Trade Agreement (FTA)



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1994 NAFTA



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2020 CUSMA / USMCA / T-MEC



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2026 TBA AGREEMENT

		
U.S.A	Mexico	Canada
		
Donald Trump THE GREATEST President (United States)	Claudia Sheinbaum President (Mexico)	Mark Carney Governor (Canada)
Millar Kreklewetz LLP 2026 ©		

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What Happened?



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≡> **Newsweek**

Donald Trump Says 'Nasty' Canada 'Meant To Be 51st State'



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The New York Times

***How Trump's '51st State' Canada Talk
Came to Be Seen as Deadly Serious***



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“Governor” Trudeau



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Mark Carney



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Elbows Up, Canada!



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Why Did it Happen?



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Macroeconomic & Trade-Policy Rationales

- Precedent: Reagan-Era tariffs & trade pressure on Japan Autos
- Reshoring KEY Industries in KEY States
- Political Realities



National Defense Priorities

- Steel / Aluminum matters of National Security
- Defense/Military Applications
- Critical Infrastructure Projects
- Maintaining Domestic Production Capacity



Legitimate US Trade Grievances

- Agricultural Supply Management
- Non-Tariff Barriers (e.g. Gulfstream)
- Access to Banking Sector
- Current Political Drive Issues:
 - Provincial Alcohol Bans
 - CDN Procurement Practices
 - French Language Issues?



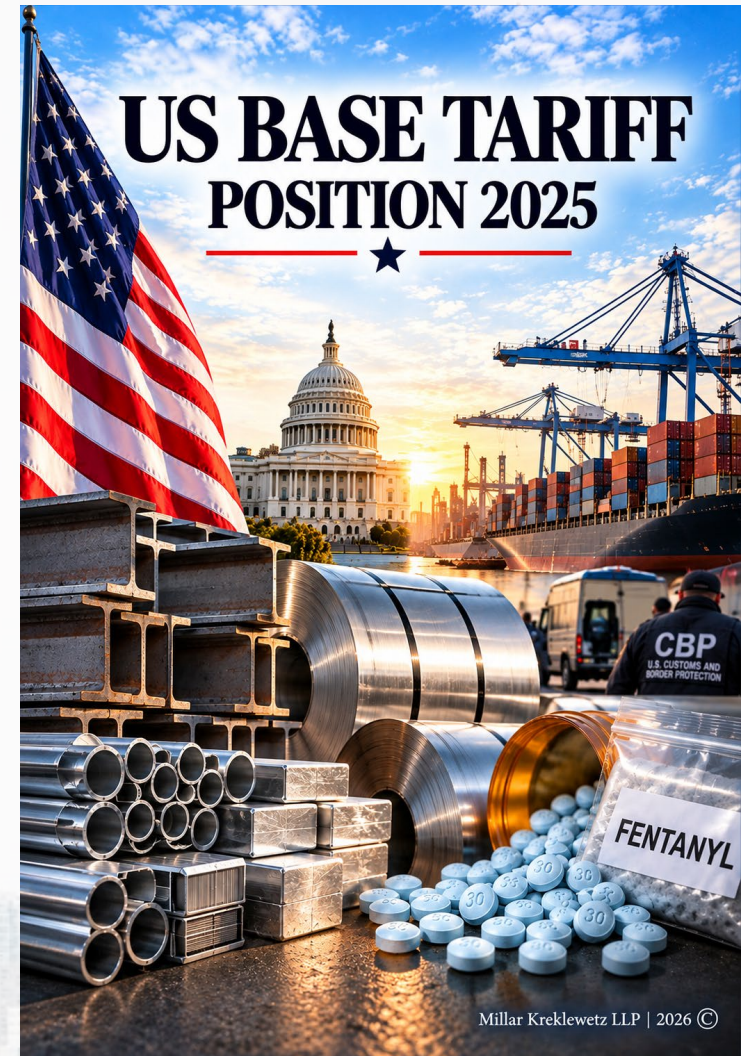
Base US Tariff Position

- Mar 2025 → 25% Steel/Aluminum
- Apr 2025 → 25% Auto Tariff

- Mar 2025

IEEPA | Northern Border Fentanyl

- 25% → Later **0% if CUSMA**
- Lower rate for Energy/Potash
- 35% on 2025-08-01 for **non-CUSMA Goods**
- Supreme Court Invalidation



Canada's Trade Response: ELBOWS UP!!

: Ex



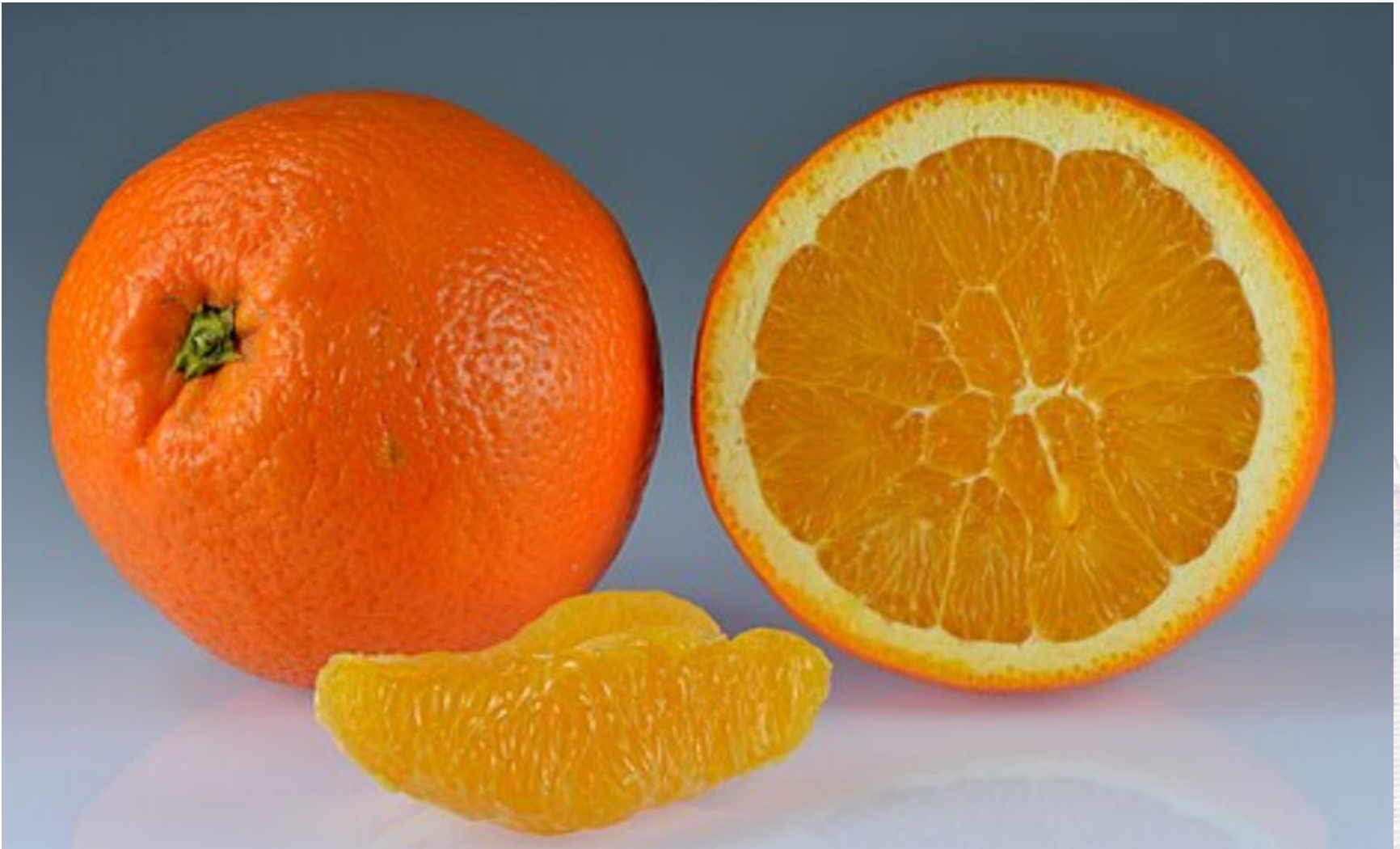
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Canadian Response

- 2025 → 25% Steel/Alum
→ 25% Auto / Parts

→ 25% Various Goods









Basic Economics

 ChatGPT Classic

What happens in an economy when a given product is in short supply?

When a product is in **short supply relative to demand**, the normal market response is **upward pressure on its price**. That higher price then creates incentives on both sides of the market: consumers buy less, substitute other products, or postpone purchases, while producers and sellers have greater incentive to increase production, release inventories, import more, or find alternative sources.

Basic Economics



Claude

When Canada puts a surtax on, say US Bourbon or Napa Valley Wines, what is the expected impact on, say, Canadian whiskey and wine prices?

Yes. Economic theory predicts some upward pressure on the price of Canadian whisky and Canadian wine even though those Canadian products themselves are not subject to Canada's surtax. The mechanism is substitution.

Canadian Response

- 2025 → 25% Steel/Alum
→ 25% Auto / Parts

→ 25% Various Goods**

NO USMCA Exception

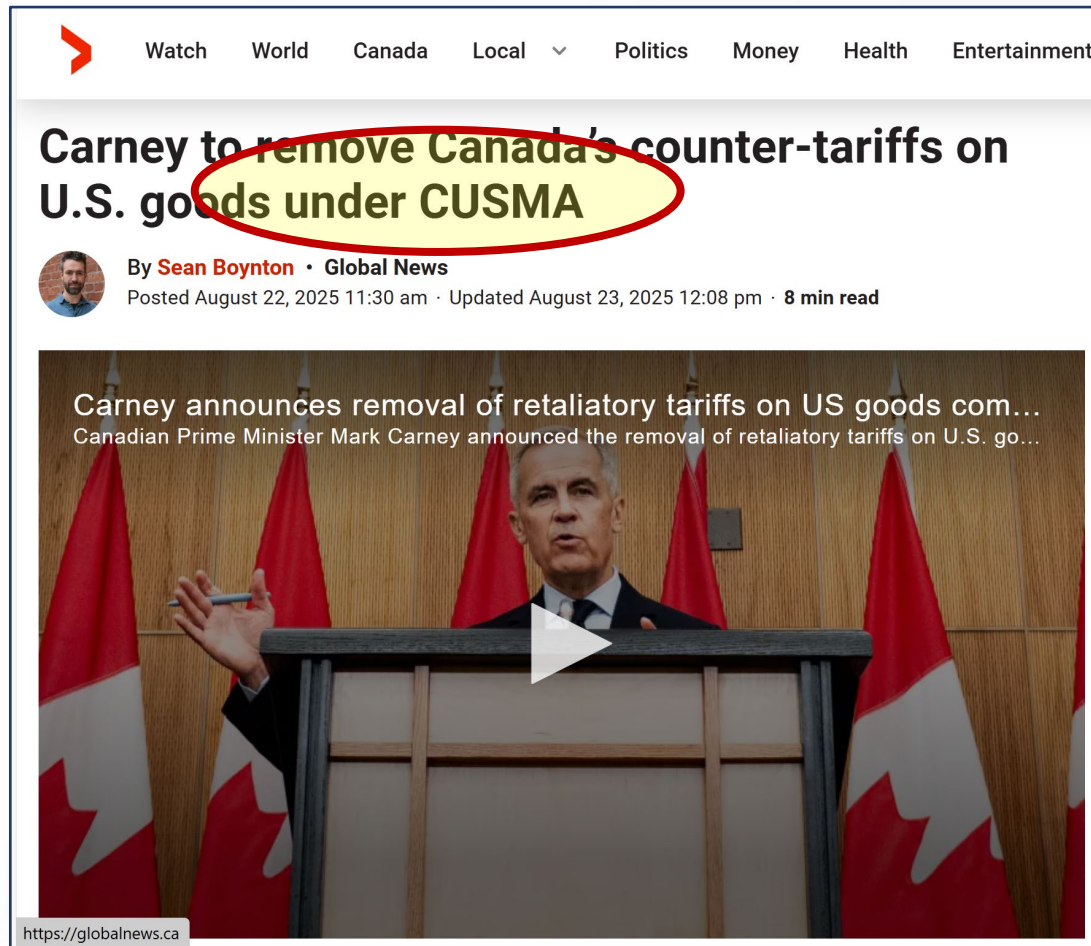


Trump Response



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Carney Response



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LILLEY: Mark Carney's elbows
disappear but he's making the right
move



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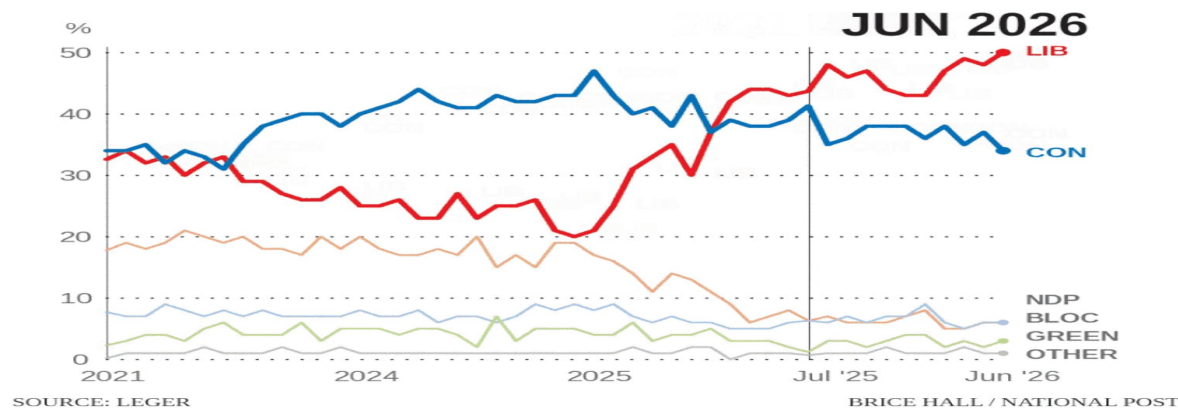
The Political Calculus

NATIONAL POST

'That's a big number': Carney's Liberals near record high with 50% support, new poll finds

As for the prime minister himself, the poll found that Carney has an approval rating of 56 per cent

FEDERAL VOTING INTENTIONS SINCE 2021 ELECTION



CUSMA Not Extended

July 1, 2026

World

U.S. declines to extend CUSMA trade deal with Canada, Mexico

Trump administration's move doesn't kill agreement, but triggers fresh negotiations and uncertainty.



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50% Tariffs Coming July 20, 2026

The graphic is a blue and white announcement from the Office of the President. At the top left is the Presidential Seal. To its right, the text reads "OFFICE of the PRESIDENT" and "EXECUTIVE OFFICE OF THE PRESIDENT". Below this, the main headline is "U.S. Imposes 50% Section 338 Tariffs on Canadian Goods". Underneath the headline, it says "Three Proclamations Target Motor Vehicles, Alcoholic Beverages and Dairy Products". A red banner in the center contains the date "JULY 20, 2026". Below this are three categories: "MOTOR VEHICLES" (with an image of two SUVs), "ALCOHOLIC BEVERAGES" (with an image of wine and beer), and "DAIRY PRODUCTS" (with an image of milk, cheese, and butter). A large red banner at the bottom of these categories says "50% TARIFFS". Below that, it states "On nearly \$20 billion of Canadian imports under Section 338 of the Tariff Act of 1930." The background features a large American flag on the left, a large Canadian flag on the right, and a city skyline with a bridge in the distance.

OFFICE of the PRESIDENT
EXECUTIVE OFFICE OF THE PRESIDENT

U.S. Imposes 50% Section 338 Tariffs on Canadian Goods

Three Proclamations Target Motor Vehicles, Alcoholic Beverages and Dairy Products

JULY 20, 2026

MOTOR VEHICLES

ALCOHOLIC BEVERAGES

DAIRY PRODUCTS

50% TARIFFS

On nearly \$20 billion of Canadian imports under Section 338 of the Tariff Act of 1930.

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Trump throws Carney a Bone

August 18, 2026

Global NEWS Watch World Canada Local Politics Money Health Entertainment Lifestyle

DONALD TRUMP TARIFFS News Tariff timeline Made in Canada vs Product of Canada

CANADA

Trump pauses tariffs on Canada, cites pending trade deal

U.S. president delays 50% tariffs for three days as negotiators work to finalize agreement

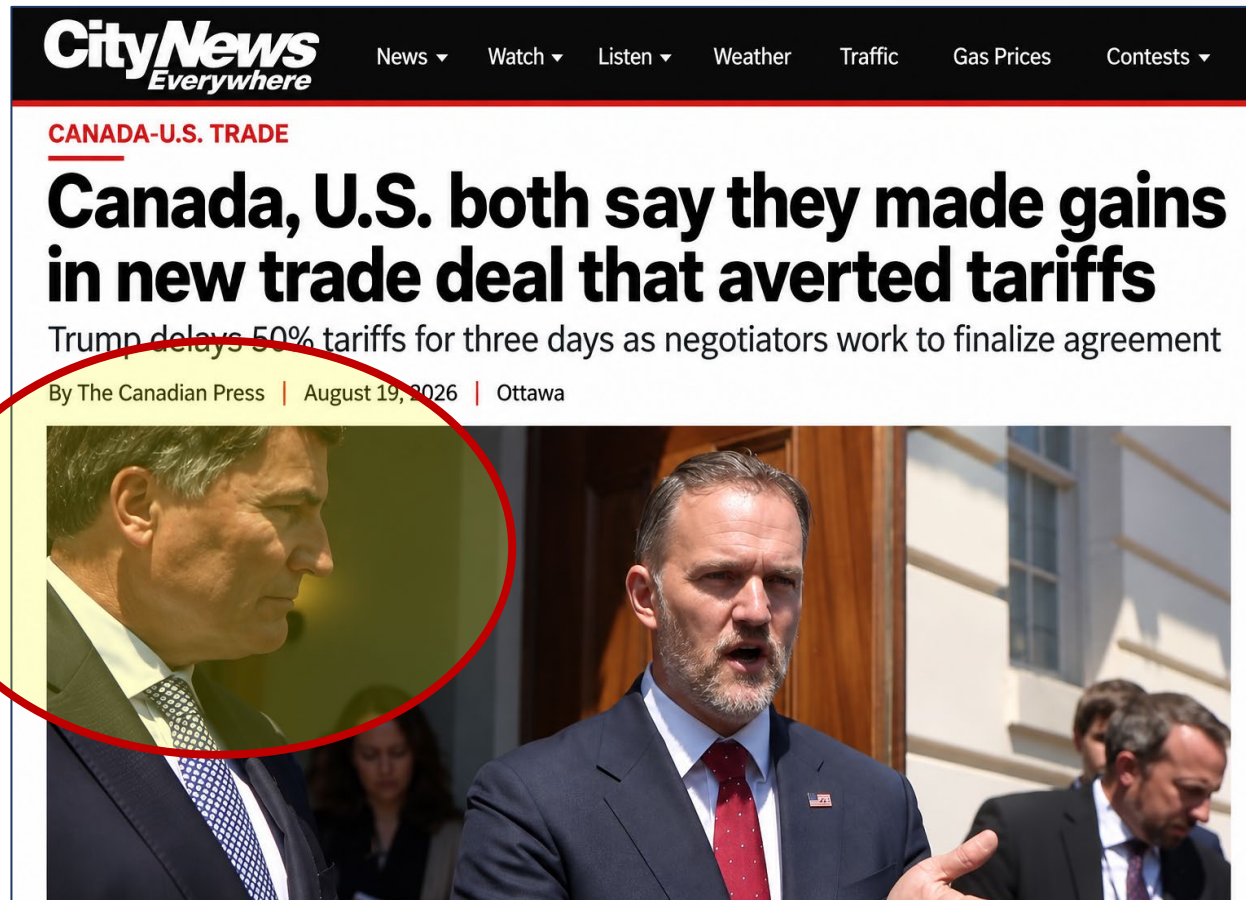
By **Alessia Simona Maratta** · Global News
Posted August 18, 2026 10:46 p.m. · 2 min read



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We have a New Deal!

August 19, 2026



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Criticism on the Home Front

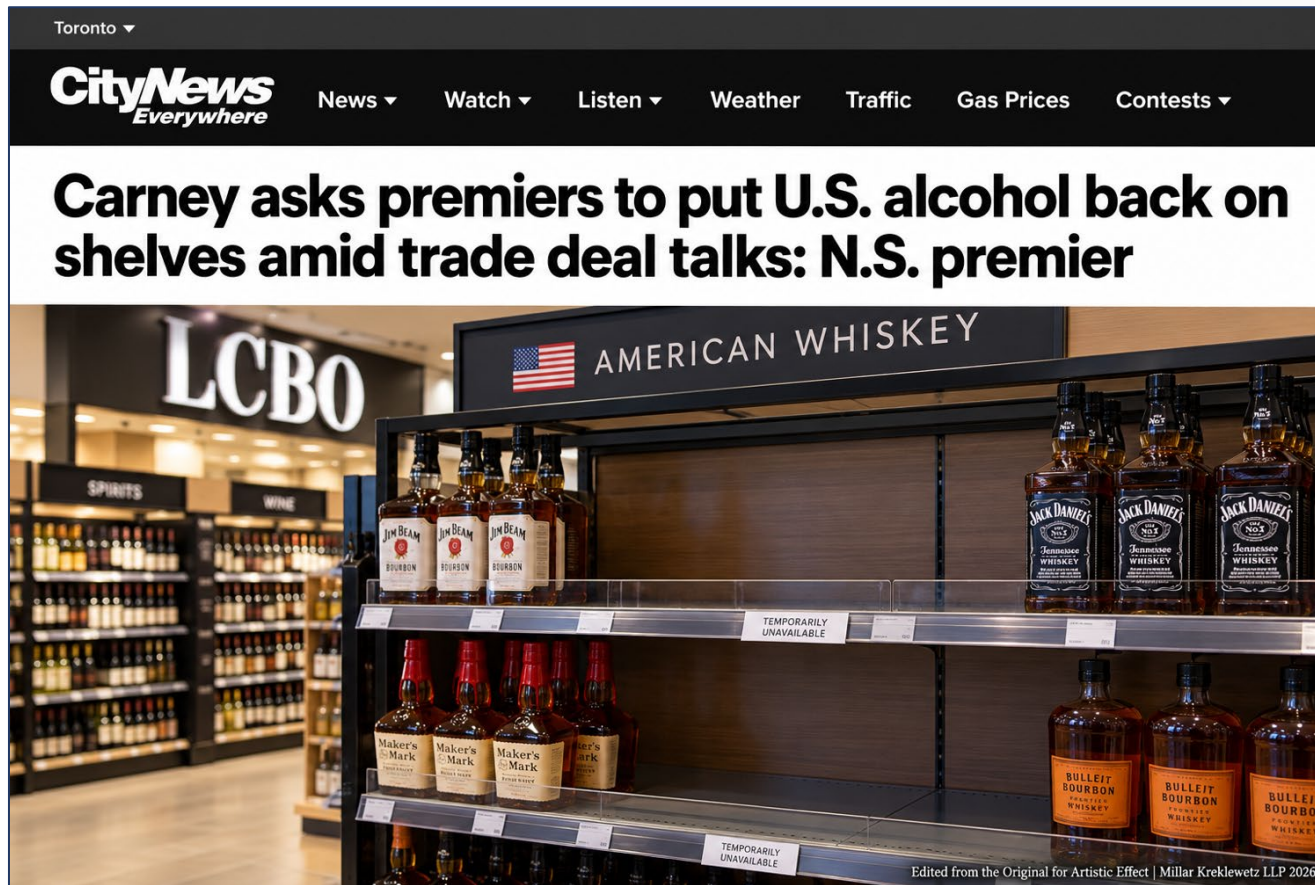
August 20, 2026



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Criticism on the Home Front

August 20, 2026



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Criticism on the Home Front

August 20, 2026

Winnipeg Free Press  SERVING MANITOBA SINCE 1872
PROUDLY CANADIAN

Business | Don't buy U.S. booze if, when it's back on Liquor Mart shelves: Kinew

Don't buy U.S. booze if, when it's back on Liquor Mart shelves: Kinew



By **Chris Kitching**
Posted: 2:16 PM CDT Thursday, Aug. 20, 2026 | Last Modified: 10:25 AM CDT Friday, Aug. 21, 2026

Edited from the Original for Artistic Effect |
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Criticism on the Home Front

August 20, 2026

*i***POLITICS**

NEWSOPINIONSPODCASTSINTEL

NEWS

Carney nearly begged premiers to put U.S. booze back on shelves to secure deal: Kinew

Manitoba Premier Wab Kinew said he wishes Canada pushed harder against the U.S. in trade negotiations, but that he understands where Prime Minister Mark Carney is coming from in his bid to seal a deal.

By The Canadian Press
Published August 20th, 2026 at 2:57 p.m.



Edited from the Original for Artistic Effect |
Millar Krekewetz LLP 2026

Criticism on the Home Front

August 20, 2026



The Carney Walk-Back

August 21, 2026



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Ex post Facto Rationalizations

August 24, 2026



taxandtradelaw.com

US Reactions

August 27, 2026

*i*POLITICS

NewsOpinionsPodcastsINTEL

NEWS

Lutnick accuses Canada of deliberately scuttling trade talks

He told reporters on Thursday the Carney government was desperately seeking to create division with the Americans to justify walking away from the negotiating table.

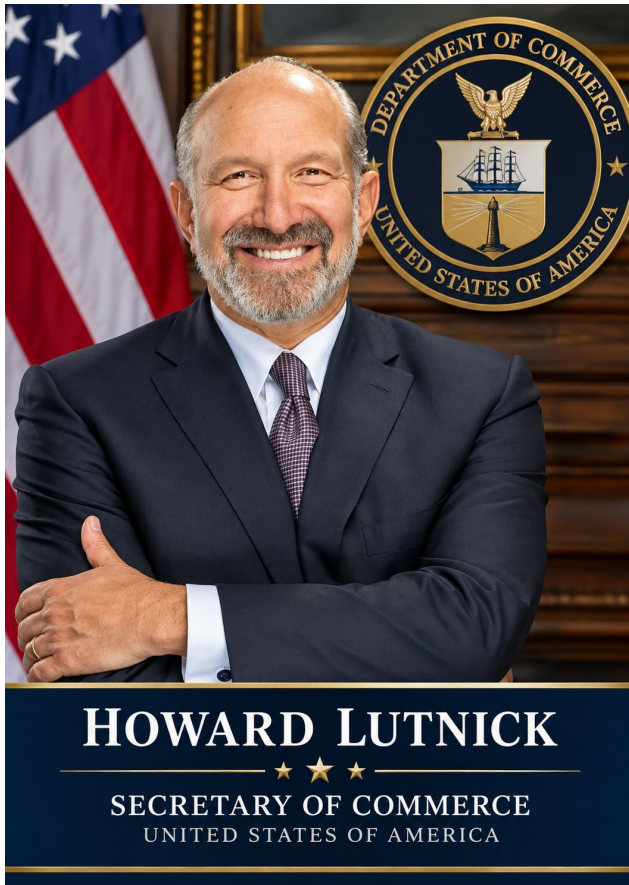
 Marco Vigliotti
Editor-in-Chief

Published August 27th, 2026 at 5:04pm



US Reactions

August 27, 2026



“Do I care about how the Québécois speak? I mean, what could matter less to America?

We don’t care.”

The Trump Backlash



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The Trump Backlash



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The Trump Backlash



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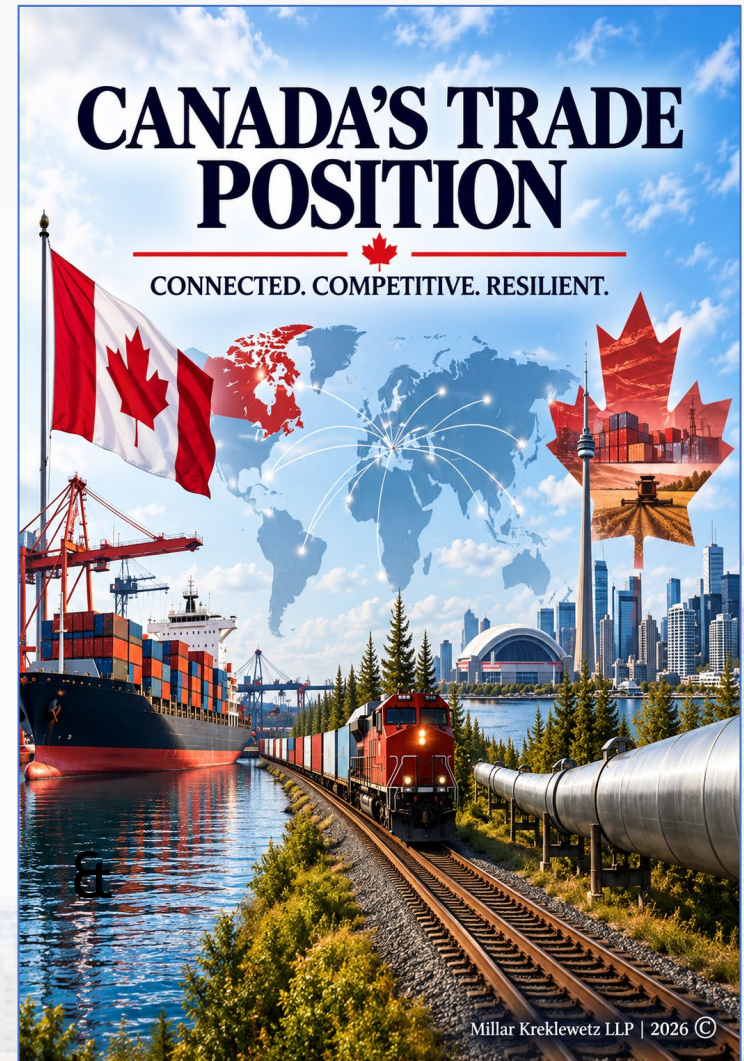
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Canada's Trade Position

- Sovereignty / Non-Negotiable
 - Culture
 - French Language
 - Supply Management
- Fair FREE TRADE Deal with US
- Appearance of Foreign Policy Control
- Appearance of Elbows Up Winning the War



CURRENT United States Tariffs



CURRENT TARIFF & SURTAX MEASURES

- Oct 2025 → 10% Softwood + / 25% Furniture +
- Nov 2025 → 25% Truck Tariff / 10% Bus Tariff
- Jan 2026 → 25% Semiconductors
- Feb 2026 → 10% Baseline Tariff
- Apr 2026 → 10-50% Steel ++
- Jun 2026 → Update to Steel ++
 - Mobile Industrial Equipment (15%)
 - Agricultural Equipment (15%)
 - HVAC (15%)
 - Metal Origin Thresholds (85% of weight).



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CURRENT United States Tariffs



CURRENT TARIFF & SURTAX MEASURES

- July 2026 → 10% Baseline
 - Section 301 Tariffs
 - NOT Applicable to USMCA Goods
- Aug 2026 → 50% Various Goods
 - Section 338 Tariffs
 - CUSMA Qualifying Does NOT Matter
- Sept 2026 → Outright Import Ban

**UNITED STATES
OUTRIGHT IMPORT BAN
ON CERTAIN CANADIAN PRODUCTS**
EFFECTIVE SEPTEMBER 29, 2026
(ANNOUNCED SEPTEMBER 8, 2026)

ALCOHOLIC BEVERAGES	DAIRY-RELATED PRODUCTS	MOTORCYCLES
Canadian whisky	Whey protein concentrates	 Motorcycles and mopeds with engines > 800 cc (HTS 8711.50.00)
Beer	Modified whey	
Wine (including icewine)	Fluid and dried whey	
Vodka, gin and other spirits	Certain molasses	
Rum, brandy, liqueurs and cordials		
Cider and other fermented beverages (non-exhaustive)		

IMPORTS PROHIBITED

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CURRENT Canadian Surtaxes



■ ~~Mar 2025 → 25% Various Goods~~

■ Mar 2025 → 25% Steel / Alum

■ Apr 2025 → 25% Auto / Parts

■ Non-Canadian / Mexican Content

■ Dec 2025 → 25% Steel Derivatives

■ Applies worldwide, including US



Millar Krekewetz LLP | 2026 ©

CURRENT Canadian Surtaxes



- Sept 2026 → 25-50% Steel / Alum
- Sept 2026 → 15%-50% Various Goods



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Other Measures?

Canada

- Provincial US Alcohol Bans
- Regulatory Approval → Gulfstream Certification
- Tariff Rate Quotas

United States

- Foreign Importer of Record Rules
 - Informal Entry Restrictions
 - Bonding Restrictions
 - 50% Minimum Penalty Floor



NON-TARIFF BARRIERS TO TRADE

RESTRICTIONS OTHER THAN TARIFFS THAT LIMIT OR DISCRIMINATE AGAINST IMPORTS

REGULATORY REQUIREMENTS Product standards, certification, licensing and approval processes.	SANITARY AND PHYTOSANITARY MEASURES Health, food safety and plant/animal disease controls (e.g., inspections, testing, treatment requirements).
TECHNICAL BARRIERS TO TRADE Different technical standards, testing and conformity assessment procedures.	QUOTAS AND IMPORT RESTRICTIONS Import quotas, licensing limits, and other quantitative restrictions.
SUBSIDIES AND GOVERNMENT SUPPORT Financial support to domestic industries that disadvantages foreign competitors.	GOVERNMENT PROCUREMENT Policies that favour domestic suppliers in public sector purchasing.
CUSTOMS AND ADMINISTRATIVE PRACTICES Complex procedures, delays, excessive documentation and discretionary enforcement.	LOCAL CONTENT REQUIREMENTS Rules requiring a minimum level of domestic content in products.
OTHER MEASURES State trading enterprises, investment restrictions, export restraints, and discriminatory tax measures (e.g., VAT exemptions).	EXAMPLES IN PRACTICE • Dairy supply management • Alcohol distribution restrictions • Procurement "Buy National" policies • Product certification requirements • Quotas and import licensing

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CURRENT Surtaxes Canada Imposes on **CHINA**

- Oct 2024 → 25% Steel Surtax
- July 2025 → 25% Steel/Aluminum



CURRENT Surtaxes Canada Imposes on **WORLD**

- Jun 2025 → 50% Steel TRQs
- Dec 2025 → 25% Steel Derivatives
- Jul 2025 → 25% China "melt-and-pour / smelt-and-cast" Surtaxes
- Jun 2026 → 10% Canned Vegetables
- Jul 2026 → 25% Wood Cabinets +



Steel TRQ Surtax

- HS Codes define “Classes” Goods
- “Classes” have 2 Quotas
 - FTA partner quota
 - Non-FTA partner
- 50% Surtax once Quota Exceeded
 - “Utilization Rates”
 - By Class
 - By Country
 - Import-permits required!
- Extended to Jun 2027



Surtax

(Non) Stacking Rules

- A good subject to a surtax higher in the list below will not be subject to any surtax below
 - 50% Steel TRQs*
 - 25% China Surtax
 - 25% Steel / Aluminum Melt-Smelt
 - 25% Steel Derivatives

* Surtax applicable once quota met



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Remission Processes

Specific vs. General Frameworks

- Specific Frameworks:
 - Automatic Remission
 - Defined HS Classifications
 - DOF Rules / CBSA Administration
 - CARM Portal / Per Import CAD

- General Frameworks
 - General Remission Applications
 - Same General Criteria
 - Some Tweaks by Surtax



Specific Remission Orders

- US Surtaxes
- Chinese Surtaxes
- TRQ Surtaxes
- Derivative Surtaxes
- Similarities & Differences
 - CARM Portal / Per Import CAD Transaction with Go Forward SACs (also go backward adjustments in some instances)
 - Different Conditions for Relief for Each Remission Order
 - Automatic Remission Eligible HS Codes



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CDN General Remission

- US Surtaxes
- Chinese Surtaxes
- TRQ Surtaxes
- Derivative Surtaxes
- Process Similar For All Surtaxes BUT Eligibility Requirements Differ Slightly
- Written Application + Supporting Docs



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Can we still be Friends?



Reality: Trade War Bad For Canadians

Terry Newman: Carney's 'war' is good for political incumbents, but bad for Canadians

The reasons why the Liberals walked away from trade with the U.S. and the larger deal are far too mysterious for Canadians to support this "war"

By [Terry Newman](#)



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A Better Way?

Unilateral Free Trade

Bloomberg Tax |  News ▾ Podcasts Videos Rankings & Awards ▾ Research Tools ▾

Canada's Retaliatory Tariffs Against US Start Fight It Can't Win

June 10, 2025, 4:30 AM EDT

**Robert Kreklewetz**
Millar Kreklewetz

**David West**
Millar Kreklewetz



The Customs “Big 3”

- Tariff Classification
- Origin
- Valuation



CBSA Tariff Classification Compliance Initiatives

- Tariff Classification:
 - Tariff Class Determines Applicability of CDN Surtaxes
- CBSA Concern: Misclassification to Avoid Surtaxes
 - CBSA Monitoring Imports of Goods Subject to Surtaxes



CBSA Valuation Compliance Initiatives

- Valuations:
 - Mistakes
 - Outright Non-Compliance?
- CBSA Concern: Undervaluation of Goods to Avoid Surtaxes
 - CBSA Monitoring Imports of Goods Subject to Surtaxes



CBSA & CBP Origin Compliance Initiatives

- Origin Rules Also Determine Applicability of Surtaxes
- USMCA Origin Verifications
 - Affecting BOTH sides of Border
 - Canada: Autos
 - US - 50% on CDN Goods + Import Ban to Enforce



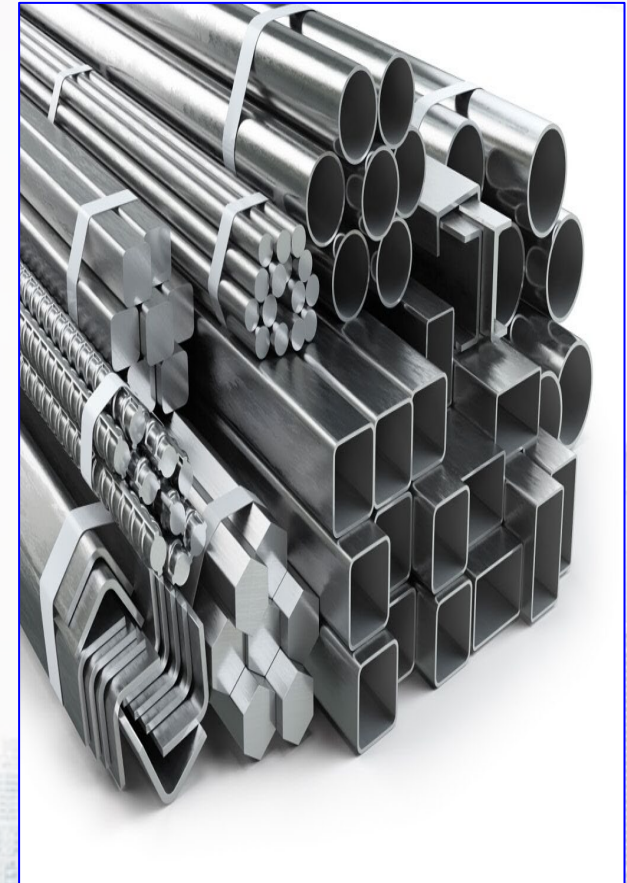
Origin Case Study - Textiles

- Rules of Origin for marking → applicability of Surtaxes/Tariffs
- US & Canadian rules may differ!
- Pillows (9404.90):
 - **Canada:** 94.04 - A change to heading 94.04 from any other heading
 - **US:** 9404.90 - the country, territory, or insular possession in which the fabric comprising the good was formed by a fabric-making process.



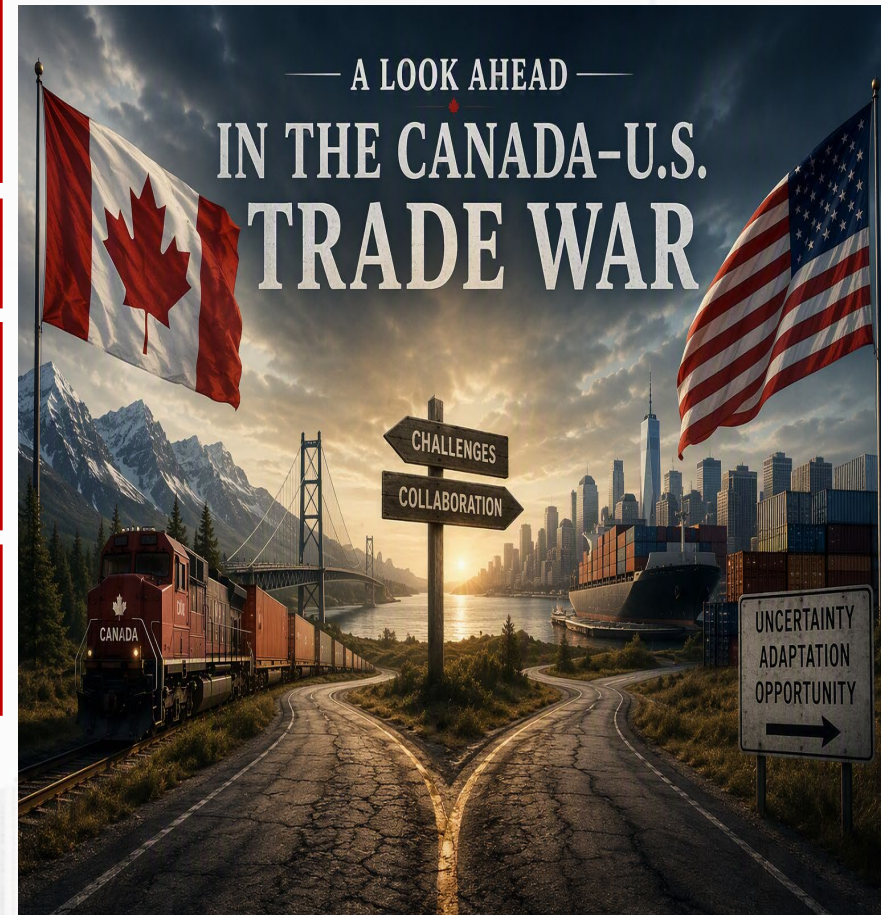
Valuation Case Study - Steel

- Confusion amongst importers on metal content value reporting for US Steel/Alum Tariffs
 - Apparent conflicting guidance from US CBP - importers backing out foreign labour costs, etc.
- US CIT Case: *Express Fasteners, Ltd. v. United States* (Case No. 26-853).
- Apr 2026 Proclamation → tariffs apply to **full customs value** of good



A Look Ahead

- Trade Landscape evolving (and not just with the US!)
- Surtaxes/Tariffs here to stay?
- Clients need sophisticated advice (not just AI)
- Either Develop the Expertise In-House or Refer it Out!



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QUESTIONS?

A dark, grayscale background image of the Toronto skyline, featuring the CN Tower and various high-rise buildings along the waterfront.

THANK YOU!