Regulatory News: Alerts & Updates

Regulatory Alert: U.S. modifies Section 338 additional duties on certain products of Canada

October 30, 2026

The scope of the 50% Section 338 ad valorem duty imposed on certain Canadian-origin products has been modified, effective October 30, 2026, according to the Presidential Proclamation entitled "Further Modifying the Scope of Products of Canada Subject to the Additional Duties Imposed to Offset Canadian Discrimination Against the Commerce of the United States with Respect to Motor Vehicles."

WHAT IS CHANGING?

Effective 12:01 a.m. ET on October 30, 2026, the scope of Canadian products subject to the 50% Section 338 ad valorem duty was modified in the Harmonized Tariff Schedule of the United States (HTSUS) Chapter 99 provisions by removing 22 HTSUS classifications and adding 100 new HTSUS classifications. U.S. Customs and Border Protection (CBP) issued Cargo Systems Messaging Service (CSMS) #70314289 on October 29, 2026, to provide implementation instructions for this new Section 338 proclamation, which include the applicable HTSUS numbers and available exemptions.

1. **Products Removed from the 50% Section 338 Tariff Scope** (Part A of Annex I)
   - 22 Canadian-origin HTSUS classifications will no longer be subject to the 50% additional Section 338 tariff for goods entered for consumption, or withdrawn from warehouse for consumption, on or after October 30, 2026. Affected products include:
     - Plastics and packaging supplies: non-adhesive propylene plates, sheets, film, and strip (3920.20.00); plastic boxes, cases, crates, and packing articles (3923.10.90); and ethylene sacks and bags (3923.21.00).
     - Thin non-coniferous plywood sheets: plywood not exceeding 6 mm in thickness with outer plies of birch, walnut, Spanish cedar, or other specified non-coniferous woods, whether clear-coated or surface-covered (4412.33.06, 4412.33.26, 4412.33.32, 4412.33.57, 4412.34.26, 4412.34.32, 4412.34.57).
     - Coated paper, paperboard, and containers: bleached plastic-coated paper and paperboard weighing over 150 g/m^2 (4811.51.20, 4811.51.40); corrugated paperboard boxes, cartons, and cases (4819.10.00); paper sacks and bags (4819.40.00); and molded or pressed paper-pulp articles (4823.70.00, 4823.90.10).

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- Industrial and food processing machinery: refrigerating or freezing equipment (8418.69.01); machinery for temperature treatment of materials (8419.89.95); container cleaning, filling, closing, sealing, or labelling machinery (8422.30.91); packing or wrapping machinery (8422.40.91); and cleaning, sorting, or grading machines for eggs, fruit, or agricultural produce (8433.60.00).
- Edible seaweed and algae: fit for human consumption, fresh, chilled, frozen, or dried (1212.21.00).

2. **Products Newly Added to the 50% Section 338 Tariff Scope** (Part B of Annex I)
   - 100 Canadian-origin HTSUS classifications have been added to the Section 338 tariff scope and these affected products are now subject to the additional 50% ad valorem duty for goods entered for consumption, or withdrawn from warehouse for consumption, on or after October 30, 2026:
     - Sweetened cocoa powder: 13 subheadings covering retail and bulk sweetened cocoa preparations containing less than 65% or 65% or more sugar (1806.10.05 through 1806.10.75).
     - Chemicals, coatings, cosmetics, and lubricants: acrylic or vinyl paints and varnishes (3208.20.00); mastics, putty, and caulking compounds (3214.10.00); shampoos (3305.10.00); toilet soaps (3401.11.50); retail surface-active preparations and detergents (3402.50.51); petroleum and synthetic lubricating preparations (3403.19.50, 3403.99.00); prepared artificial waxes (3404.90.51); diagnostic/laboratory reagents and certified reference materials (3822.19.00, 3822.90.00); and residual chemical products, municipal waste, sewage sludge, and clinical waste (3825.10.01, 3825.20.00, 3825.30.00).
     - Polymers, plastics, and rubber articles: PET resin with a viscosity number of 78 ml/g or higher (3907.61.00); primary elastomeric polyurethanes (3909.50.10); vinyl floor coverings excluding tiles (3918.10.20); plastic parts for yachts, watercraft, and pleasure boats (3926.90.30); and noncellular vulcanized rubber mats and floor coverings (4016.91.00).
     - Wood, millwork, and joinery products: continuously shaped coniferous wood (4409.10.05); MDF and high-density fiberboard (4411.12.10, 4411.12.90, 4411.92.10); solid wooden packing boxes and crates (4415.10.30); multilayer assembled wood flooring panels (4418.75.70); bamboo joinery and carpentry (4418.91.91); wooden coffins (4421.20.20); and wooden skewers, sticks, tongue depressors, and drink mixers (4421.99.60).
     - Paper, paperboard, and packaging: graphic writing and printing paper (4802.56.70); unbleached craft paper (4804.31.60); composite paperboard (4807.00.94); self-adhesive and plastic-coated paper (4811.41.10, 4811.59.20, 4811.59.40); heavy-duty paper sacks with bases 40 cm or wider (4819.30.00); and unprinted pressure-sensitive paper labels (4821.90.20).
     - Carpets and textile floor coverings: 43 subheadings encompassing woven, tufted, knotted, and needle loom carpets, rugs, carpet tiles, mats, and artificial turf of wool, fine animal hair, nylon, polyamides, man-made materials, and coir (HTSUS headings 5701, 5702, 5703, 5704, and 5705).
     - Machinery, appliances, and tools: self-contained window or wall air conditioners (8415.10.30); household chest freezers up to 800 litres capacity (8418.30.00); electromechanical hand tools with self-contained electric motors (8467.29.00); and hand-operated iron or steel taps, cocks, and valves (8481.80.30).
     - Specialized transportation, instruments, and recreational goods: recreational canoes not over 7.5 metres (8903.93.05); electro-surgical instruments and appliances (9018.90.60); instructional and demonstrational apparatus (9023.00.00); optical spectrometers and spectrophotometers (9027.30.80); and archery equipment and accessories (9506.99.05).

Q & A

1. **Does the 50% Section 338 tariff still apply if a product qualifies for duty-free treatment under the United States–Mexico–Canada Agreement (USMCA)?**
   Yes. Section 338 tariffs apply to covered goods of Canada independently of preferential trade agreements. USMCA tariff treatment eliminates regular column 1 duties for qualifying products, but secondary Chapter 99 trade remedies (including heading 9903.03.14) remain fully payable.

2. **How does this action affect goods entered into a Foreign Trade Zone (FTZ)?**
   Any newly added Canadian-origin goods admitted into a U.S. FTZ on or after 12:01 a.m. ET on October 30, 2026, must be admitted under privileged foreign status. When these goods are subsequently withdrawn for consumption, they will be subject to the additional 50% duty at the rates in effect on the date privileged status was granted.

3. **Can Section 338 duties be recovered through duty drawback?**
   Yes. CSMS #70314289 states that duty drawback is available, where applicable, for articles impacted by this tariff action.

4. **How do Section 338 duties interact with existing Section 232 tariffs? Are they cumulative?**
   Section 338 duties apply in addition to Section 232 tariffs and are cumulative. If an imported Canadian article is subject to Section 232 duties (e.g., steel, aluminum, or derivative articles) as well as additional Section 338 duties, both must be separately declared under their respective Chapter 99 HTSUS subheadings on the entry summary and paid concurrently. Section 338 duties do not replace, offset, or absorb Section 232 duties.

5. **Is there an "in-transit" grace period for shipments of newly covered goods that were dispatched before October 30?**
   No. Any shipment of newly covered goods arriving and clearing U.S. customs for consumption or warehouse withdrawal on or after 12:01 a.m. ET on October 30, 2026, is subject to the modified scope regardless of when it left Canada.

REFERENCES

Presidential Proclamation entitled “Further Modifying the Scope of Products of Canada Subject to the Additional Duties Imposed to Offset Canadian Discrimination Against the Commerce of the United States with Respect to Motor Vehicles” published on October 23, 2026
https://www.whitehouse.gov/presidential-actions/2026/10/further-modifying-the-scope-of-products-of-canada-subject-to-the-additional-duties-imposed-to-offset-canadian-discrimination-against-the-commerce-of-the-united-states-with-respect-to-motor-vehicles/

U.S. Customs and Border Protection (CBP) CSMS #70314289 published on October 29, 2026
https://content.govdelivery.com/bulletins/gd/USDHSCBP-430e931?wgt_ref=USDHSCBP_WIDGET_2

FedEx Regulatory Alert “U.S. announces Section 338 import exclusions tariff scope adjustments on Canada goods” published on September 14, 2026
https://www.fedex.com/content/dam/fedex/ca-canada/MVP/downloads/2026/CA_EN_Tariffs-Import-Exclusions_US-Section338.pdf

FedEx Regulatory Alert “U.S. imposes Section 338 tariffs upon certain products of Canada” published on August 25, 2026
https://www.fedex.com/content/dam/fedex/ca-canada/MVP/downloads/2026/CA_EN_US-Imposes-Section-338-Tariffs.pdf