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Three Strikes: New 50% Tariffs to Hit Certain Canadian Goods — and USMCA Won't Save You

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KEY POINTS

- On July 20, 2026, President Trump invoked Section 338 of the Tariff Act of 1930 to impose 50% ad valorem tariffs on three categories of Canadian-origin goods — alcohol, dairy, and a broad range of non-automotive products — effective August 19, 2026.
- Unlike Section 122 of the Trade Act of 1974, Section 338 carries no fixed expiration date, leaving these tariffs in effect indefinitely unless the president acts to modify or terminate them.
- Products otherwise eligible for preferential treatment under the United States-Mexico-Canada Agreement (USMCA) remain fully subject to the additional 50% duty — there is no USMCA carve-out in any of the three Proclamations.
- The Motor Vehicle and Alcohol Proclamations cover hundreds of non-automotive and non-beverage product lines, meaning affected importers extend well beyond the automotive and alcohol industries.
- H.R. 2464, the Repealing Outdated and Unilateral Tariff Authorities Act, which would repeal Section 338 entirely, remains stalled in committee but could gain momentum following these unprecedented tariff actions.

On July 20, 2026, President Donald Trump signed three proclamations (collectively, the Proclamations) under Section 338 of the Tariff Act of 1930 (Section 338), each imposing an additional 50% *ad valorem* (value-based) duty on certain Canadian-origin goods, effective 12:01 a.m. ET on August 19, 2026. The three Proclamations are titled: (i) "Imposing Additional Duties to Offset Canadian Discrimination Against the Commerce of the United States with Respect to Motor Vehicles" (the Motor Vehicle Proclamation); (ii) "Imposing Additional Duties to Offset Canadian Discrimination Against the Commerce of the United States with Respect to Alcoholic Beverages" (the Alcohol Proclamation); and (iii) "Imposing Additional Duties to Offset Canadian Discrimination Against the Commerce of the United States with Respect to Dairy" (the Dairy Proclamation). Each retaliates against a different Canadian trade practice that the president found discriminates against U.S. commerce:

- The Motor Vehicle Proclamation responds to Canada's 25% tariff and quota regime on U.S.-origin vehicles.
- The Alcohol Proclamation responds to Canadian provinces and territories pulling U.S. beer, wine, and spirits from their government-controlled distribution and retail systems beginning in March 2025.
- The Dairy Proclamation responds to Canada administering its cheese import quota so that retailers may use the quota for European cheese but not for U.S. cheese.

Section 338 is a rarely used trade law that authorizes the president to impose additional tariffs, up to 50%, on goods from a country that discriminates against U.S. exports. These Proclamations use the full 50%. The law requires a minimum 30-day lead time before any new duty takes effect, which is why the Proclamations do not become effective until August 19. Unlike Section 122 of the Trade Act of 1974, which caps emergency import surcharges at 150 days absent congressional extension, Section 338 imposes no fixed expiration. These tariffs remain in effect indefinitely unless and until the president issues a new proclamation modifying, suspending, or terminating them. That determination is entirely discretionary: the statute expressly authorizes the president to "at any time terminate, in whole or in part, any proclamation made pursuant to this section," but sets no deadline by which he must act. In practice, relief may not occur until changes in the Canadian trade practices that triggered each action — Canada's vehicle tariff and tariff rate quota regime, the provincial alcohol restrictions, or the cheese quotas — though the president retains authority to expand, narrow, or pause the tariffs for any reason at any time. That open-ended uncertainty is itself a planning consideration companies should factor into contract and sourcing decisions.

In practical terms, each of the Proclamations carries the same 50% rate, the same August 19, 2026, effective date, and the same exclusions, and all are housed in a single shared provision of the Harmonized Tariff Schedule of the United States (HTSUS) — each with its own tariff code (9903.03.12 for alcohol, 9903.03.13 for dairy, and 9903.03.14 for the motor-vehicle list). Businesses across the alcohol, dairy, and adjacent consumer and industrial sectors should therefore assess their combined exposure rather than treat the three as unrelated.

COVERED PRODUCTS

The Proclamations are implemented through a single shared provision added to the HTSUS, each with its own tariff code. Critically, the covered lists vary in how closely they track their underlying grievances: the Dairy Proclamation stays close, covering dairy-based products; the Alcohol Proclamation reaches well beyond beverages to include unrelated retaliation targets like wooden tableware, coated paperboard, and hockey equipment; and, most strikingly, the Motor Vehicle Proclamation omits vehicles and auto parts entirely, instead covering several hundred non-automotive product lines. The table below summarizes coverage:

Proclamation	HTSUS Code	Key Covered Products
Alcohol	9903.03.12	Beer, wine, vermouth, cider, sake, and spirits (HTSUS headings 2203-2208); plus unrelated retaliation targets: grapefruit essential oil, wooden tableware, kraft and greaseproof paper, coated paperboard, and ice- and field-hockey equipment.
Dairy	9903.03.13	Milk and cream, whey and protein concentrates, lactose, casein and derivatives, milk albumin, gelatin, and related sugar and molasses lines linked to dairy quotas (HTSUS headings 0402, 0404, 0506.90, 1210.20, 1301.90.91, 1702, 1703, 1901.20.35, 2202.91, 3301.24, and 3501-3504).

		are not included because they are already covered by separate tariffs imposed under Section 232 of the Trade Expansion Act of 1962 (Section 232).
Motor Vehicles	9903.03.14	Several hundred nonautomotive product lines: agricultural and animal products; chemicals, plastics, and paper; textiles and apparel; cosmetics; glass and jewelry; machinery and electronics; lighting; toys and sporting goods; and fine art and antiques. Vehicles or auto parts

The complete, operative product lists appear in Annex II of each Proclamation (Annex I is informational only; where the two conflict, Annex II controls). The full lists are also set out in the shared HTSUS provision (U.S. Note 51 of Chapter 99) governing all three actions.

TARIFF CALCULATION

- **Rate.** The rate is 50% of the good's import value, added on top of any existing duty. A product that normally carries a 3% tariff will now face 3% plus 50%. The 50% rate is identical across all three Proclamations.
- **Declaration.** The applicable HTSUS code must be declared on the entry alongside the product's normal classification code: 9903.03.12 (alcohol), 9903.03.13 (dairy), or 9903.03.14 (motor vehicle list). Two additional HTSUS codes (9903.03.15 and 9903.03.16) are used to claim an exclusion (see below).
- **No Subtracting U.S.-Made Content.** The 50% applies to the full import value of a Canadian-origin good even if some components originated in the U.S., unless the good qualifies under a narrow set of Chapter 98 tariff provisions — and even then, the duty applies to the non-U.S.-origin portion in several cases.

EXCLUSIONS

- **Products already subject to separate tariff actions (heading 9903.03.15).** Articles of aluminum, steel, or copper and their derivatives; passenger vehicles, light trucks, and their parts; wood products; medium- and heavy-duty vehicles and their parts; semiconductor articles; and patented pharmaceutical articles are excluded because they are already covered by separate Section 232 or other tariff actions. This exclusion prevents tariff stacking — the layering of multiple trade-action duties on the same good — but only with respect to Section 232 tariffs. (As noted above, other tariffs do "stack" on these new duties for Canada.)
- **Civil Aircraft (heading 9903.03.16).** Civil aircraft, engines, parts, components, and ground flight simulators meeting General Note 6 (the World Trade Organization Agreement on Trade in Civil Aircraft) are excluded, but unmanned aircraft are not.
- **No United States-Mexico-Canada Agreement (USMCA) Exclusion.** This is perhaps the most significant aspect of all three Proclamations. Products eligible for preferential treatment under the USMCA — or for other temporary duty exemptions or reductions in the tariff schedule — remain fully subject to the additional 50% duty. None of the three Proclamations creates a USMCA carve-out. Importers currently relying on USMCA preferential treatment to reduce duty costs should reassess their models immediately.
- **Personal Use.** Products for personal use in the accompanied baggage of arriving travelers are excluded.
- **Chapter 98 Provisions.** Goods properly entered under most Chapter 98 provisions (*e.g.*, certain repairs, alterations, or U.S.-content assembly claims) are excluded, though the additional 50% still applies to the non-U.S.-origin value or the repair/alteration value in several Chapter 98 subheadings.
- **Bonded Warehouses.** The duty attaches upon entry for consumption or withdrawal from a bonded warehouse for consumption — not upon arrival or warehousing. Existing bonded inventory withdrawn for consumption on or after August 19, 2026, will be subject to the additional 50% tariff.
- **Foreign Trade Zones (FTZs).** Covered merchandise admitted to a U.S. FTZ on or after August 19, 2026, must generally be admitted under privileged foreign status (unless eligible for domestic status), locking in tariff classification and the applicable duty rate as of the admission date.

NEXT STEPS

- Cross-check the Annex II lists from all three Proclamations against your Canadian-origin import lines. Review each list on its own terms — do not assume the duty tracks the industry named in the Proclamations' titles. Alcohol and dairy importers face direct, sector-specific exposure, while other importers should review the broader product lists under the Motor Vehicle and Alcohol Proclamations, which cover many nonautomotive and nonbeverage goods.

- Confirm origin, since the duty applies to products of Canada based on origin rather than shipment point.
- Reassess USMCA-dependent sourcing and pricing models, since preferential origin no longer shields covered goods from the additional 50%.
- Time entries and warehouse withdrawals to fall before August 19, 2026, where feasible, and revisit FTZ admission strategy.
- Revisit contracts and pricing for tariff pass-through, price-adjustment, and change-in-law clauses.
- Watch for further action, since Section 338 permits the president to expand, suspend, or further modify any of the three actions, and U.S. Customs and Border Protection may issue additional implementing guidance under the shared rule.
- Monitor H.R. 2464, the Repealing Outdated and Unilateral Tariff Authorities Act, which would repeal Section 338 entirely, removing the president's unilateral authority to impose tariffs under it. The bill has not advanced beyond committee referral, but this striking action, particularly in the context of the 2026 midterm elections, could shift its prospects.

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