THE CARMICHAEL COMPASS

"WHEN THE TIDES OF TRADE SHIFT, WE'RE YOUR COMPASS."

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Negotiations Sour, Section 338 Tariffs Against Canada Move Forward

Despite a temporary suspension to allow for further negotiation, the U.S. and Canada were unable to reach a satisfactory agreement, and the additional 50% Section 338 duties against Canada went ahead as planned. Late on Friday, August 21, CBP released a CSMS message with guidance on the implementation of the tariffs.

The 50% additional duty is effective on shipments of subject goods entered for consumption or withdrawn from a warehouse for consumption beginning at 12:01 AM on August 22. Unlike other recent trade actions, exemptions to these duties are limited. Only goods that are subject to Section 232 or that are civil aircraft and their parts are exempt. USMCA applicable status does not grant duty free treatment. Goods that enter a FTZ must be entered under privileged foreign status unless eligible for domestic status. These duties do not apply to goods properly entered under a provision of chapter 98, except for goods entered under subchapter XXIII of chapter 98 (USMCA) and for goods entered under subheadings 9802.00.40, 9802.00.50, 9802.00.60, and 9802.00.80. Drawback is available.

The Canadian government responded to these tariffs on August 25, promising a "dollar for dollar" tariff on US goods effective September 8. You may read the full details of Canada's planned retaliation here. Further retaliation from the U.S. is expected with President Trump responding that he will double tariffs on imports of Canadian cars, trucks, and auto parts to 50% beginning January 1, 2027. This situation continues to evolve. We will be sure to inform you of any significant changes.

ACE Validation added Preventing PSCs for FTZ Entries if IEEPA HTS is Modified

In a CSMS message sent on Tuesday, August 25, CBP announced the addition of a new validation that would prevent PSCs for FTZ entries if the IEEPA HTS was modified. The new rejection, **F883: PSC NOT ALLOWED TO MODIFY IEEPA HTS**, was added to the CATAIR Error Dictionary and is live.

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CAPE Phase 3 Delayed, New Timeline Unknown

In an update provided to the U.S. Court of International Trade (CIT) on August 25, CBP has advised that it has temporarily delayed the deployment of CAPE Phase 3 due to the need to build additional validations to ensure that no duty adjustments are made to finally liquidated entries outside of IEEPA duty refunds. CAPE Phase 3 is expected to apply only to Importers who have filed a lawsuit in the Court of International Trade. This delay applies only to Phase 3, and refunds for entries covered by existing CAPE functionality remain fully operational and unaffected by the change.

We continue to encourage our importers to take proactive measures to safeguard any potential refunds and mitigate procedural obstacles that may restrict future recovery operations for entries not included in a CAPE declaration. Importers with entries that have already liquidated should strongly consider filing protests with CBP. We also strongly encourage seeking guidance from an experienced trade attorney.

Carmichael can help identify missed opportunities to file a CAPE declaration and assist with filing protests to protect your right to IEEPA refunds. Contact your local Carmichael representative for support.

CBP Issues CSMS to Clarify HTS Sequencing

CBP released a CSMS message on Thursday, August 27, updating and clarifying guidance regarding the reporting of multiple HTS. In the message, CBP reiterates the HTS sequence when a Chapter 98 or Chapter 99 tariff is claimed on imported merchandise, clarifying the placement of the Section 338 tariffs that was left out of recent guidance.

When submitting entry summaries in which a heading or subheading in these chapters is claimed, the following instructions will apply:

1. Chapter 98 classification (if applicable)

2. Chapter 99 classification(s) for additional duties (if applicable)

3. For trade remedies,
   - First report the Chapter 99 classification for Section 301,
   - Followed by the Chapter 99 classification for Section 338,
   - Followed by the Chapter 99 classification for Section 232,
   - Followed by the Chapter 99 classification for Section 201 duties (if applicable),
   - Followed by the Chapter 99 classification for Section 201 quota (if applicable).

4. Chapter 99 classification(s) for REPLACEMENT duty or other use (i.e., Miscellaneous Tariff Bill or other provisions)

5. Chapter 99 classification for other quota (not covered by #3) (if applicable)

6. Chapter 1 to 97 classification

QSP Quota Leaves Importers and Brokers with Questions, Seeking Guidance

The new tariff rate quota on quartz surface products (QSP) has left importers and brokers with numerous questions regarding the TRQ (Tariff-rate quota) and the appropriate method of entry preparation. Three HTS numbers are mentioned in the TRQ, 6810.99.0020, 6810.99.0040, and 7020.00.6000. However, the orders also state that "QSP is covered by the scope whether or not it is imported attached to, or in conjunction with, non-subject merchandise such as sinks, sink bowls, vanities, cabinets, and furniture. If QSP is imported attached to, or in conjunction with, such non-subject merchandise, only the QSP is covered by the scope." This has left importers and brokers wondering how to make entry on non-subject merchandise containing QSP to ensure the proper payment of the tariff rate quota.

So far, the Trade Remedy Team at CBP headquarters has not provided official guidance, although the NCBFAA is inquiring.

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