



STEEL/ALUMINUM TARIFFS – ROUND FOUR MAY 31, 2018

The White House has issued a statement and two new Presidential Proclamations that extend and modify the Section 232 tariffs on steel and aluminum imports. Significantly, the country exemptions from the steel and aluminum tariffs for Canada, Mexico, and E.U. countries expire today and have not been extended. Tariffs on steel and aluminum originating from these countries will apply beginning June 1, 2018. The details are more complex.

STEEL – 25% Additional Duties

1. Canada, Mexico, and the European Union – Exemption expires May 31, 2018. Steel tariffs apply June 1, 2018.
2. Argentina and Brazil – Exempt because quotas established. No expiration date.
3. Australia – The Proclamation and White House Statement state that Australia has reached an agreement with the U.S. on internal measures and is excluded from the tariffs, but the actual Proclamation language on the implementation of the exemption is unclear.
4. South Korea – Exempt because quotas established.
5. All Other Countries, Including Japan – Continued 25% additional tariffs.

ALUMINUM – 10% Additional Duties

1. Canada, Mexico, the European Union, and Brazil – Exemption expires May 31, 2018. Aluminum tariffs apply June 1, 2018.
2. Argentina and Australia – Exempt because quotas established and countries agreed to internal measures. No expiration date.
3. All Other Countries, Including Japan – Continued 10% additional tariffs.

The Presidential Proclamations modify the previous Proclamations and indicate that the President retains authority to further modify tariffs, remove suspensions for countries, exclude on a long-term basis a particular country, suspend tariffs on countries not included in the original list, or impose quotas.

FOREIGN-TRADE ZONE MANAGEMENT

The Presidential Proclamations provide no new direction on FTZs. Based on previous guidance, “Domestic status” articles are not subject to the additional duties. Articles manufactured in a U.S. Foreign-Trade Zone with Non-Privileged Foreign (NPF) status merchandise are not subject to the additional duties. However, all merchandise subject to the additional duties of 25% on steel and 10% on aluminum must be placed in Privileged Foreign (PF) status upon admission to an FTZ. Articles admitted to a U.S. Foreign-Trade Zone in PF status retain that status.

The new Proclamations make no changes to the previous Proclamations that directed application of the additional duties (retroactively) to on-hand merchandise in Privileged Foreign status. No prior Presidential Proclamation indicated that merchandise on-hand in Foreign-Trade Zones in PF status before the imposition of additional duties would be subject to those additional duties on the date that Customs entry is made. This language in the Presidential Proclamations and CBP CSMS messages negate the clear terms of the Foreign-Trade Zones Act §81c(a). Numerous historical CBP Headquarters, Rulings support this legal analysis.

COUNTRY OF ORIGIN

The previous Proclamations and CBP CSMS Messages clearly indicate that the Section 232 tariffs are based on the country of origin and that imports of U.S. origin are not included. This is especially important for material manufactured and substantially transformed in a U.S. Foreign-Trade Zone.

RETALIATION

The E.U., Mexico, and Canada will be taking retaliatory measures. The E.U. previously provided a [list](#) of U.S. products for retaliatory tariffs. Mexico has stated it will impose proportional duties on a range of U.S. products from steel to cheese. After a comment period, on July 1, 2018 Canada will impose 25% and 10% [tariffs](#) on U.S. steel, aluminum, and other products.

GSP/AGOA/FTA/OTHER TRADE PREFERENCE PROGRAMS

GSP and AGOA material subject to Section 232 duties may not receive GSP or AGOA duty preference. FTA and Other Trade Preference material subject to Section 232 duties may continue to receive the preferential duty rate and MPF exemption.

ABSOLUTE QUOTAS

Customs has introduced new Cargo Release messages to reflect the status of absolute quota Cargo Release/Entry. Quota entries are held in Quota Pending status until Quota batch jobs are run by CBP each evening. This could delay and complicate the entry process for importers. A number of previously-adopted Korea steel quotas have already been filled.

VERIFICATION OF HTS CLASSIFICATIONS AND ORIGINS

We strongly encourage clients to review their HTSUS classifications against the affected steel and aluminum HTS provisions, and confirm that the classifications and countries of origin being

declared are correct. CBP will be very carefully checking HTS classifications and countries of origin declared on Customs entries for accuracy.

EXCLUSION PROCESS

As we previously noted, there is a product exclusion process in the [Federal Register](#) published on March 19, 2018. We have assisted clients in filing product exclusion requests. Over 10,000 product exclusion requests have already been filed. None have been approved to date.

NEW DOCUMENTS

Steel Proclamation: <https://www.whitehouse.gov/presidential-actions/presidential-proclamation-adjusting-imports-steel-united-states-4/>

Aluminum Proclamation: <https://www.whitehouse.gov/presidential-actions/presidential-proclamation-adjusting-imports-aluminum-united-states-4/>

White House Statements:

<https://www.whitehouse.gov/articles/need-know-implementing-steel-aluminum-tariffs-canada-mexico-european-union/>

<https://www.whitehouse.gov/briefings-statements/president-donald-j-trump-approves-section-232-tariff-modifications-2/>

CBP Headquarters CSMS Messages:

[#18-00372](#) (May 31, 2018) on UPDATE: Additional Duty on Imports of Steel and Aluminum Articles under Section 232

[#18-000370](#) (May 30, 2018) on Cargo Release Statuses in Support of Absolute Quota

Please contact [Marshall Miller](#), [Sean Murray](#), [Brian Murphy](#), or [Linda King](#) with any questions.

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IMPORTS EXPORTS FOREIGN-TRADE ZONES

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