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President Trump Signs Steel and Aluminum Duties Into Law

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March 9, 2018 – On March 8, 2018, President Donald Trump followed through on his promise to sign presidential proclamations imposing 25% duties on steel and 10% duties on aluminum under his authority to protect U.S. national security. Imports of Canadian and Mexican steel and aluminum have been exempted from the duties for the time being, as North American Free Trade Agreement (“NAFTA”) renegotiations continue. The proclamations invite other countries to negotiate exemptions with the United States on a bilateral basis, and direct the Secretary of Commerce to issue procedures to allow companies to seek product exclusions by March 19, 2018.

Background

President Trump imposed the steel and aluminum duties pursuant to Section 232 of the Trade Expansion Act of 1962 (“Section 232”). As we have discussed in both our [March 2, 2018](#) and [May 31, 2017](#) alerts, Section 232 authorizes the President, upon recommendation of the Secretary of Commerce, to restrict imports if they threaten to impair national security.

Key Terms of the Proclamations

Product Scope

The steel proclamation defines “steel articles” to include steel goods captured by the following six-digit Harmonized Tariff Schedule (“HTS”) tariff lines: **7206.10 through 7216.50, 7216.99 through 7301.10, 7302.10, 7302.40 through 7302.90**, and **7304.10 through 7306.90**. Effective March 23, 2018, subject “steel articles” imported from all countries except Canada and Mexico will be subject to the abovementioned 25% duty for an undetermined period.

The aluminum proclamation defines “aluminum articles” to include: (a) unwrought aluminum (HTS **7601**); (b) aluminum bars, rods, and profiles (HTS **7604**); (c) aluminum wire (HTS **7605**); (d) aluminum plate, sheet, strip, and foil (flat rolled products) (HTS **7606** and **7607**); (e) aluminum tubes and pipes and tube and pipe fitting (HTS **7608**

and **7609**); and (f) aluminum castings and forgings (HTS **7616.99.51.60 and 7616.99.51.70**), including any subsequent revisions to these HTS classifications. Effective March 23, 2018, "aluminum articles" imported from all countries except Canada and Mexico will be subject to the above-referenced 10% duty for an undetermined period.

The scope of both proclamations will be further clarified in annexes detailing modifications to affected U.S. tariff lines (specifically, Subchapter III to Chapter 99 of the United States tariff schedule, or "HTSUS"). These annexes have yet to be released.

Product Exclusions

The proclamations direct Secretary of Commerce Wilbur Ross, Jr., in consultation with the Secretaries of State and Defense and the United States Trade Representative, among others, to consider petitions for product exclusions where either (1) the imported steel or aluminum product concerned is not produced in the United States in a sufficient and reasonably available amount or of a satisfactory quality, or (2) "specific national security considerations" otherwise warrant a product exclusion. Secretary Ross is directed to issue procedures to enable companies to petition for product exclusions "[w]ithin 10 days after the date of this proclamation." As March 18, 2018 falls on a Sunday, Commerce is expected to issue these procedures by March 19, 2018.

Country Exclusions

President Trump exempted Canadian and Mexican steel and aluminum imports from the Section 232 duties. These exemptions are conditioned on progress being made in pending NAFTA renegotiations with these two countries, and effective action by Canada and Mexico to prevent transshipment of steel and aluminum articles into the United States.

The proclamations invite all other countries with which the United States has "a security relationship" to discuss "alternate ways to address the threatened impairment of" U.S. national security caused by their respective steel and aluminum imports. Whether such invitation is enough to dissuade the European Union and other trading partners from following through on their threats of retaliatory duties on U.S. goods remains to be seen.

Should the United States remove or modify duties on steel and/or aluminum imports from other countries following bilateral discussions, the United States may make "corresponding adjustments" to the duties.

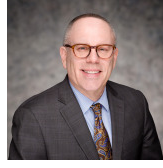
Possibility of Future Adjustments

The proclamations direct Secretary Ross, in consultation with specified senior Executive Branch officials, to monitor imports of steel and aluminum, and inform the President of any circumstances warranting "further action" pursuant to Sec. 232. This includes circumstances that warrant against continued imposition of the duties.

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