

TYPES NOT MAPPED YET March 09, 2018 | TTR not mapped yet | Robert A. Shapiro, Tyler Black

Section 232 tariffs on steel & aluminum

Section 232 is a mechanism under the Trade Expansion Act of 1962 that allows the U.S. government to evaluate the effect of imports on national security. On February 16, the United States Department of Commerce ("Commerce") published Section 232 reports detailing its findings pertaining to steel and aluminum imports. The reports identified a national security threat posed by the importation of certain steel mill products, as well as certain wrought and unwrought aluminum, and recommended the imposition of a 24 percent duty on imported steel and a 7.7 percent duty on imported aluminum.

President Trump responded on March 1, announcing the Administration's plan to impose a 25 percent tariff on the steel products and a 10 percent tariff on the aluminum products identified in the reports, and issued proclamations to implement these duties on March 8, 2018. The duties are set to apply to steel and aluminum that is entered or withdrawn from warehouse for consumption beginning on March 23, 2018. Given the length of time it takes for shipments to arrive in the U.S. from some nations, the tariffs will likely apply to steel and aluminum that is already on the water, creating immediate issues that may need to be addressed.

What is impacted

With respect to steel, the Presidential Proclamation imposed a 25 percent duty on the following articles:

- Iron and nonalloy steel in ingots or other primary forms (HTSUS 7206.10, 7206.90)
- Semi-finished products of iron or nonalloy steel (HTSUS 7207)
- Flat-rolled products of iron or nonalloy steel (HTSUS 7208 - HTSUS 7212)
- Bars and rods of iron or nonalloy steel (HTSUS 7213 - 7215.50)
- Angles, shapes and sections of iron or nonalloy steel that are other than those specifically listed in the HTSUS and are other than cold formed or cold finished from flat-rolled products (HTSUS 7216.99)
- Wire of iron or nonalloy steel (HTSUS 7217)
- Stainless steel in ingots or other primary forms; semi-finished products of stainless steel (HTSUS 7218)
- Flat-rolled products of stainless steel (HTSUS 7219 - 7220)
- Bars and rods of stainless steel (HTSUS 7221 - 7222)
- Wire of stainless steel (HTSUS 7223)
- Other alloy steel in ingots or other primary forms; semi-finished products of other alloy steel (HTSUS 7224)
- Flat-rolled products of other alloy steel (HTSUS 7225 - 7226)
- Bars and rods of other alloy steel (HTSUS 7227 - 7228)
- Wire of other alloy steel (HTSUS 7229)
- Sheet piling of iron or steel, whether or not drilled, punched or made from assembled elements (HTSUS 7301.10)

- Railway or trackway track construction material of iron or steel other than switch blades, crossing frogs, point rods and other crossing pieces (HTSUS 7302.10, 7302.40, 7302.90).
- Tubes, pipes and hollow profiles, seamless, or iron (other than cast iron) or steel.

Specifically excluded from the Section 232 steel tariffs are the following:

- Angles, shapes or sections of iron or nonalloy steel, other than listed above (HTSUS 7216.90)
- Angles, shapes and sections of iron, nonalloy or alloy steel (HTSUS 7301.20)
- Switch blades, crossing frogs, point rods and other crossing pieces (HTSUS 7302.30)

With respect to the aluminum, the Presidential Proclamation signed on March 8, 2018, imposes a 10 percent duty on all of the following articles:

- Unwrought aluminum (HTSUS 7601)
- Aluminum bars, rods and profiles (HTSUS 7604)
- Aluminum wire (HTSUS 7605)
- Aluminum plate, sheet, strip and foil (flat rolled products, HTSUS 7606-7607)
- Aluminum tubes and pipes and tube and pipe fittings (HTSUS 7608 - 7609)
- Aluminum castings and forgings (HTSUS 7616.99.5160, 7616.99.5170)

Importers should take care and note that the Section 232 tariffs are in addition to any duties already imposed on the named articles, including any antidumping and countervailing duties.

Country Exclusions

Only Canada and Mexico are currently exempted, pending the outcome of ongoing NAFTA negotiations. In the long term, any country in which the U.S. has a security relationship (essentially NATO countries) may be exempted from the orders if they arrive at a "satisfactory alternative means to address the threat to the national security, such that the president determines that imports from that country no longer threaten to impair the national security," per the proclamations.

Procedures for Product Exclusions to be Published

The proclamations include the ability to shape the trade restrictions going forward. A system is to be established to allow directly affected parties in the U.S. to request the exclusion of certain products that are determined not to be produced in a sufficient and reasonably available amount (or of a satisfactory quality) in the United States or, alternatively, to provide relief for national security reasons. Procedures for requesting exclusions are to be published within 10 days of the date of the proclamations. Notices of the exclusion of articles are to be published in the Federal Register. The Secretary of Commerce can also indicate further actions to be considered, including the elimination of the duties proposed by the order.

Consequences of the 232 Duties on Aluminum and Steel

With the exception of the fact that these duties will be applied to goods entered or withdrawn from warehouse on March 23, 2018, the consequences of these proclamations and the details of their implementation currently remain unclear. Internationally, the proclamations are facing significant backlash, with several nations claiming that the U.S. is using the guise of national security as a pretext for the imposition of protectionist tariffs in contravention of the WTO Agreements. It is anticipated that other countries will retaliate against the actions of the United States by imposing higher duties on certain U.S. goods. The goals of these countries will be to impose tariffs in a way that will have the maximum impact on the domestic politics of the United States (e.g., Harley Davidson motorcycles because of the potential impact on Congressman Paul Ryan; bourbon because of the impact on Senator Mitch McConnell; and agricultural products because of the potential impact on what is perceived to be the president's base of supporters). At the same time, U.S. allies are looking for a mechanism to have their products excluded. This tension will be a likely topic of international discussion for several weeks. Thompson Coburn will be monitoring developments in this area and will publish additional alerts as information becomes available.



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