

# Client Alert

International Trade & Litigation Practice Group

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## **President Trump Signs Section 232 Proclamations On Steel And Aluminum Imports** *Tariffs On Steel (25 Percent) And Aluminum (10 Percent) Reportedly Will Take Effect In 15 Days, And May Be Adjusted On A Country-By-Country And Product-By-Product Basis*

President Trump exercised “his authority to impose a 25 percent tariff on steel imports and a 10 percent tariff on aluminum imports” during an Oval Office ceremony today. The tariffs are scheduled to take effect in 15 days.

Imports of steel and aluminum originating from Canada and Mexico will be exempted from the tariffs during the renegotiation period for the North American Free Trade Agreement (“NAFTA”), with the President explaining that any permanent exclusion would need to be part of a final renegotiated NAFTA deal. Other countries may seek modifications or exemptions from the tariffs in a negotiation process with the Office of the U.S. Trade Representative (“USTR”). A White House Fact Sheet is available [here](#).

Surrounded by steel and aluminum workers during a White House ceremony for the signing of his presidential proclamations, available here for [steel](#) and [aluminum](#), the President stated that his administration is “finally taking action to correct” an “economic” and “security disaster.”

During a cabinet meeting this morning, President Trump expressed his desire to take “action to protect industries that are vital to our national security, including American aluminum and steel” which are “the backbone of our nation” and the “bedrock of our defense-industrial base.” President Trump continued that the United States would “be very fair” and “very flexible but we are going to protect the American worker, as I said I would do in my campaign.”

The President’s remarks and the White House Fact Sheet provide some guidance on how the contours of the President’s actions under the Section 232 process ultimately may play out, as discussed below.

### **Canada And Mexico**

The President explained that Canada and Mexico would not be covered by the tariffs for the time being and that those countries permanently could be

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excluded, depending on whether ongoing talks to renegotiate the NAFTA are successful. The proclamations provide as follows:

“I have determined that the necessary and appropriate means to address the threat to the national security posed by imports of steel [and aluminum] articles from Canada and Mexico is to continue ongoing discussions with these countries and to exempt steel [and aluminum] articles imports from these countries from the tariff, at least at this time.”

## **U.S. Allies**

President Trump also explained in his remarks that “military allies” could be excluded from the imposition of any tariffs. The President specifically identified Australia in this regard during a cabinet meeting discussion this morning (noting that the United States maintains a positive trade balance with Australia).

The White House Fact Sheet explains that President Trump “welcomes any country with which we have a security relationship to discuss alternative ways to address our concerns, including our concerns about global excess capacity. He has left open an avenue for potentially modifying or removing a tariff under certain conditions for individual countries.” This process will be handled by the USTR, who will work under the direction of the President to assess whether “modification or removal of the tariffs” is possible where “alternative means are agreed upon to ensure imports from a country no longer threaten to impair our national security.”

## **Products Subject to Tariffs**

For purposes of the steel tariffs, covered “steel articles” are those defined at the 6-digit Harmonized Tariff Schedule (“HTS”) level as: 7206.10 through 7216.50, 7216.99 through 7301.10, 7302.10, 7302.40 through 7302.90, and 7304.10 through 7306.90.

For purposes of the aluminum tariffs, covered “aluminum articles” are those defined in HTS as: (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).

## **Potential Product-Specific Exclusions**

The White House Fact Sheet also mentions “a mechanism for U.S. parties to apply for exclusion of specific products based on demand that is unmet by domestic production or on specific national security considerations” that will be managed by the United States Department of Commerce (“Commerce”) in consultation with other Federal agencies. While this aspect of the President’s announcement appears to provide opportunities for certain products to be excluded from the tariffs, it remains to be seen what role, if any, that domestic manufacturers might be able to play in responding to (and potentially opposing) such requests.

## **Further Context**

Today’s development comes exactly one week after President Trump announced his plans to impose tariffs on steel and aluminum imports into the United States using his authority under Section 232 of the Trade Expansion Act of 1962. President Trump made his announcement during a meeting with executives from American steel and aluminum manufacturers. President Trump informed attendees that he would be signing tariff measures of 25 percent on imports of steel and 10 percent on imports of aluminum “next week.” Section 232 permits the President to take action against imports that threaten to impair the national security interests of the United States. The President’s actions followed the

completion of two separate investigations by Commerce, which found that the steel and aluminum industries are vital to national security and that imports of steel and aluminum threatened to impair the national security of the United States. When the findings of these reports were presented to the President, Commerce included recommended remedies for the President's consideration.

As we reported last week, Commerce recommended that President Trump impose a tariff of at least 24 percent on all imports of steel products from all countries; a "tariff of at least 53% on all steel imports from 12 countries (Brazil, China, Costa Rica, Egypt, India, Malaysia, Republic of Korea, Russia, South Africa, Thailand, Turkey and Vietnam) with a quota by product on steel imports from all other countries equal to 100% of their 2017 exports to the United States;" or a "quota on all steel products from all countries equal to 63% of each country's 2017 exports to the United States." Commerce explained that the remedies it proposed in the report were "intended to increase domestic steel production from its present 73% of capacity to approximately an 80% operating rate, the minimum rate needed for the long-term viability of the industry."

To address "the excessive imports of aluminum," Commerce recommended that President Trump impose a "tariff of at least 7.7% on all aluminum exports from all countries;" a "tariff of 23.6% on all products from China, Hong Kong, Russia, Venezuela and Vietnam. All the other countries would be subject to quotas equal to 100% of their 2017 exports to the United States;" or a "quota on all imports from all countries equal to a maximum of 86.7% of their 2017 exports to the United States." Commerce explained that these measures would cover "aluminum ingots and a wide variety of aluminum products" and that "[e]ach of the three proposals was intended to raise production of aluminum from the present 48% average capacity to 80%, a level that would provide the industry with long-term viability."

In sum, today's announcement is just the first step in what likely will be several more days of information gathering as the process moves toward the actual imposition of import duties on steel and aluminum.

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