
New Presidential Proclamations Amend Section 232 Tariffs on Steel and Aluminum Imports, Including Temporary Exemptions for Wider Group of Countries

MARCH 23, 2018

Yesterday, President Trump issued new Proclamations regarding Section 232 tariffs on [steel](#) and [aluminum](#), amending the original Proclamations ([9704](#) and [9705](#)) issued [on March 8](#). The most notable changes concern country-wide exemptions. The steel and aluminum tariffs will not apply to imports from Argentina, Australia, Brazil, Canada, the European Union, Mexico, and South Korea until May 1, 2018.¹ The modified steel and aluminum tariffs took effect today, March 23, on imports from all countries that did not receive exemptions yesterday. If the President takes no further action, the tariffs will apply to imports from all countries starting May 1. If country-wide exemptions are granted on a longer-term basis, the President may adjust the tariffs applicable to other countries and/or impose quotas. The new Proclamations also provide that, if a product-specific exclusion is granted, it will apply retroactively to the date on which the exclusion request was posted for public comment.

According to a [White House statement](#) announcing the tariff modifications, President Trump suspended the implementation of tariffs on steel and aluminum imported from the aforementioned countries “pending discussions of satisfactory long-term alternative means to address the threatened impairment to U.S. national security.” The announcement also states that, by the May 1, 2018 deadline, “the President will decide whether to continue to exempt these countries from the tariffs, based on the status of the discussions.” The announcement clarifies that the President “retains broad authority to further modify the tariffs, including by removing the suspensions or suspending additional countries” or by “imposing quotas as appropriate.”

In yesterday's Proclamations suspending the tariffs for certain countries, the President notes that “[e]ach of these countries has an important security relationship with the United States” and that he has “determined that the necessary and appropriate means to address the threat to national security” resulting from imports of steel and aluminum products from these countries “is to continue these discussions and to exempt ... articles imported from these countries from the tariff[s].” The Proclamations indicate that these discussions are regarding “measures to reduce excess steel

production and excess steel capacity, measures that will increase domestic capacity utilization, and other satisfactory alternative means.” The Proclamations include details regarding the “security relationship” between the United States and each of the countries for which tariffs are suspended.

The President notes, however, that the tariffs imposed by Proclamations 9704 and 9705 “remain[] an important first step in ensuring the economic viability” of the domestic steel and aluminum industries and “removing the threatened impairment of the national security.” Further, he states that, without these tariffs and “the adoption of satisfactory alternative means addressing long-term solutions in ongoing discussions with the countries listed as excepted ... , the[se] industry[ies] will continue to decline, leaving the United States at risk of becoming reliant on foreign producers ... to meet our national security needs — a situation that is fundamentally inconsistent with the safety and security of the American people.” Therefore, unless the President determines that “the United States has reached a satisfactory alternative means to remove the threatened impairment to the national security” caused by imports of steel and aluminum from the excepted country, the tariffs set forth in Proclamations 9704 and 9705 shall be effective for that country starting May 1, 2018.

Yesterday’s Proclamations further indicate that, in the event the President decides to “exclude on a long-term basis a particular country from the tariffs,” the President will “consider whether it is necessary and appropriate in light of our national security interests to make corresponding adjustments” to the tariffs on steel and aluminum as they apply to other, non-exempt countries. However, as the current tariff exemptions are temporary, the President has determined that “it is necessary and appropriate to maintain the current tariff levels at this time.” To prevent transshipment resulting from these suspensions, the Administration shall monitor imports from excepted countries and, if necessary, the President will consider implementing a quota, taking into account the amount of steel and aluminum imported since January 1, 2018 in setting the amount of a quota.

European Union officials have commented on the suspension, stating that they “regret” that the suspension is not permanent and noting that the May 1 deadline likely provides insufficient time to resolve the issues being discussed. European Commission President Jean-Claude Juncker noted that “It seems to me highly impossible to cover all the issues we have to discuss with our American partners from now to May 1 and we are asking a permanent exemption.”

These suspensions do not impact the process established for affected parties to [request product exclusions](#) from the tariffs imposed by Proclamations 9704 and 9705. However, yesterday’s Proclamations do modify the provisions regarding product exclusion requests to clarify that exclusions will be provided on a party-by-party basis, “taking into account the regional availability of particular articles, the ability to transport articles within the United States, and any other factors as the Secretary deems appropriate.” Additionally, the Proclamations direct that—where an exclusion request is granted—the exclusion from tariffs will apply retroactively to the date on which the exclusion request was posted for public comment.

WilmerHale has been engaged on Section 232 issues since the start of these proceedings. Please contact us for more information on this or other trade issues or to explore ways we might assist you.

¹ Specifically, the Proclamations issued yesterday modify Proclamations 9704 and 9705 to read that aluminum and steel products, respectively, “shall be subject to an additional 25 percent ad valorem rate of duty” for goods withdrawn “on March 23, 2018, from all countries except Canada, Mexico, Australia, Argentina, South Korea, Brazil, and the member countries of the European Union” and “on May 1, 2018, from all countries.”

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