



STEEL/ALUMINUM TARIFFS – ROUND THREE
CURRENT CONSIDERATIONS/NEW EXEMPTIONS
MAY 1, 2018

The White House issued two new Presidential Proclamations and a Briefings statement. Customs has issued multiple Administrative CSMS Messages. Steel and Aluminum tariffs due to expire have generally been extended to May 31. The details are much more complex.

STEEL – 25% Additional Duties

1. South Korea – Exempt because quotas established.
2. Argentina, Australia, and Brazil – Exempt because “agreement in principle” reached. Negotiations continuing. Probable quotas to be established. No expiration date.
3. Canada, Mexico, and the European Union – Negotiations continuing. Exempt for a final thirty (30) days until May 31, 2018.
4. All Other Countries, Including Japan – Continued 25% additional duties.

ALUMINUM – 10% Additional Duties

1. Argentina, Australia, and Brazil – Exempt because “agreement in principle” reached. Negotiations continuing. Probable quotas to be established. No expiration date.
2. Canada, Mexico, and the European Union – Negotiations continuing. Exempt for a final thirty (30) days until May 31, 2018.
3. All Other Countries, Including Japan – Continued 10% additional duties.

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 on imports from “suspension” countries.

FOREIGN-TRADE ZONE MANAGEMENT

The Presidential Proclamations provide new direction on FTZs that was missing from the original Proclamations. “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

articles 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 continue to direct application of the additional duties (retroactively) to on-hand merchandise in zone status with Privileged Foreign status. No Presidential Proclamation previously has indicated that merchandise that was on-hand in Foreign-Trade Zones in PF Status at the time of 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). Further, the CBP ACE computer system requires a date to be placed by line item to validate when PF status is filed on the CBPF e-214 at admission or subsequent election. Numerous historical CBP Headquarters Rules support our legal analysis of this question.

Any clients with steel or aluminum products in PF status as of the effective time and date of the Proclamations (12:01 am today, May 1) should contact us immediately to discuss options.

COUNTRY OF ORIGIN

The Proclamations and CBP CSMS Messages clearly indicate that the Section 232 National Security additional 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 in a U.S. Foreign-Trade Zone.

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.

VERIFICATION OF HTS CLASSIFICATIONS AND ORIGINS

We strongly encourage clients to review their HTSUS classifications against the affected steel and aluminum HTS provisions included in the original Proclamation Annexes, and also confirm that the classifications and countries of origin currently being declared are correct. CBP will be very carefully checking HTS's and countries of origin declared on Customs entries for accuracy.

EXCLUSION PROCESS

As we previously noted, there is an exclusion process in the [Federal Register](#) published on March 19, 2018. Given the very unusual nature of the circumstances with respect to "suspension," we advise affected clients to immediately consider exclusions for their products. We have assisted clients in filing product exclusion requests. Approximately 7,000 comments have already been filed.

NEW DOCUMENTS

Steel Proclamation: <https://www.whitehouse.gov/presidential-actions/presidential-proclamation-adjusting-imports-steel-united-states-3/>

Aluminum Proclamation: <https://www.whitehouse.gov/presidential-actions/presidential-proclamation-adjusting-imports-aluminum-united-states-3/>

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

CBP Headquarters has issued the following three CSMS Messages:

1. CSMS Message [#18-000315](#) (April 30, 2018) providing details for the Customs entry process.
2. CSMS Message [#18-000316](#) (April 30, 2018) on South Korea Steel Mill Quota.
3. CSMS Message [#18-000317](#) (May 1, 2018), updating CSMS Message [#18-000315](#) (listed above) with revised filing requirements for imports of aluminum and steel from South Korea.

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

KKW/CORR/176298 (9900)