

Global Trade News Alert

US Adjusts Proclamations on Steel and Aluminum Tariffs to Add New Country Exemptions and Address FTZ Admissions, Retroactive Application of Exclusions, and Potential Quotas

On March 22, 2018, the Trump Administration issued two new proclamations adjusting two previously issued proclamations that impose increased tariffs on certain imports of steel by 25% and certain imports of aluminum by 10%, effective at 12:01 a.m. EDT on March 23, 2018.

Proclamations 9710 (aluminum) and 9711 (steel) make several adjustments to Proclamations 9704 (aluminum) and 9705 (steel), which were issued on March 8, 2018.

Both new proclamations expand blanket exemptions from the additional tariffs, which were originally only applicable to Canada and Mexico. Specifically, Argentina, Australia, Brazil, South Korea, and the EU were granted last minute blanket exemptions as well. Further, both set an expiration date for all blanket exemptions of 12:01 a.m. on May 1, 2018. The Administration indicates in the proclamations that it will decide in the coming weeks whether to continue to exempt these countries from the tariffs based on national security issues, as well as ongoing discussions on the US's broader trade relationships with the exempted jurisdictions.

Both new proclamations also clarify the exclusion procedures previously set forth in the interim final rules published by the US Department of Commerce on March 19, 2018. Specifically, both proclamations indicate that, if an exclusion is ultimately granted, the exclusion will apply retroactively, but only to the date the exclusion request was "posted for public comment." It remains unclear from the proclamations when an exclusion request will be posted for public comment after submission; however, the interim final rules provide that objections to an exclusion request must be filed within 30 days after the exclusion request is posted to www.regulations.gov. The interim final rules also indicate that "the review period

normally will not exceed 90 days, including adjudication of objections submitted on exclusion requests.”

Both new proclamations address whether the additional tariffs apply to articles that are admitted into a foreign trade zone (FTZ) on or after 12:01 a.m. EDT on March 23, 2018. They clarify that such articles of steel and aluminum only may be admitted into an FTZ as “privileged foreign status” and will be subject to the duties applicable to the articles in their condition at the time of admission, regardless of whether the articles were manipulated or manufactured into a different article while in the FTZ (i.e., the duty rate of a manufactured article ultimately withdrawn from the FTZ cannot be applied to privileged foreign status articles). Such an article will likewise be subject upon entry for consumption to any *ad valorem* rates of duty applicable under the Harmonized Tariff Schedule number for the article.

Finally, in the context of discussing the potential for increased imports from exempt countries that could potentially undermine the national security objectives of the tariffs, both proclamations indicate that President Trump will consider, “if necessary and appropriate,” implementing quotas “as soon as practicable” that would take into account all steel/aluminum articles imported since January 1, 2018.

Deloitte’s Global Trade Advisory (GTA) specialists are part of a global network of professionals who can provide specialized assistance to companies in global trade matters. Our professionals can help companies identify how these safeguard tariffs affect their business. Among the GTA services available to assist companies are:

- Support and assistance with filing a request for an exclusion from the aluminum and/or steel tariffs;
- Visibility derived through Deloitte’s Global Trade Radar data analytics tool to identify the impact of and find solutions to the aluminum and steel tariffs on your business;
- HTSUS classification reviews to assess the applicability of these aluminum and steel tariffs to your products, and the likelihood of an exclusion;
- Customs valuation planning to minimize the impacts of the aluminum and steel tariffs; and
- Strategic sourcing reviews to identify alternative sources of affected aluminum and steel products.

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