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## Trump Implements Global Steel and Aluminum Tariffs

March 8, 2018

### KEY POINTS:

- On March 8, **President Trump formally proclaimed a global [25% tariff on steel imports](#) and a [10% tariff on aluminum imports](#)**. He made the announcement in a White House meeting with steel and aluminum industry representatives.
- **This decision imposes higher tariffs than levels [recommended](#) by the U.S. Commerce Department (DOC) and does not exempt U.S. allies from the duties. Mexico and Canada are temporarily excluded** due to the ongoing NAFTA renegotiation. MA's analysis of the Commerce recommendations is [here](#).
- **The tariffs will be implemented as of March 23, 2018.**
- **Countries wishing to be exempted from the duties must negotiate with USTR Lighthizer.**
- DOC has left open the opportunity for **U.S. stakeholders to appeal for product-specific exclusion from the tariffs in the case of insufficient U.S. production capacity or national security interests**. Details on the appeal process and specific criteria for exclusion are still unclear, but should be announced within 10 days.
- The move may provoke **retaliation against U.S. exports, particularly from Europe.**

## SECTION 232

**Section 232 is a cold-war era national security provision** included in the Trade Expansion Act of 1962, designed to allow for rapid protectionist action in the case of a national security threat. This **provision has been initiated [26 times](#), and the United States has only taken tariff actions twice** – President Carter on Iranian oil and President Reagan on Libyan oil. President (George W.) Bush implemented steel tariffs in 2001, but under a safeguard action, not Section 232. The tariffs led to job losses and were found to be WTO-inconsistent in 2003. In the previous 232 cases, trade actions were implemented in one to three days.

Today, Trump signed what is only the third presidential proclamation taking a trade action under Section 232.

Trump's proclamation is unusual not only due to the infrequency of 232 actions, but also due to its broad scope, given that previous actions more surgically targeted at particular countries and oil/ferroalloys.

### WHAT'S NEXT

President Trump in the press conference said that the tariffs would not go into effect for "at least for another 15 days." **His proclamation stated that the tariffs would apply "with respect to goods entered, or withdrawn from warehouse for consumption, on or after 12:01 a.m. eastern daylight time on March 23, 2018."** MA is currently reviewing the affected HTS codes to verify tariff coverage.<sup>12</sup>

**Countries wishing to prove that their steel and aluminum exports are not a threat to U.S. national security may initiate talks with USTR Lighthizer**, who has been designated by Trump to negotiate relief from the 232 action. The White House [statement](#) noted: **"Modification or removal of the tariffs would be possible if alternative means are agreed upon to ensure imports from a country no longer threaten to impair our national security."** This is **groundbreaking, as it characterizes any imports of steel and aluminum – even from allies -- as national security threats.**

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<sup>1</sup> In the proclamation on steel, "steel articles" are defined at the Harmonized Tariff Schedule (HTS) 6-digit 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, including any subsequent revisions to these HTS classifications.

<sup>2</sup> In the proclamation on aluminum, "aluminum articles" are defined in the Harmonized Tariff Schedule (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), including any subsequent revisions to these HTS classifications.

**Trump stated that Mexico and Canada would be exempted from the 232 action while the parties attempt to renegotiate NAFTA.** Meanwhile, “there won’t be any tariffs on Canada; there won’t be any tariffs on Mexico.”

In addition to the negotiating channel for impacted countries through engagement with USTR Lighthizer, the **DOC established a process for appeals for U.S. parties**, which may be housed under the Department’s Bureau of Industry and Security (BIS). The appeal provision follows, and details on the process are to be provided within ten days.

*“The Secretary recommends an appeal process by which affected U.S. parties could seek an exclusion from the tariff or quota imposed. The Secretary would grant exclusions based on a demonstrated: (1) lack of sufficient U.S. production capacity of comparable products; or (2) specific national security based considerations. This appeal process would include a public comment period on each exclusion request, and in general, would be completed within 90 days of a completed application being filed with the Secretary.*”

*An exclusion may be granted for a period to be determined by the Secretary and may be terminated if the conditions that gave rise to the exclusion change. The U.S. Department of Commerce will lead the appeal process in coordination with the Department of Defense and other agencies as appropriate. Should exclusions be granted the Secretary would consider at the time whether the quota or tariff for the remaining products needs to be adjusted to increase U.S. steel capacity utilization to a financially viable target of 80 percent.”*

While there was **no concrete action taken**, **Trump reiterated his commitment to eventually implement a (undefined) reciprocal tax** “they charge us 50, we charge them 50.”

## **TIMELINE**

The implementation timeline is short:

- **March 8:** President Trump signs presidential proclamation announcing implementation of 25% tariff on steel imports and 10% tariff on aluminum imports. The proclamation authorizes a change to the Harmonized Tariff Schedule and allows the Customs & Border Protection to enforce the new tariff rates.
- **Within 10 days:** The **process for DOC/Department of Defense to manage company requests for exclusions should be announced.** Appeal processes will include a public comment period and decisions should be made within 90 days of filing. However, because exclusions could be granted for a set time period, they may not provide long-term supply chain protection.

- **March 23, 2018:** According to the Trade Expansion Act of 1962 **within 15 days of making the proclamation, President Trump must implement the tariffs.** *“If the President determines to take action under this section, such action must be taken no later than fifteen (15) days after making the determination.”* Justified under Section 604 of the [Trade Act of 1974](#), the tariffs are to take effect March 23, per the presidential proclamation.
- **Within 30 days:** Within 30 days of his proclamation, President Trump must **submit to Congress a written report** as to why he undertook these actions.

## RETALIATION

The **EU and others have dismissed the administration’s national security argument and will likely treat the tariffs as a safeguard measure.** EU Commissioner for Trade Malmstrom told reporters, “From what we understand, the motivation of the U.S. is an economic safeguard measure in disguise, not a national security measure.”

Setting aside the validity of treating a 232 action as a safeguard, this presumably means the EU would follow the procedures allowed under the [WTO Agreement on Safeguards](#). According to Article 8, there would be a **30-day window to request compensation for economic damages.** If the U.S. does not agree to compensation, **the EU has a 90-day window to apply retaliatory duties to U.S. exports, commensurate to the value of the harm inflicted by the tariffs.**

The EU’s [provisional list](#) of retaliatory tariffs is similar one used in response to President Bush’s 2002 steel safeguards. **The EU plans to target a range of agricultural products such as orange juice and corn, consumer goods ranging from clothes to cosmetics, and politically sensitive products like bourbon and motorcycles.**

Foreign Minister Wang also implied today that China would impose retaliatory measures, saying that the country **“would have to make a justified and necessary response.”** China could do so by making a positive determination in an ongoing anti-dumping and anti-subsidy investigation into U.S. sorghum, and triggering new investigations into soybeans or corn.

**Other countries are considering WTO action to counteract the 232 proclamation.**

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