

## FAQs: STEEL AND ALUMINUM TARIFFS



### When do the tariffs take effect?

Barring further action by Congress or the courts to institute a stay, the tariffs imposed under section 232 of the Trade Expansion Act of 1962 are expected to take effect on entries filed on or after 12:01 a.m. March 23, 2018.



### How long will the tariffs last?

Section 232 does not specify a time period for application of these special duties. For now, the assumption is that the section 232 tariffs will be in effect for the foreseeable future.



### Which steel products are covered?

All steel articles that enter the United States for consumption under Harmonized Tariff Schedule (HTS) 7206.10 through 7216.50 (including ingots, bars, rods and angles), 7216.99 through 7301.10 (including bars, rods, wire, ingots and sheet piling), 7302.10 (rails), 7302.40 through 7302.90 (including plates and sleepers), and 7304.10 through 7306.90 (including tubes, pipes and hollow profiles) will be subject to an additional 25 percent duty upon entry.



### Which aluminum products are covered?

All aluminum products that enter the United States for consumption under Harmonized Tariff Schedule (HTS) 7601 (unwrought aluminum), 7604 (bars, rods and profiles), 7605 (wire), 7606 (plate, sheet, strip and foil - flat rolled products), 7608 and 7609 (tubes and pipes, and tube and pipe fittings), and 7616.99.51.60 and 7616.99.51.70 (aluminum castings and forgings) will be subject to an additional 10 percent duty upon entry.



### Where will the new tariffs be listed in the HTS?

A new tariff number will be established in Chapter 99 of the HTS for each of the listed tariff items, providing for a 25 percent duty on steel products and 10 percent on aluminum products in addition to other duties that may already be required to be posted on the product. The basic entry filing requirements will necessitate listing both the original tariff item and the Chapter 99 item with the appropriate duty rates applied.



### Are any steel and aluminum products excluded or exempted from the tariffs?

President Trump's March 8, 2018, proclamation states that the Secretary of Commerce may grant an exclusion for steel or aluminum products for which there is insufficient U.S. production and if specific national security considerations necessitate their import.

A request for exclusion must be made by a directly affected party "located" in the United States. Notice of an exclusion determination is to be published in the Federal Register, and Customs and Border Protection is to be notified.

The relevant procedures to seek exclusion are to be published no later than March 18, 2018, at which point the options for foreign exporters and U.S. importers facing these higher duties will hopefully have some clarity.



## Do past actions provide clues to the criteria that may be required for exclusions?

In a similar trade restrictive action, the U.S. Trade Representative's Office (USTR) published a list of criteria on February 14, 2018, for the solar safeguard case that may indicate the procedural requirements for steel and aluminum exclusions:

1. Any request for exclusion should clearly identify the physical characteristics (e.g., dimensions, wattage, material composition) that distinguish the product from those that are subject to the safeguard measures. USTR will not consider requests that identify the product at issue in terms of the identity of the producer, importer or ultimate consumer; the country of origin; or trademarks or trade names. USTR will not consider requests that identify the product using criteria that cannot be made available to the public.
2. In evaluating requests for exclusion, the interagency group may consider the following factors or information:
  - The names and locations of any U.S. and foreign producers of the particular product.
  - Total U.S. consumption of the product, if any, by quantity and value for each year from 2014 to 2017; the projected annual consumption for each year from 2018 to 2022; and any related information about the types of consumers.
  - Details about the typical use or application of the product.
  - Total annual U.S. production of the product from 2014 to 2017.
  - The identity of any U.S.-produced substitute for the particular product, total annual U.S. production of the substitute from 2014 to 2017, and the names of U.S. producers of the substitute.
  - Whether the product or substitute may be obtained from a U.S. producer.
  - Whether qualification requirements affect the requestor's ability to use domestic products.
  - Whether the product is under development by a U.S. producer that will imminently be able to produce it in marketable quantities.
  - Inventories of the product in the United States.
  - Whether excluding the product from the safeguard measure would result in a benefit or advantage to the long-term competitiveness of the manufacturing supply chain in the United States, including by fostering research and development, supporting manufacturing innovation, or by leading to the development of differentiated products that command higher prices.
  - The ability of U.S. Customs and Border Protection to administer the exclusion.
  - Other information or data that interested persons consider relevant to an evaluation of the request.



## How long would an exclusion request take?

While the proclamations suggest that exclusion requests will be processed in 90 days, this seems unlikely given the anticipated number of applications for exclusion. Thus, both foreign exporters and U.S. importers should be prepared for long waits for decisions on exclusion requests.



## How can I learn more?

For additional information on how the steel and aluminum tariffs may impact your business, contact [Nithya Nagarajan](#) or [Jeffrey S. Neeley](#) of Husch Blackwell's [International Trade & Supply Chain](#) team.