

Proposed Steel and Aluminum Tariffs Poised to Have Big Impact

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President Trump recently announced his intent to make good on his campaign promise to impose new, significant tariffs on many imports of steel and aluminum products to the United States. The announcement followed a Department of Commerce report recommendation of a 7.7% tariff on aluminum and a 24% tariff on steel in the interest of national security and pursuant to Section 232 of the Trade Expansion Act of 1962. President Trump, however, has gone beyond the recommendation of the Department of Commerce, and on March 9th signed a Presidential Proclamation imposing a 10% tariff on aluminum and 25% tariff on steel imports – in addition to all existing regular (Normal Trade Relations) duties, as well as existing anti-dumping and countervailing duties. Following last week's signing ceremony in the White House, manufacturers, suppliers, and the many industries dependent on both products are all scrambling to gauge the potential impact of the new tariffs as details are worked out following publication of the Presidential Proclamation.

The new tariffs have temporary exceptions for imports from two of the United States' major trading partners: Mexico and Canada. Whether these exemptions will be made permanent depends on progress in re-negotiating changes to the North American Free Trade Agreement ("NAFTA") which are in line with the Administration's stated goals (e.g. U.S. national content requirements). President Trump also signaled that other countries beyond Canada and Mexico may also be exempt from the newly-announced tariffs, and importers may also be able to petition the Commerce Department for specific product exclusions.

It appears that there remains much to be resolved; however, these proposed tariffs are poised to have a big impact on a number of industries. While waiting to determine exactly what this will mean for you, here are some helpful tips:

Analyze possible impacts.

While President Trump has now issued a Presidential Proclamation imposing the steel and aluminum tariffs, experts stress that it will take some time for the respective administering agencies to flesh out the details and processes that will apply. Although U.S. Customs will begin to collect these tariffs on all affected imports before the end of March, refunds may be possible if your specific products are ultimately excluded.

We recommend consideration of the following:

- Consider the impacts on both products and supply.
- Plan for controlling the impact via contract terms, applying for exemptions, changes in logistics, extending contracts where viable and beneficial or considering termination rights if changes are needed to revise business strategy.

- Speak with counsel regarding contract strategies before acting: Don't borrow trouble by rash action. Rather, be carefully advised of your contractual rights and obligations.
- Meet with accountants to consider how tax strategy may dictate your plan forward.

Conduct a thorough analysis of steel and aluminum sourcing for your industry.

If you haven't already, right now would be an ideal time to conduct a thorough analysis of the countries from which you source steel and aluminum, as well as your current tariff codes under the Harmonized Tariff Schedule of the United States (because not all steel and aluminum tariff codes are subject to the new tariffs). The more you know, the better you will be prepared to ascertain the impact of the tariffs on your imports.

Review existing contracts.

In anticipation of new tariffs becoming law, conduct a review of all contracts that may be impacted by the steel or aluminum tariffs. Depending on the impact to your industry, swift response could be critical to future profitability. Be careful to understand and comply with contracts. Be wary of notice provisions, liability limits, termination rights, or other obligations that apply to any contractual changes.

Speak with your accountant and attorney.

Speak with your accountant and/or attorney about the impact the new tariffs could have on your bottom line, as well as ways to seek exemption from the tariffs. Your accountants can assist you in planning ahead for increases in the cost of equipment and increased costs from suppliers and manufacturers within your industry, etc. It is a good idea to seek counsel on the impact these tariffs could have on new or existing agreements, as well as whether lowering the customs value or if "tariff engineering" your products to place them outside the tariff codes covered by the Presidential Proclamation are feasible. For those U.S. companies that import steel or aluminum subject to the tariffs, your attorney will also be able to navigate you through any ultimate exclusion process by which affected U.S. parties may seek an exemption from the tariffs. Most importantly, make sure you develop a well-informed comprehensive strategy before you act.

To discuss further, please contact:

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