



steel and aluminum tariffs now - what comes next?

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MSK Client Alert

March 24, 2025

Uncertainty and Impact on Compliance

Keeping up with the ongoing changes and impact from tariffs continues to be wrought with challenge. The latest pronouncements on steel and aluminum have not offered improved clarity, only additional questions. Working closely with your trade team is as critical as ever to get assistance in interpreting executive orders and guidance updates by President Trump and Customs and Border Protection.

Recap of Steel and Aluminum Tariffs Canada Mexico China/Hong Kong As of February 4, 2025 25% 25% 10% As of March 4, 2025 n/a n/a 20%

Energy & Potash

as of March 7, 2025 10% 10% n/a

Special treatment is set aside for products made with U.S. origin melted/poured steel or smelted/cast aluminum. These tariffs for steel and aluminum products and derivatives became effective on March 12, 2025 by way of a posting by the Secretary of Commerce, though a debate still exists whether that notice needs to be formalized by publication in the Federal Register.

Publication Litany

A slew of other pronouncements and notices throughout February and March attempted to provide clarity around the definitions of impacted products, including the following:

Steel and derivatives CBP then issued **CSMS 64384423** to establish the 9903 provisions for steel and derivatives, and the related **February 18, 2025 FedReg re steel tariffs was also published**, which confirmed the 25% applied to steel and steel derivative products by reference to the Annex 1 listing of tariff

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numbers. Entry into an FTZ (except under foreign privileged status) and refunds by way of drawback are denied. There is a corresponding Commerce/BIS **March 5, 2025 FedReg BIS re steel tariffs** published in the Federal Register which summarizes differently the types of steel products with corresponding tariff numbers (listing both the provisions in chapters 1-97 and chapter 99). As a sort of "cheat" sheet, CBP also published the **Iron/Steel Products Subject to 232** and **Iron/Steel and Aluminum 232 Quick-View Chart**, which provides charts laying out the order of reporting the classifications and related topics, and also how to report values if not all the value belongs under the corresponding 9903 classification. A similar notice was published for aluminum, see **March 5, 2025 FedReg re BIS re Aluminum Tariffs**.

Aluminum The corresponding publications for aluminum, which carries a 10% additional duty, can be found at **CSMS 64384496** and **February 18, 2025 FedReg re aluminum tariffs**. The quick view chart linked above also includes aluminum products and derivatives.

Documentation and Reporting Challenges

If the product is not 100% steel or aluminum, the importer is instructed to declare the value of the "content." Does declaring value mean the weight of the product or value based on the price of the shipment? It took until the most recent update to the 232 FAQs to clear up what was meant by paying duty on the content of the aluminum or steel. CBP has finally clarified that means the usual transaction value, i.e., a price that includes not only the value of the actual content of either metal, but also all the other price components a seller would include in his sales price. In other words, as of March 24, 2025, the correct value to declare is the FOB cost of the steel or aluminum. See 232 FAQs.

Specific instructions are provided for reporting primary and secondary countries of smelt and casting. This is because if the initial melting and pouring for steel and the original melting and casting for aluminum are done in the U.S., those processes trigger duty concessions when a further processed product is imported into the U.S. However, this only works if the initial qualifying operations can be properly documented, and the supplier breaks out the values over more than one invoice line. In having a multi-line invoice, the 232 duty can be imposed on only the steel and aluminum content, if that content is not 100% of the value of the import.

Because of these complexities, importers are cautioned to not solely rely on information from their suppliers as the importer is the one who will be held accountable. Consider asking or seeking answers to the following:

1. What additional verifying documentation can you obtain?
2. What can you do to validate the information being provided by your supplier?

CBP could very well hold up the release of your shipment without clear documentation. Work with your trade advisors to assist in securing the necessary supporting documents to mitigate risk in shipments being held or collection of tariffs being inaccurately assessed.

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As if things were not already complex enough, beside the well-focused retaliatory tariffs being imposed by other countries, in the U.S., the decision from the Trump Administration regarding copper, semiconductors, and timber/lumber remain to be made. A **Request for Public Comments** about copper has already been published. The deadline to submit those comments is April 1, 2025. The Biden Administration in December 2024 began an inquiry into China actions **301 Notice re China and Semiconductors**. That comment period is closed. There is also the **BIS 232 Request for Public Comments re Lumber/Timber**. The deadline to submit those comments is also April 1, 2025.

April 2, 2025 is the date on which the reciprocal tariffs will supposedly be announced, along with perhaps other/new tariffs. As if all of that was not challenging enough from a compliance perspective, there is the proposal for tariffs from **USTR re China Built/Flagged Vessels**. Plus the Federal Maritime Commission has now opened an **Investigation of Global Maritime Chokepoints**.

Going back to the America First Trade Policy memo issued on January 25, 2025, the reports called for therein are mostly due on April 1, 2025. The exception is that from OMB which is due April 30, 2025. Even if nothing else happens in the meantime, which is highly unlikely, it seems reasonable to expect more and bigger tariffs to be imposed by the current Administration once those reports are submitted.

On top of all of that, the National Customs Broker and Forwarder's Association of American published a notice on March 21, 2025 advising that CBP's computer system is not always properly validating the new duties on China goods due to programming limitations. So, if you are an importer, make sure you check your entry summaries to confirm the right amount was paid on each entry. CBP will hold you responsible, even if it is ACE which is not functioning correctly.

As the imposition of new tariffs continues, look for updates from us. The curse of - may you live in interesting times - is certainly playing itself out right now!