

Trump Administration Re-imposes Sec. 232 Tariff on Canadian Primary Aluminum

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by Dave Townsend and T. Augustine Lo

On August 16, 2020, the United States re-imposed Section 232 tariffs on Canadian-origin primary aluminum imports, adding another twist to the long-standing trade dispute with Canada over its aluminum exports to the United States. This tariff action followed a proclamation issued by President Trump dated 6 August 2020.^[1] Citing an 87% surge in imports of primary aluminum from Canada since a tariff truce announced in May 2019, the Trump administration re-imposed a 10% tariff on these imports. This re-imposition of tariffs is happening despite the recent entry into force of the U.S.-Mexico-Canada Agreement (“USMCA”) in July 2020. Canada promptly retaliated in kind by announcing countermeasure tariffs on certain U.S. aluminum goods.

In early 2018, after a year-long investigation under Section 232 of the Trade Expansion Act of 1962, the Trump administration determined that aluminum imports from around the world threatened to impair U.S. national security. In March 2018, the Trump administration imposed a 10% tariff on various aluminum imports, sourced from anywhere in the world. (At the same time, the Trump administration also imposed a 25% tariff on various steel imports from around the world under Section 232.)

Canadian aluminum products then became subject to whiplash in having tariffs imposed and removed. Initially, Canadian aluminum products, along with Mexican products, were exempt, possibly in consideration of ongoing negotiations to replace the North American Free Trade Agreement (“NAFTA”). Then, in June 2018, Canadian and Mexican aluminum products were added back onto the tariff list, which prompted Canadian and Mexican retaliatory tariffs on U.S. products.

Despite this tit-for-tat mutual imposition of tariffs, the three countries nevertheless signed the USMCA in November 2018 to replace NAFTA. To facilitate USMCA’s ratification by their national legislatures, the three countries declared a tariff truce in May 2019. The Trump administration once again exempted Canadian and Mexican aluminum from the Section 232 tariffs, while Canada and Mexico rescinded their retaliatory tariffs against U.S. products. The Trump administration also agreed not to re-impose Section 232

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tariffs unless there was a surge of Canadian and Mexican imports beyond historic levels, and negotiations to address that surge are unsuccessful. This truce paved the way for the USMCA's entry into force on July 1, 2020.

The U.S. tariff action affects only imports of unwrought, unalloyed aluminum from Canada – which are primary products made from raw bauxite that are used to fabricate downstream aluminum products. This class of goods constitutes the largest share of Canadian aluminum exports to the United States. Assuming this 10% tariff proceeds, it could significantly impact the aluminum market, from competing U.S. producers of primary aluminum, to producers of secondary aluminum from recycled goods that could compete with imported primary aluminum, and to downstream users of aluminum across all industries.

Canada promptly imposed retaliatory tariffs on a variety of U.S. aluminum goods, as expressly allowed under the May 2019 tariff truce.^[2] Canada is imposing a 10% “surtax” on items ranging from raw aluminum ore to finished household appliances that use aluminum. The May 2019 tariff truce had reserved Canada's right to impose such countermeasures, albeit limited only to goods in the aluminum sector.

If you have any questions about the Section 232 tariffs or other trade matters, Dorsey's international trade attorneys profiled below would be happy to assist. Dorsey's attorneys at its offices in Canada and the United States are also prepared to assist clients with any other legal issues that may arise in cross-border transactions.^[1]

<https://www.govinfo.gov/content/pkg/FR-2020-08-14/pdf/2020-17977.pdf>.

^[2] <https://www.canada.ca/en/department-finance/programs/consultations/2020/notice-intent-impose-countermeasures-action-against-united-states-response-tariffs-canadian-aluminum-products.html>.