

## US takes certain actions on Section 232 Automotive and Metals tariffs; Permanently removes Turkey from GSP eligibility

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### Executive summary

Following the five pillars outlined in the United States (US) President Trump Administration's trade agenda as presented to the US Congress in February 2018,<sup>1</sup> the Administration took further action towards bolstering its commitment to domestic industry and international trade. Specifically, the Administration extended the negotiation timeline with the European Union (EU) and Japan through an action that delays the potential tariffs under Section 232 of the *Trade Expansion Act of 1962* (Section 232) for auto tariffs. Further, the United States, Canada and Mexico have agreed to an alternative control mechanism, other than tariffs, to limit non-North American steel imports into the US. US removal of tariffs is effective as of 12:01 am EDT on 20 May 2019. Finally, the Administration announced that due to imports of steel articles from Turkey declining by 48% in 2018 and with the result that the domestic industry's capacity utilization has improved to approximately the target level recommended by the Secretary of Commerce in January 2018, tariffs on Turkish steel would be reduced from 50% to 25%. In a related action, Turkey has also been formally removed by the Administration from the Generalized System of Preferences (GSP), eliminating duty-free entry on Turkish goods.

## Detailed discussion

### Section 232 tariffs: Automobiles

On 16 May 2019, US President Trump directed the United States Trade Representative (USTR) to pursue negotiation of agreements contemplated in 19 U.S.C. 1862(c)(3)(A)(i) to address the threatened impairment of the national security with respect to imported automobiles and certain automobile parts from the “European Union, Japan, and any other country the Trade Representative deems appropriate,” thereby delaying a decision to impose tariffs or quotas on automobiles or automobile parts under Section 232 by up to 180 days. By statute, the President can choose to adjust imports by implementing tariffs or quotas (15-day deadline to implement action) or the President can choose to negotiate an agreement, in which case the statute allows for 180 days before additional action is required.<sup>2</sup> Instead of implementing tariffs, the President has chosen to allow for 180 days of negotiation with the EU and Japan. If no agreement has been reached after 180 days, the President still has the option to adjust imports by using tariffs or quotas.<sup>3</sup>

It is important to note that the yet to be ratified US-Mexico-CA Agreement (USMCA) includes a number of side letters which provide Mexico and Canada with relief in the event that the US imposes the aforementioned punitive tariffs.<sup>4</sup>

### Section 232 tariffs: Steel and Aluminum

#### Canada and Mexico

On 23 March 2018, President Trump signed an executive order imposing Section 232 tariffs on steel products at the rate of 25% and 10% tariffs on aluminum products. At this time, Canada and Mexico were exempted from the tariffs.<sup>5</sup> On 1 June 2018, President Trump signed an executive order to remove the exemption for Canada and Mexico.<sup>6</sup> On 1 July 2018, Canada retaliated and imposed countermeasures against US-origin steel, aluminum and a variety of other goods and Mexico retaliated with duties of its own on a variety of US-origin products on 5 June 2018.

On 17 May 2019, the USTR announced an agreement with Canada and Mexico to remove the Section 232 tariffs on steel and aluminum imports and for the removal of all retaliatory tariffs imposed on US-origin goods by those countries, effective two days after the announcement or 19 May 2019.<sup>7</sup> The Presidential Proclamations published on 19 May 2019 state that steel and aluminum imports from Canada and Mexico are no longer a threat to national security in light of

the agreements<sup>8</sup> and US Customs and Border Protection (CBP) announced the removal of the tariffs and published instructions to enter goods under the regular chapter 72, 73, or 76 instead of under chapter 99. The removal of tariffs is effective 12:01 am EDT 20 May 2019.<sup>9</sup> Importantly, articles subject to the additional 25% and 10% tariffs for steel and aluminum, respectively, that were admitted into a US Foreign Trade Zone (FTZ) and subsequently removed on or after 20 May 2019 will not be subject to the additional duty.

The agreement provides for aggressive monitoring and a mechanism to prevent surges in imports of steel and aluminum. If surges in imports of specific steel and aluminum products occur, the United States may re-impose Section 232 tariffs on those products. Any retaliation by Canada and Mexico would then be limited to steel and aluminum products.

It must be noted that on 20 May 2019, Mexico also eliminated, via Decree,<sup>10</sup> the retaliatory tariffs imposed on US goods, which included steel, pork, cheese and other products.

#### Actions Regarding Turkey

On 16 May 2019, President Trump published a presidential proclamation reducing Section 232 tariffs on steel imported from Turkey from 50% to 25%.<sup>11</sup> Turkey was originally subject to the 25% tariff rate of 23 March 2018; however, seeing that imports were not reduced enough the President took action in August 2018 to increase the tariff from 25% to 50%.<sup>12</sup> Citing an overall decline of steel imports of 12% and a specific reduction of Turkish steel imports by 48%, the President has now reduced the tariff back to the 25% rate.

In another Presidential proclamation issued on 16 May 2019 related to Turkey, President Trump officially removed Turkey from the list of beneficiary countries under the GSP, effective 17 May 2019.<sup>13</sup> The GSP designation allows certain qualifying products from the beneficiary country to enter the US market at a reduced or duty-free rate. This removal comes following his 4 March 2019 notice to Congress and to Turkey of his intent to terminate Turkey's GSP designation due to its level of economic development.<sup>14</sup> This proclamation also removes Turkey from the list of developing country World Trade Organization Members exempt from application of the safeguard measures on certain crystalline silicon photovoltaic (CSPV) cells and large residential washers. Countries designated on the GSP list were excluded from the safeguard measures if the products covered by the measures accounted for less than 3% of the total exports of the country.<sup>15</sup>

## Actions for businesses

As the Administration continues implementing its trade policy agenda, companies operating in virtually all industries and in all regions should continue to monitor developments and consider actions that provide alternatives for mitigating the overall impact, such as shifting supply sources and/or manufacturing locations to benefit from reduced tariffs from certain countries, utilizing origin or valuation planning, and various duty deferral regimes.

As specifically relates to Section 232 tariffs impacting steel and aluminum and potentially autos and automotive parts, those companies with North American, EU, Turkish and/or Japanese operations should see the most impact.

From a planning perspective, companies that have utilized an FTZ to defer duties on steel imports from Mexico or Canada should take care to identify their admitted status as well as admission dates to ensure accurate duty rates:

- ▶ Imported steel articles from Turkey admitted into an FTZ in “non-privileged foreign status” between 12 August 2018 and 21 May 2019 are subject to a 50% duty rate under 9903.80.02.
- ▶ Imported steel articles from Turkey admitted into an FTZ in “privileged foreign status” before 21 May 2019 are subject to a 25% duty rate under 9903.80.01. After 21 May 2019 the applicable duty rate remains 25% under 9903.80.01.<sup>16</sup>

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## Endnotes

1. <https://ustr.gov/sites/default/files/files/Press/Reports/2018/AR/2018%20Annual%20Report%20FINAL.PDF> and <https://www.whitehouse.gov/briefings-statements/president-donald-j-trumps-policy-agenda-annual-report-free-fair-reciprocal-trade/>.
2. 19 U.S. Code § 1862.
3. [Adjusting Imports of Automobiles and Automobile Parts Into the United States](#), 17 May 2019.
4. The side letters provide for exclusion from Section 232 duties for the first 2.6M passenger vehicles imported from Canada and for the first 2.6M passenger vehicles imported from Mexico; exclusion from Section 232 duties for light trucks imported from Canada and Mexico; and exclusion from Section 232 duties for the first US\$32 billion worth of auto parts imported from CA and the first US\$108 billion.
5. See EY Global Tax Alert, [US President Trump imposes tariffs on steel and aluminum products – Mexico and Canada excluded](#), 9 March 2018.
6. See EY Global Tax Alert, [US suspends tariff exemptions on steel and aluminum for EU and NAFTA countries; EU, Canada and Mexico to impose retaliatory duties on a wide range of products](#), 31 May 2018.
7. [USTR Press Release: United States Announces Deal with Canada and Mexico to Lift Retaliatory Tariffs](#), 17 May 2019.
8. [Proclamation on Adjusting Imports of Aluminum into the United States](#), 19 May 2019 and [Proclamation on Adjusting Imports of Steel into the United States](#), 19 May 2019.
9. [CSMS #19-000252](#), 19 May 2019.
10. In Spanish, “*DECRETO que modifica el diverso por el que se modifica la Tarifa de la Ley de los Impuestos Generales de Importación y de Exportación, el Decreto por el que se establece la Tasa Aplicable durante 2003, del Impuesto General de Importación, para las mercancías originarias de América del Norte y el Decreto por el que se establecen diversos Programas de Promoción Sectorial, publicado el 5 de junio de 2018.*”
11. [Proclamation on Adjusting Imports of Steel into the United States](#), 16 May 2019.
12. [Presidential Proclamation Adjusting Imports of Steel into the United States](#), 10 August 2018.
13. [Proclamation to Modify the List of Beneficiary Developing Countries Under the Trade Act of 1974](#), 16 May 2019.
14. See EY Global Tax Alert, [US suspends planned increase of duties on certain Chinese origin imports “until further notice”; Moves to remove India and Turkey from preferential trade](#), dated 6 March 2019.
15. [USTR Fact Sheet: Section 201 Cases: Imported Large Residential Washing Machines and Imported Solar Cells and Modules](#), 22 January 2018.
16. [Proclamation on Adjusting Imports of Steel into the United States](#), 16 May 2019.

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