



## ALERTS

### U.S. And EU Reach Section 232 Agreement For Steel And Aluminum Tariff-Rate Quota

November 23, 2021

#### Highlights

Effective Jan. 1, 2022, imports of EU steel and aluminum products will be subject to a tariff-rate quota, allowing a certain amount of imports to enter the U.S. free of any Section 232 tariffs

U.S. importers and other interested parties should consider reviewing the 54 steel and 16 aluminum product categories to determine eligible products

U.S. Section 232 tariffs remain in place for countries with no tariff agreements such as Japan and the United Kingdom

Recently, the United States and the European Union [announced an agreement](#) to replace the existing 25 percent tariff on EU steel products and 10 percent tariff on EU aluminum products with a tariff-rate quota (TRQ), which will go into effect on Jan. 1, 2022. In return, the EU will suspend retaliatory tariffs on U.S. goods such as agricultural and food products, consumer goods, and steel and aluminum products, also effective Jan. 1, 2022.

Under the TRQ arrangement, historically based volumes of EU steel and aluminum products will enter the U.S. without application of Section 232

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duties subject to certain conditions. The U.S. will remove Section 232 tariffs on approximately \$5.5 billion of EU steel and \$1.2 billion of EU aluminum, based on prior annual import volumes of EU products.

A breakdown of the specific steel and aluminum product categories eligible for the TRQ is available [here](#). Any U.S. importer should consider carefully reviewing these product categories to determine their eligible products.

As part of the U.S.-EU agreement, both sides agreed to:

1. Settle the disputes at the World Trade Organization related to the Section 232 tariffs
2. Expand coordination on trade remedy and customs matters
3. Commit to negotiations on restoring market conditions in the global steel and aluminum markets and address carbon intensity

Moreover, imports of derivative articles of steel and aluminum, as referenced in the 2020 [Presidential Proclamation 9980](#), from the EU will not be subject to Section 232 duties.

## Steel TRQ

For the EU steel TRQ, the aggregate annual import volume is set at 3.3 million metric tons under 54 steel product categories. The import volumes will be allocated on an EU member state basis, using 2015-2017 historical period import volumes. EU steel products that are within the quota amount will enter free of any Section 232 duty, while products that enter above the quota amount will continue to be subject to the 25 percent tariff.

To be eligible for duty-free treatment under the quota, steel products must be “melted and poured” in the EU, which differs from most trade agreements that use “originating” or “substantially transformed” language as the basis for origin. The steel TRQ will be allocated on a first-come, first-served basis for each of the 54 categories from each EU member state, and the U.S. will provide updated information regarding the use of the quarterly quota on a public website. U.S. importers will be required to provide documentation substantiating compliance with U.S. requirements.

It remains to be seen how the TRQ will be allocated among thousands of separate steel products within the 54 categories.

The steel TRQ has an adjustment mechanism whereby the U.S. will review annually the level of U.S. steel demand or apparent consumption based on data from the World Steel Association in the prior year to increase or decrease the TRQ volume. The steel TRQ utilization will be reviewed quarterly and any underutilization can be addressed in consultations, at the request of the EU.

## Aluminum TRQ

For the EU aluminum TRQ, the aggregate annual import volume is set at 18 thousand metric tons (TMT) for unwrought aluminum under two product categories, and 366 TMT for semi-finished (wrought) aluminum

under 14 product categories. Under the new agreement, import volumes will be allocated on an EU member state basis in line with the 2018-19 historical period, with the exception of foil (7607), where 2021 annualized data will be utilized.

Like the steel TRQ, EU aluminum products that are within the quota amount will enter free of any Section 232 duty while products that enter above the quota amount will continue to be subject to the 10 percent tariff. U.S. importers will be required to provide a Certificate of Analysis for each aluminum product.

Although the aluminum TRQ does not have an adjustment mechanism, it will be administered on a semiannual basis and a website will provide updated information on the semiannual quota for each product category.

## **Product Exclusion Process Returns, Rules Are Uncertain**

Furthermore, the U.S. will maintain its Section 232 exclusions process for both steel and aluminum. Notably, the U.S. will not count imports of excluded steel products against the steel TRQ, but the exclusions will be in addition to the steel imports permitted duty-free under the TRQ. However, the U.S. will count aluminum product exclusions against the aluminum TRQ until the quota is filled.

Existing holders of steel exclusions can continue to use any granted and used exclusions during U.S. fiscal year 2021 (i.e., Oct. 1, 2020 – Sept. 30, 2021) to import steel products specified in that exclusion. The extended exclusions will be valid until Dec. 31, 2023, without the need to re-apply, and they will be available for the U.S. exclusion holder and corresponding EU exporter or exporters.

The U.S. Department of Commerce is working to overhaul the Section 232 product exclusion process and no timetable is set, but a Federal Register notice seeking comments from stakeholders is anticipated.

It is important to note that Section 232 tariffs on steel and aluminum remain in place for most countries with no agreement, including Japan and the United Kingdom. As such, the Commerce Department also announced ongoing consultations with [Japan](#) and the [United Kingdom](#) regarding the steel and aluminum tariffs.

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