

**The Trump Tariffs: Steel,
Aluminum, Chinese products,
Automobiles, Counter-
Measures, Counter-Counter-
Measures, Exemptions & The
Future**

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The Trump Tariffs

- The Different Types of Tariffs and their legal bases.
- Remedies and/or Exemptions for Each.
- Counter-Measures and Counter-Counter-Measures.
- Iran sanctions.
- Outlook for the future.

Steel (25%) and Aluminum (10%) Tariffs.

- Steel and Aluminum Tariffs were imposed under a 1960s law allowing the President to impose tariffs in order to protect “national security.”
 - National Security is very broadly defined in the law and interpreted to include economic security, and the ability to manufacture essential articles.
- Effective June 1, 2018, for the products from most countries, most steel and aluminum products entering the United States pay an additional duty (in addition to all other duties) of:
 - 25% for steel and steel products.
 - 10% for aluminum and aluminum products.

Steel (25%) and Aluminum (10%) Tariffs.

- Steel and Aluminum Tariffs are applicable to imports to U.S. for products manufactured in all countries except:
 - South Korea,
 - Australia,
 - Argentina, and
 - Brazil
 - Quota system agreed to for these countries instead of additional tariffs.
- List of Steel and Aluminum Products:

Steel (25%) and Aluminum (10%) Tariffs.

- List of Steel (25%) and Aluminum (10%) Products, (by Harmonized Tariff System of the U.S. (HTSUS) Number (the HTSUS is found here: <https://hts.usitc.gov/current>) subject to additional duties:
 - 7206.10 through 7216.50 (steel)
 - 7216.99 through 7301.10 (steel)
 - 7302.10 (steel)
 - 7302.40 through 7302.90 (steel)
 - 7304.10 through 7306.90 (steel)
 - Unwrought aluminum under HTSUS 7601
 - Wrought Aluminum under 7604-7609
 - Castings and forgings under 7616.99.51
 - Aluminum scrap, powders, and flakes not subject to tariffs.

Steel (25%) and Aluminum (10%) Tariffs.

- Steel and Aluminum tariffs exemption requests:
- Rules for exemption requests are here:
<https://www.regulations.gov/docket?D=BIS-2018-0002>
- Exemption requests must be product-specific (by dimensions), company-specific, by U.S. applicant showing need for exemption based on national security concerns.
- Forms, etc. at: <https://www.regulations.gov/document?D=BIS-2018-0002-0009>.
- According to the NY Times, all exemption requests which have been opposed by U.S. industry, have been denied.

Steel (25%) and Aluminum (10%) Tariffs.

- Retaliation.
- Each exporting country which has had its steel/aluminum exports affected has issued lists of U.S. products against which they retaliate.

EU:

- Steel products such as bars and rods, rolled steel, stainless steel, wire, tubes, chain, pipes and scaffolding, as well as kitchen appliances, ovens, ladders and washbasins.
- Clothing and textiles such as jeans, men's leather shoes and bed linens.
- Eye make-up and lipstick.
- Motorbikes and mopeds "with reciprocating internal combustion piston engines" of 500 cc capacity as well as some boats, yachts, canoes and rowboats.

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Steel (25%) and Aluminum (10%) Tariffs.

- Retaliation.

EU:

- Food products including maize, rice, cranberries, cranberry juice, orange juice, sweetcorn and peanut butter.
- Vice products such as bourbon, whiskey, cigarettes, cigars, cheroots (a type of thin cigar) and other types of tobacco.
- The full list is here:
http://trade.ec.europa.eu/doclib/docs/2018/may/tradoc_156909.pdf

Steel (25%) and Aluminum (10%) Tariffs.

➤ Retaliation.

Canada:

- steel and aluminum
- strawberry jam,
- printed or illustrated postcards,
- sleeping bags,
- Ballpoint pens.

Full list: <https://qz.com/1318475/the-full-list-of-229-us-products-targeted-by-canadas-retaliatory-tariffs/>

Mexico:

Targeting U.S. agriculture with products such as hams, etc.

Steel (25%) and Aluminum (10%) Tariffs.

➤ OUTLOOK

- Unknown.
- Administration wants limitation on world-wide capacity of steel.
- Administration is mainly concerned with China.
- Administration wanted “better” NAFTA Agreement, but steel and aluminum duties still in place, after new NAFTA deal reached.
- Major producing countries in agreement that overcapacity must be limited.
- Chinese overcapacity now being diverted to EU.

25% duty on Chinese Products.

The Chinese tariffs are aimed at the Chinese:

What is Chinese:

- Any product whose last substantial transformation occurred in China.
- Substantial Transformation is the country where the product became an article of commerce with a new and distinct name, function, and avenues of commerce.
- Trans-shipping, use in other countries, and time out of China are irrelevant.
- Only Chinese products are affected.

25% duty on Chinese Products.

The Chinese tariffs are aimed at the Chinese:

What is Chinese: Special Rules of Origin for Textile and Apparel Products:

- The Special rules are here:
https://www.cbp.gov/sites/default/files/assets/documents/2016-Apr/icp006r3_3.pdf

25% duty on Chinese Products.

The Chinese tariffs are aimed at the Chinese:

What is Chinese: Special Rules of Origin for Textile and Apparel Products:

- Yarn, Including Single and Multiple Yarns:
 - The country of origin of yarn, thread, twine, cordage, rope, cable or braiding is:
 - (i) STAPLE yarn, etc. - the country in which staple fibers are spun into yarn
 - (ii) FILAMENT yarn, etc. - the country in which filament is extruded
 - (iii) PLIED, GIMPED AND CABLED yarns, etc. - the country in which the fibers or filaments used in the yarn are spun or extruded

25% duty on Chinese Products.

The Chinese tariffs are aimed at the Chinese:

What is Chinese: Special Rules of Origin for Textile and Apparel Products:

- The country of origin of a FABRIC is the country in which the fabric is woven, knitted, needled, tufted, felted, entangled or created by any other fabric making process.
- Special rules govern knit-to-shape products. The country of origin of knit-to-shape products is the country in which major parts are knitted or crocheted directly to the shape used in the finished product. Knit-to-shape means that the panels or parts (not including parts such as collars, cuffs, waistbands, plackets, pockets, linings, paddings, trim or similar parts) are knit to the shape used in the final assembly process (rather than knit into a tube or blanket of material that is cut to shape).

25% duty on Chinese Products.

The Chinese tariffs are aimed at the Chinese (and no other country):

- Duties are in addition to all other duties. So if the regular duty is 5%, and antidumping or countervailing duty 50%, the total amount of duties is 80% (5% plus 50% plus 25%).
- List of Products upon which U.S. Levies an additional 25% duty is here (Annex A is just by HTSUS Number, and Annex B is by HTSUS number and description. They are the same list): <https://www.gpo.gov/fdsys/pkg/FR-2018-06-20/pdf/2018-13248.pdf>.
- August 8, 2018, U.S. announces additional 25% duties to be imposed on the following Chinese products effective August 23, 2018:
<https://www.federalregister.gov/documents/2018/08/16/2018-17709/notice-of-action-pursuant-to-section-301-chinas-acts-policies-and-practices-related-to-technology>

25% duty on Chinese Products.

The Chinese tariffs are aimed at the Chinese:

- On July 6, 2018, Chinese announce a list of U.S. products upon which they will retaliate.
- On same day, U.S. announces an additional list of Chinese products against which they propose to levy an additional 10% duty (later to be increased to 25% because of the Chinese retaliation).
- Final list of duties: 10% as of September 24, 2018; 25% as of January 1, 2019 (now postponed to March) is here:
<https://www.federalregister.gov/documents/2018/09/21/2018-20610/notice-of-modification-of-section-301-action-chinas-acts-policies-and-practices-related-to>
- Chinese they will counter-counter-counter retaliate by levying additional duties on at least 50% (by value) of U.S. exports to China.

25% duty on Chinese Products.

The Last Ten Days:

- Week of May 6, 2019, talks between China and U.S. break down.
- U.S. announces that list of Chinese products paying an additional 10% duty will pay an additional 25% duty as of May 10, 2019.
- Chinese goods exported by May 10, 2019, and arriving before June 1, 2019 to pay 10%.
- Chinese announce a new list of U.S. products upon which they will retaliate. Effective June 1, 2019.
- U.S. announces an additional list of Chinese products against which they propose to levy an additional 25% duty possibly including all Chinese products including iPhones, clothing, shoes, etc. Hearing June 17, 2019.
- Comment period ends June 24, 2019.

25% duty on Chinese Products.

The Last Ten Days:

- Exemptions announced on May 14, 2019.

25% duty on Chinese Products.

Exemption Requests for Chinese duties:

- Requests for products on first list must be filed by October 9, 2018.
- Exemptions retroactive to July 6, 2018.
- Exemptions for products on second list due December 18, 2018
- Exemptions for products on third list due to be determined.
- Instructions here:
<https://ustr.gov/sites/default/files/enforcement/301Investigations/FRN%20exclusion%20process.pdf>

25% duty on Chinese Products.

Exemption Requests for Chinese duties:

Must address the following:

- Whether the particular product is available only from China. In addressing this factor, address specifically whether the particular product and/or a comparable product is available from sources in the United States and/or in third countries
- Whether the imposition of additional duties on the particular product would cause severe economic harm to the requester or other U.S. interests.
- Whether the particular product is strategically important or related to “Made in China 2025” or other Chinese industrial programs.
- Any other information or data that you consider relevant to an evaluation of the request.

25% duty on Automobiles.

- Process begun in same manner as the steel and aluminum cases.
- Initial thinking was that it would be 25% duty.
- U.S. a big exporter of “German” cars.
- U.S. car-makers oppose move.
- Europeans oppose.

IRAN SANCTIONS.

- Iran Sanctions were never removed under the 2015 Iran nuclear deal – JCPOA – for U.S. companies, U.S. citizens, U.S. Green card holders, U.S. technology or products, certain U.S. components, and subsidiaries abroad of U.S. companies. (Primary Sanctions)
- JCPOA removed Iran sanctions for foreign companies, including those having U.S. subsidiaries, and foreign citizens (who are not also either U.S. citizens or green card holders). (Secondary Sanctions)
- Secondary Sanction jurisdiction now reimposed prohibit dealing with Iranian currency, using the banking system to finance, insure trade with Iran, trade in oil, energy, precious and industrial metals, shipping, ports, etc.
- Secondary sanctions on those transacting business with certain designated individuals. SDN list, etc.

General Outlook and Considerations & What To Do.

- All these tariffs are aimed at China.
- Resolution depends on agreement with China.
- Auto tariffs seem to be off the table at least for now because of agreement with the EU.
- Trump very sensitive to stock market and negative effect of trade war on stocks.

What to do:

- File exclusion requests.
- See whether another tariff classification is possible.
- Use the Rules of Origin to change Chinese origin if legal and possible.
- Move production to a non-affected country.

Questions

Questions?

Thank You!

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