THE CARMICHAEL COMPASS

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CIT Takes Action on Finally Liquidated Entries

The Court of International Trade (CIT) will be entering an order directing CBP to reliquidate certain finally liquidated entries for approximately 3,700 cases that have been assigned to the court. This move is in anticipation of the upcoming CAPE Phase 3.

Finally liquidated entries are entries that have been liquidated for more than 80. These entries were not allowed on previous CAPE filings. The reliquidation process will occur in a procedure that will be outlined in the orders. The CIT will receive another progress report on the status of IEEPA refunds from CBP on August 4.

With this new CIT order, importers should consider filing suit to more quickly recover IEEPA duties, though lawsuits are not currently required. We advise you to consult with your Customs counsel on any actions that may preserve your rights to IEEPA refunds or any actions that may speed up the process.

US Section 301 Tariffs Against Brazil Begin July 22

The U.S. Trade Representative has announced the implementation of 25% tariffs on certain goods of Brazil under Section 301 of the Trade Act of 1974. These tariffs come on the heels of a yearlong investigation by USTR that lead to the determination that certain Brazilian measures related to digital trade and electronic payment services; unfair, preferential tariffs; anti-corruption interference; intellectual property protection; ethanol market access; and illegal deforestation are unreasonable and burden U.S. commerce. This action is taken after two public hearings and the receipt of over 360 public comments as well as intense negotiation with the Government of Brazil seeking to resolve U.S. concerns.

These tariffs are effective with respect to goods entered for consumption or withdrawn from a warehouse for consumption as of 12:01 AM ET on July 22. An in-transit provision is available for goods that are loaded onto a vessel destined for the U.S. before 12:01 AM ET on July 22 and entered for consumption or withdrawn from a warehouse for consumption before 12:01 AM on July 29. Several other exemptions and carve outs are available for goods that are raw materials that if subject to the tariffs may lead to unavailability of domestic supply, could cause economy-wide disruptions if subject to the tariffs, cannot be grown or produced in the U.S. at a reasonable price, or articles that may not contribute substantially to the elimination of the acts and policies determined actionable in the investigation.

To view the entire order, please visit the federal register notice.

CBP Releases Guidance on Reporting Section 232 Copper Smelt and Cast

Customs and Border Protection released a CSMS message on July 15 providing guidance for the upcoming reporting requirements for copper countries of smelt and cast.

Effective July 30, imports of certain copper articles from all countries of origin will be required to report the primary country of smelt and cast for the following classifications: **8544.42.10**, **8544.42.20**, **8544.42.90**, and **8544.49.10**. Secondary country of smelt may also be reported but is not required. If the primary or secondary country of smelt and/or the country of cast is unknown, importers may report "OTH" (other).

If you have any questions regarding this upcoming requirement and its applicability to your shipments, please contact your Carmichael client representative for assistance.

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New Proclamation Gives Section 232 Break to Companies Increasing Domestic Primary Aluminum Production

On July 20 President Trump released a proclamation that gives a Section 232 break to companies increasing domestic primary aluminum production.

Under the proclamation onshoring plans from companies that are approved will result in the company being able to annually import primary aluminum of a quantity that corresponds to the U.S. production facility's reasonably anticipated annual output of primary aluminum once the project is completed at half the Section 232 duty rate in effect. To qualify, companies may be building new facilities or refurbishing outdated facilities. Tariff adjustments awarded for facility refurbishment, as opposed to new facilities, will be granted to the extent that those adjustments correspond with the value of the company's investment.

As of right now, this proclamation is more an authorization of these measures than an actual implementation of them. We await the Secretary's decisions on process and look for future guidance from CBP regarding implementation. As it is received, we will be sure to inform you.

CBP Releases New Forced Labor Enforcement Operational Guidance for Importers

President Trump, in another proclamation released July 20, is imposing 50% tariffs on more than $5.6 billion in Canadian goods as a response to various actions taken by Canada including quotas placed on U.S. autos and trucks that meet USMCA rules imported into Canada; the fact that most Canadian provinces no longer sell U.S. beer, wine, and liquor; and what the U.S. views as discrimination against U.S. dairy exports. The Canadian quotas came as retaliation for the 25% Section 232 tariffs on cars and light trucks. The ban on the sale of American beverages came as a response to Trump's declarations that Canada become the 51st state.

None of the new tariffs, which will begin on August 19, apply to products that are subject to Section 232, nor do they apply to aerospace, energy, critical minerals, or potash. There will not be a duty-free treatment for products that qualify for USMCA. These tariffs are being implemented under Section 338 of the U.S. Trade Act of 1930, which is a subsection of the Smoot-Hawley Tariff Act. Until now, tariffs have never been imposed under Section 338. There is no time limit for these tariffs under the law and no language about when they should be removed.

For a full list of the affected tariffs, you can visit Annex I and Annex II to the proclamation. Annex I contains the list of tariffs to which a 50% ad valorem duty will apply unless subject to import restrictions pursuant to Section 232 or articles of civil aircraft and their parts. Annex II contains the HTS details for the new chapter 99 tariff **9903.03.14** which the goods listed in Annex I will be subject to.

Asim Faiz
President, Carmichael International Service

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Questions? Contact Us!

info@carmnet.com
213-353-0800

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