

THE WALL STREET JOURNAL.

Steel Deal With EU Muddled by a Jumble of Quotas and Red Tape

Lawyers say new system will be tough for small importers to navigate; supporters say it will help ease a supply crunch, prevent flood of cheap imports

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November 5, 2021

The Biden administration's deal to ease off steel and aluminum tariffs from Europe has won plaudits from much of U.S. industry, but a complex new quota system that comes with it has fueled concerns for small importers.

The deal, announced during the Group of 20 summit last weekend, allows the European Union to export steel and aluminum duty free until reaching a quota of 3.3 million metric tons of steel and 384,000 metric tons of aluminum a year.

Amounts in excess of those limits will be subject to a 25% tariff for steel and a 10% tariff for aluminum, which previously applied to all European steel. In return, the EU agreed to drop retaliatory tariffs that hit a range of U.S. exports.

In practice, however, the system isn't a single quota for steel and aluminum, but rather 54 distinct quotas for different types of steel as well as 16 quotas for different types of aluminum. Each EU member country will have its own quota for each category based on historical trade levels.

Importers will need to carefully track shipments to ensure they arrive before quotas kick in—giving an advantage to companies with the resources to monitor where quotas are still available, to handle complex documentation rules, and to arrange for carefully timed shipments that come in duty free, trade lawyers and others say.

“Giant companies are going to have the clout and financial capability where they can go in and place large orders and suck up the quota,” said Gregg Boucher, the president of the distribution division of Ulbrich Stainless Steel & Specialty Metals, a New Haven, Connecticut-based metal processing firm that imports some raw materials from Europe.

Scott Lincicome, a longtime international trade lawyer and a senior fellow at the Cato Institute, noted that most smaller companies don't have teams of trade lawyers to navigate the complex quota system.

"It's even more complicated, by far, than just having the tariffs," he said. "This is just brutal for small and medium steel-consuming companies," he said.

The Coalition of American Metal Manufacturers and Users, a group of companies that use steel and aluminum, cautioned the system could "allow for gaming of the system that could put this country's smallest manufacturers at an even further disadvantage."

Far more companies consume metals than produce them. When the tariffs began, federal data showed there were around 29,000 steel-consuming firms, compared with only about 900 classified as steel producing and 600 for aluminum. The data, from 2017, include steel consumers that make products such as springs, vehicle parts and wire, but not major manufacturers such as auto makers. Many of the steel-consuming companies, which employed over 900,000 workers, are also big buyers of aluminum.

Biden administration and EU officials characterize the deal as a victory for all. It will allow Europe to export more steel to the U.S., easing supply shortages, but has quotas to prevent a flooding of the market in a way that would hurt U.S. steel and aluminum producers and their workforces.

President Biden "has been clear that we cannot go back to the way trade was done before and he challenged his administration to think about trade differently," said a spokesman for the U.S. Trade Representative's office. "We are executing his vision for creating a durable worker-centered policy, rebuilding relationships with our allies and thinking creatively about how we tackle shared challenges like climate change."

The deal was welcomed by the steel industry's trade group, the American Iron and Steel Institute, along with the United Steelworkers and U.S. companies that had been targeted by retaliatory tariffs from Europe, including U.S. whiskey makers and Harley-Davidson Inc.

The Aluminum Association, which represents companies that both make and import aluminum, said it would have preferred a gradual phaseout of the tariffs rather than a quota.

U.S. Trade Representative Katherine Tai said the deal would also prevent Chinese steel from being dumped into the U.S. after first going through Europe for processing, by requiring companies to submit documentation that their products were melted and poured in Europe.

Appearing before steel industry executives in Washington this week, Ms. Tai said the U.S. and EU will next work to negotiate “the first ever carbon-based arrangement” on steel and aluminum. Such a deal would put further pressure on China by favoring Western steelmakers that use more electric furnaces. China largely relies on coal-fueled blast furnaces that emit more carbon.

China’s Foreign Ministry responded this week that its steel policies follow World Trade Organization obligations and multilateral trade rules, and said allegations that it floods the market with cheap metals are groundless.

Negotiators in Washington and Brussels have given themselves until 2024 to reach the longer-term carbon-focused agreement. Meanwhile, steel and aluminum importers will have to navigate the complicated system.

The new quota system is set to start in January and will retain a process by which companies can apply for exclusions from the tariffs.

While many lawmakers welcomed the dialing back of tensions with Europe, and the reduction in tariffs, some had questions about the new system that is taking shape.

“Tariff-rate quotas are not an acceptable long-term solution,” said Sen. Pat Toomey (R., Penn.), a free-trade advocate.

In switching to a tariff-rate quota, the Biden administration is using its authority under Section 232 of the Trade Expansion Act of 1962—the same lever used by former President Donald Trump, who made the determination that imported steel was a threat to national security.

The deal with the EU leaves in place a global patchwork of other tariffs.

Australia negotiated to avoid the steel and aluminum tariffs from the beginning. Argentina and South Korea agreed to accept a quota system for steel and aluminum. Brazil negotiated a quota just for steel in 2018.

Mexico and Canada paid the tariffs for a year before eventually striking a three-way deal as part of U.S.-Mexico-Canada negotiations to end the tariffs and establish a process to monitor for new surges of metals. Just three months later, the Trump administration determined such a surge had occurred with Canadian aluminum and briefly reinstated the tariffs.

The original steel and aluminum tariffs remain for several major exporters that are often the source of national security concerns, especially China and Russia.

But they also apply to significant metal exporters that are typically seen as allies such as the U.K., Japan, Taiwan, India or Thailand. The Commerce Department has said it is actively negotiating with the U.K. and Japan.