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CBP Finds NAFTA Marking Rules Do Determine Country of Origin of Goods Subject to Section 232 Duties

By *William R. Rucker*

In a prior client alert, we reviewed a recent ruling wherein U.S. Customs and Border Protection (CBP) addressed the interplay between the NAFTA Marking Rules and the Section 301 duties applied to goods from China. As detailed [here](#), Headquarters Ruling Letter [H300226](#) CBP found that the NAFTA Marking Rules apply for marking purposes, but not duty liability under the Section 301 tariffs.

CBP also recently issued a ruling on the interplay between the NAFTA Marking Rules and the Section 232 duties applied to steel products and reached a different result.

In CBP New York Ruling Letter [N298549](#), dated July 31, 2018, CBP reviewed the country of origin for U.S.-origin steel tubing that was further processed in Mexico. Since the tubing was processed in Mexico, CBP applied the NAFTA Marking Rules to determine the country of origin, and found the country of origin determined under 19 CFR 102.11 would be the country of origin for marking and duty purposes.

Beyond the apparent inconsistency between Headquarters Ruling Letter H300226 and New York Ruling Letter N298549, this ruling could become significant if Canada and Mexico are once again exempted from 232 duties on steel and aluminum goods (the original exemption granted to these countries expired on May 31, 2018).

Summary

In light of these rulings, we believe it is important to keep up with current administrative determinations from CBP as importers seek to mitigate the impact of Section 232 and Section 301 duties by moving production to the NAFTA territory or through other mitigation strategies.

Drinker Biddle's Customs and International Trade team has extensive experience in country-of-origin and NAFTA determinations in addition to issues involving the Section 301 investigation. For further information, contact members of the [Customs and International Trade](#)

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