LEGAL UPDATES

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Hearing on Steel Imports Raises Questions for Consuming Companies

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The majority of witnesses at a May 24, 2017, U.S. Department of Commerce hearing on the effect of steel imports on national security spoke in favor of strong government action against imports. The hearing offered little clarification on what is meant by "steel," whether the case covers downstream products made from steel and, if so, how far downstream.

Using a rarely invoked legal provision, the Trump administration announced on April 20, 2017, that it would initiate an investigation under section 232 of the Trade Expansion Act of 1962, which allows the administration to impose duties or other import restrictions based on a finding that importation of articles threatens to impair the national security. (Read our previous alerts here and here.)

By law, the Commerce Department must complete an investigation and submit a report to President Trump within 270 days. However, during the hearing, Secretary of Commerce Wilbur Ross announced that his department seeks to finish its report by the end of June 2017.

Most witnesses at the Commerce Department hearing, many of whom were representatives of the U.S. steel industry, urged the government to take strong action against imports. While remedies were not discussed in detail, quotas, tariffs and tariff rate quotas all were mentioned.

Secretary Ross stated that the case covers steel and its raw materials, and he listed several issues to be addressed:

Should the case cover all steel from everywhere?

Should steel from NAFTA countries be addressed differently than imports from other countries?

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Should certain countries and products be excluded?

Should relief be applied across the board, or should there be separate tariffs for specific products?

Left unclear was what is meant by "steel," whether the case covers downstream products made from steel and, if so, how far downstream. It was apparent that some members of the domestic steel industry are taking a very aggressive posture on how far downstream the government should go in controlling not only basic steel imports but also in controlling competition for the downstream products. For example, CEO Roger Newport of AK Steel Corp. spoke in detail about grain oriented electrical steel (GOES), noting that relief on GOES may adversely affect the ability of U.S. producers of electrical transformers to compete with increased import on their products. Newport's solution: The government also should impose tariffs or other relief on such transformers and cores, as well as the steel inputs. Newport referred to this as addressing "the supply chain issues.

Newport's testimony highlighted a major issue that extends well beyond the specific product that he was discussing. Restrictions on steel imports are likely to adversely affect the competitiveness of users of steel in the United States if their prices rise significantly or the quantities are substantially curtailed. Either protection will need to be extended downstream, Newport suggests, or such industries will feel the adverse effects. There was no discussion in the hearing of how the government would pick the downstream industries in the United States to favor with their own protection or which downstream industries will be disfavored and left to fend for themselves. Given the potential major impact on those industries and on the economy as a whole, that question is likely to be in the forefront of the debate on relief.

What This Means to You

Under its announced schedule, the Commerce Department has about one month to make its findings on the effect on national security and propose remedies that potentially address large segments of the economy. Downstream companies should consider organizing immediately to develop strategies and make their views known to representatives on Capitol Hill and at the state level.

In light of Secretary Ross' comments on exceptions and exclusions, it would be wise for companies to assert their views not only on the wider group of products that could be affected by relief but also on their specific needs. Further, if relief does go into effect, consumers of the products should work closely with their advisors on strategies to minimize the duties owed or maximize the availability of the goods they require.

Contact Us

For more information on how this development may impact your business, please contact Jeffrey S. Neeley of Husch Blackwell's International Trade & Supply Chain team.

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