

LEGAL UPDATES

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New Steel and Aluminum Tariffs May Boost Costs for Downstream U.S. Industries

President Trump's proclamation imposing additional tariffs of 25 percent on certain steel products and 10 percent on some aluminum products has caused widespread reassessment of the competitive effects of tariffs on U.S.-produced downstream products. Regardless of whether downstream U.S. industries use U.S.-produced or imported steel or aluminum, the prices of their inputs are likely to rise, in some cases sharply.

The increased tariffs authorized by the president on March 8, 2018, will take effect on March 23, 2018. Canada and Mexico will be excluded, at least temporarily, as the United States tries to link exemptions for those countries to concessions in NAFTA negotiations.

The actions were taken under section 232 of the Trade Expansion Act of 1962. That provision directs the Secretary of Commerce to submit a report to the president advising whether any article "is being imported into the United States in such quantities or under such circumstances as to threaten to impair the national security." According to the findings of the Commerce Department report, a 24 percent tariff on all steel imports would be expected to reduce imports by 37 percent from 2017 levels. Plainly there also would be a price effect on the remaining imports as well.

There are exceptions to the tariffs, but they generally are narrow and need to be carefully analyzed by companies. There is a process to carve out certain narrowly defined products from the tariffs based on the absence of any U.S. production capacity for the steel or aluminum, or for national security reasons, but no wholesale exemptions for specific countries or products will be accepted. The timetable for granting exceptions will be largely dependent on

how many requests are filed and the size of the staff assigned to process such applications.

The products covered by the increased tariffs:

"Aluminum articles" are defined in the Harmonized Tariff Schedule (HTS) as: unwrought aluminum (HTS 7601); aluminum bars, rods and profiles (HTS 7604); aluminum wire (HTS 7605); aluminum plate, sheet, strip and foil (flat rolled products) (HTS 7606 and 7607); aluminum tubes and pipes, and tube and pipe fitting (HTS 7608 and 7609); and aluminum castings and forgings (HTS 7616.99.51.60 and 7616.99.51.70), including any subsequent revisions to these HTS classifications.

"Steel articles" are defined in the HTS six-digit level as: 7206.10 through 7216.50; 7216.99 through 7301.10; 7302.10; 7302.40 through 7302.90; and 7304.10 through 7306.90, including any subsequent revisions to these HTS classifications.

What This Means to You

While each company using steel or aluminum will have different needs depending on their final products and the new costs of the inputs, companies need to consider the following:

If the input is not available in the United States, it may be advisable to work with your counsel, advisors and members of Congress to put together a case to obtain an exemption as quickly as possible.

If an exemption is not available, or if the cost increases for inputs make your U.S.-produced products uncompetitive, consider how to use the legal process to push back against increased competing imports, including antidumping cases (unfairly low pricing) against the imports or intellectual property cases if IP rights are being violated.

Consider whether certain input products (including somewhat further processed products) may be legitimately imported outside the parameters of the announced tariffs to avoid the increased duties.

We will keep our clients updated with conference calls and other communications to help them better assess any impact on their business.

Contact Us

For more information on how the new tariffs may impact your business, please contact Jeffrey S. Neeley, Nithya Nagarajan or another member of Husch Blackwell's International Trade & Supply Chain team.