

LEGAL UPDATES

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First Steel, Now Aluminum: Trump Orders New Imports Investigation

On April 27, 2017, the White House announced it will self-initiate an investigation into whether aluminum imports threaten to impair the national security. The investigation under section 232 of the Trade Expansion Act of 1962 (19 U.S.C. §1862) closely follows the Trump administration's announcement last week of a similar investigation into steel imports (view our previous alert). Both cases could have a major impact on the supply chain.

By making aluminum import disputes, which generally have involved "unfair" practices such as low pricing or subsidies, into an issue of national security, the administration has made the decision largely unreviewable by the courts. Further, because of the nature of the case, it is likely that much of the information relied upon by the administration will not be revealed to importers, purchasers or foreign producers, or made public, based on national security or confidentiality claims. By law, an investigation must be completed and a report submitted to the president by the Commerce Department within 270 days.

The administration has not revealed which aluminum products will be covered by the investigation or stated the specifics of why it believes continued imports are a threat to national security, although it has identified the industry as a core industry. The administration also has not announced a schedule. However, it appears that the products covered may include more than basic aluminum products. For example, the announcement states that "semi-fabricated aluminum from China grew by 183 percent" from 2012 to 2015 and that Chinese imports of aluminum foil rose "from zero percent of the total U.S. aluminum foil market in 2004 to 22 percent of the market today." These statements indicate that the scope of the case may extend deeply into further processed products.

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The total amount of imports under Chapter 76 of the Harmonized Tariff Schedule (which covers basic aluminum products) was more than \$15 billion last year. Thus, if restrictions were to be imposed, the disruptions to U.S. users of the products will likely be very significant. Moreover, the possibility of retaliation by other countries is a real possibility.

What This Means to You

While the exact process has not been announced, we believe there will be a procedure to exempt or distinguish certain countries and certain products. U.S. and other companies affected by this case should make sure that their interests are protected through appropriate contacts with Congress and the Administration. That effort should combine technical expertise on the tariff and enforcement mechanisms of the government with an ability to advocate strongly within Congress and the administration. We will provide additional client alerts as more information becomes available.

Contact Us

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