

Alert | International Trade



March 2018

Section 232 Tariffs on Steel & Aluminum – Commerce Publishes Guidelines for Product Exclusion Requests and Objections

On March 19, 2018, the Department of Commerce published on the [Federal Register](#) the guidelines to request product exclusions from the Section 232 tariffs that were recently imposed on certain imports of steel and aluminum, and to submit objections to exclusion requests. As discussed in our [previous GT Alert](#), President Trump recently signed two proclamations imposing tariff rates of 25 percent and 10 percent on imports of certain steel and aluminum products, respectively, pursuant to Section 232 of the U.S. Trade Expansion Act of 1962. These tariff rates are scheduled to come into effect on March 23, 2018, and exclusions may be requested for specific steel and aluminum products.

Product exclusion requests may be submitted at any time, and objections to submitted exclusion requests have to be submitted no later than 30 days after the related exclusion request is posted.

It has been reported that domestic producers are putting pressure on the White House to approve exclusion requests sparingly. Approved exclusions will be granted on a product basis, generally for one year.

New Guidelines

President Trump’s proclamations authorize the Secretary of Commerce to grant exclusions from the new Section 232 duties imposed on imports of certain steel and aluminum products upon request of affected U.S. parties. The eligibility of products for which exclusions are sought will be determined based on whether they are produced in the United States in a “sufficient and reasonably available amount or of a satisfactory quality,” or on specific national security considerations. For this, the Department of Commerce has established that only individuals or organizations using the affected steel or aluminum articles identified in business activities in the United States may submit exclusion requests. Objections to exclusion requests may be filed by any individual or organization in the United States.

As previously noted, approved exclusions will be granted on a product basis, generally for one year, and will be limited to the individual or organization that requested the exclusion. Unless the Department of Commerce approves a broader application to additional importers, every individual and organization that wants to import a steel or aluminum product that is covered by the new tariffs will have to submit an individual request, even for products that have already been approved for exclusion for other individuals or organizations.

Requesting Exclusions and Submitting Objections

Persons or organizations with business activities in the United States who want to submit exclusion requests must fill out specific forms for **steel** and **aluminum** products and submit their requests online, under the individual guidelines for **steel** and **aluminum** products. For an exclusion request to be considered, the individual or organization submitting the request is required to provide the following information:

- The business activities in the United States in which they are engaged that make them eligible to submit an exclusion request.
- The single type of product they seek to have excluded using a 10-digit Harmonized Tariff Schedule (HTS) code.
- The quantity of product required under a one-year exclusion.
- A full description of the properties of the product the person or organization seeks to import, including chemical composition, dimensions, strength, toughness, ductility, magnetic permeability, surface finishing, coatings, and other relevant data.

Individuals and organizations opposing exclusion requests are required to file individual objections addressing the specific request they oppose, providing as much detail and supporting information as possible.

Both exclusion requests and objections must be limited to a maximum of 25 pages.

Concluding Steps

After receiving an exclusion request and any related objections, the Department of Commerce will consult with the United States Trade Representative (USTR) and the Departments of State, Treasury, and Defense before reaching a conclusion. After the review period, which is not expected to exceed 90 days, the Department of Commerce will provide Customs and Border Protection (CBP) with information that will identify each approved exclusion request. In addition, individuals or organizations whose exclusion requests are approved will be required to report any information concerning their product exclusion that

CBP may request. Exclusions will generally be effective five business days after their publishing date. It is still unclear whether exclusions can be renewed after the first one-year period ends.

Interim Rule

The Bureau of Industry and Security (BIS) at the Department of Commerce will be accepting comments regarding this interim rule until May 18, 2018.

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Greenberg Traurig's **International Trade Group** provides continual consultation and advice to clients on expanding trade opportunities and the impact of U.S. governmental action on global trade.

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