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President Issues New Steel/Aluminum Section 232 Proclamations to Create Additional Exclusion Process for Exempt Countries Subject to Quotas

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On Wednesday, August 29, President Trump issued additional Section 232 steel and aluminum proclamations to update and modify earlier proclamations. President Trump had earlier exempted certain countries, namely, Argentina, Australia, Brazil and South Korea from the 232 tariffs on steel and aluminum and in most cases (except Australia) quotas were imposed rather than tariffs. Client alerts on these proclamations can be found here: August 9, August 2, July 11, July 9, June 15, and April 4. This new action is apparently in response to the realization that these quotas have adversely affected some U.S. companies that couldn't source sufficient quantities of steel and aluminum domestically and the quotas were filled from these previously exempted countries. It simply supplements an existing exclusion process and extends it to the case of exempted countries which had quotas which are now filled or close to filled.

- **Product Exclusion Process for Imports from Quota Countries:** Both the new steel and aluminum proclamations provide an opportunity for U.S. companies to request exclusions for products not made or available in the U.S. in sufficient quantities that they desire to import from quota countries (Argentina, Brazil and South Korea). Exclusions would be granted on the same basis as with the existing product exclusion process but now extending it to exempt countries with filled quotas.
- **Special Rule for Pre-Existing Contracts with Steel Quota Countries:** The steel proclamation also provides an opportunity for companies that have certain contracts for purchases from a country subject to a steel quota where the contract was entered into before March 8, 2018 subject to certain requirements to seek an exclusion from the quota.

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- **Expansion of Retroactivity for All Exclusion Requests:** The proclamations also provide that product exclusions granted under these or the original proclamations setting tariffs on imports of steel and aluminum will be retroactive from the date “the request for relief was accepted by the Department of Commerce.” This is a slight modification from the original process for exclusions set out in the Commerce Department’s interim final rule, that provided exclusions would be retroactive to five days after the Commerce Department’s approval was posted.

Butzel Long is already assisting clients with the original exclusion process and can provide information to companies seeking exclusions from duties from Argentina, Brazil and South Korea based on filled quotas.

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