

CLIENT ALERTS

U.S. Modifies Reimposition of Section 232 Tariffs on Canadian Aluminum

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In our Client Alert on August 6, we discussed the re-imposition of Section 232 tariffs on certain aluminum products from Canada. On September 15, 2020, the United States Trade Representative (USTR) issued a notice that after consultations with the Canadian government the U.S is modifying its original re-imposition of the 232 tariffs and replacing it with what is essentially a voluntary quota system, similar to those in effect on steel products many years ago. The 10% tariff on aluminum is tentatively removed subject to Canadian exports not exceeding certain limits, in which case the tariff could be imposed retroactively. The exact language from the USTR notice is below:

“The United States has determined that trade in non-alloyed, unwrought aluminum is likely to normalize in the last four months of 2020, with imports declining sharply from the surges experienced earlier in the year. Average monthly imports are expected to decline 50 percent from the monthly average in the period of January through July. Accordingly, the United States will modify the terms of the 10 percent tariff imposed in August on imports of Canadian non-alloyed unwrought aluminum.

The United States expects that shipments of non-alloyed, unwrought aluminum from Canada for the remainder of 2020 will be no greater than the following monthly volumes:

September

83,000 tons

October

70,000 tons

November

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83,000 tons

December

70,000 tons

Based on these expectations, the United States will resume duty-free treatment of non-alloyed, unwrought aluminum retrospective to September 1, 2020. Six weeks after the end of any month during this period, the United States will determine whether actual shipments met expectations. If actual shipments exceeded 105 percent of the expected volume for any month during the four-month period, then the United States will impose the 10 percent tariff retroactively on all shipments made in that month.

If shipments in any month exceed the expected volume, the United States expects that shipments in the next month will decline by a corresponding amount.

In addition to the foregoing, if imports exceed 105 percent of the expected volume in any month the United States may re-impose the 10 percent tariff going forward”.

The USTR indicated that at the end of the year there would be further consultations with the Canadian government to review the trading patterns and market conditions in aluminum trade during the last four months of 2020 and expectations for 2021. This would indicate that additional adjustments might be made and that future imports from Canada may be subject to quantitative limitations.

Certain other countries have been exempted from 232 tariffs, including Mexico, Argentina, Australia, Brazil and South Korea. An exclusion process exists for importers from countries that are subject to the duties. As of March 23, 2020, Commerce received 179,128 exclusion requests, 157,983 for steel and 21,145 for aluminum. Of those requests, the agency granted 78,569 exclusions and denied 25,440. See Congressional Research Service Report, “Section 232 Investigations and Issues for Congress”, August 24, 2020.

There also have been a number of other 232 cases filed, as indicated below:

- Automobile and automobile parts, initiated May 23, 2018;
- Uranium ore and related products, initiated July 18, 2018;
- Titanium sponge, initiated March 4, 2019;
- Transformers and certain grain-oriented electrical steel parts, initiated May 4, 2020;
- Mobile cranes, initiated May 6, 2020; and
- Vanadium, initiated June 3, 2020

Commerce determined imports of each of the first three products threaten to impair national security. The final reports were submitted to the President, but have not been made public. The President chose not to impose restrictions on uranium and titanium, but potential import restrictions on autos remain pending. The latter three investigations are ongoing.” Congressional Research

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Service Report Id

Butzel Long has been assisting its clients with filing exclusion requests from Section 232 duties. There is currently no deadline for filing these requests.

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