



## *BIS Investigating Imports of Steel and Aluminum for Effects on National Security*

Last month, the Trump Administration announced the launch of investigations of steel and aluminum imports for their effects on national security. The U.S. Department of Commerce, Bureau of Industry and Security (“BIS”) is conducting the investigations, pursuant to Section 232 of the Trade Expansion Act of 1962 (“Sec. 232”).<sup>1</sup>

Prior to the start of the current investigations, the last Sec. 232 investigation was launched in 2001, when BIS was known as the Bureau of Export Administration (“BXA”). That investigation involved the import of iron ore and semi-finished steel. In that investigation, over 3,000 comments were submitted, with the majority submitted from residents of Minnesota and Michigan towns where there were significant job losses. The 2001 investigation of imported iron ore and semi-finished steel had been requested by two (2) members of Congress from those states. In the 2001 investigation, BXA sent out approximately 175 surveys to producers and customers, and conducted several site visits in various states to study production, shipment and consumption.

The current Sec. 232 investigations will once again focus on determining the effects of imports of steel and aluminum on national security. As with the last investigation, “national security” will be interpreted broadly and several factors will be considered, including:

- Quantity of the articles under investigation and other circumstances related to their importation;

- Domestic production needed for projected national defense requirements and the domestic industry capacity to meet those needs;
- Existing and expected availability of human resources, products, raw materials, production equipment and facilities needed for national defense;
- Growth requirements of the domestic industry to meet national defense requirements, including the investment, exploration and development needed for that growth;
- Impact of foreign competition on the economic welfare of the domestic industry essential to national security;
- Displacement of any domestic products causing substantial unemployment, loss of investment, specialized skills and productive capacity; and
- Any other factors causing a weakening of the national economy.<sup>2</sup>

A public hearing in the Sec. 232 investigation of steel imports will be held in Washington, D.C. next week, on May 24, as well as a hearing on June 22 with respect to the aluminum imports investigation. In contrast to the 2001 investigation of iron ore and semi-finished

<sup>1</sup> 19 USC § 1862 (2017).

<sup>2</sup> See *Notice Request for Public Comments and Public Hearing on Section 232 National Security Investigation of Imports of Steel*, 82 Fed. Reg. 19205, 19206 (Apr. 26, 2017); *Notice of Request for Public Comments and Public Hearing on Section 232 National Security Investigation of Imports of Aluminum*, 82 Fed. Reg. 21509, 21510 (May 9, 2017).



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steel in which there was a 90-day comment period, only 30 days are provided for the submission of public comments in the current investigations. All public comments are due on May 31, 2017, regarding the investigation of imports of steel. The aluminum investigation comment period closes on June 29.

The 2001 Sec. 232 investigation was initiated on February 1, 2001, and BIS issued its report in October 2001. BIS did not find evidence that imports of iron ore and semi-finished steel threatened or impaired national security, but times and conditions have certainly changed, and the outcomes in the current investigations may lead to much different results.

Parties with relevant comments on the factors that BIS will review in the current investigations are encouraged to submit them in a timely manner.

#### **Additional Assistance**

*For questions or assistance with preparing and submitting comments in either of the pending investigations, please contact Jon P. Yormick at [jyormick@phillipslytle.com](mailto: jyormick@phillipslytle.com) or (716) 847-7006. ■*



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