



Exemptions and Exclusions to the New Steel Tariff

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Country-Based Exemptions

Earlier this month, Frost Brown Todd LLC published a [legal update](#) regarding the new 25 percent tariff on imported steel products, which went into effect on March 23, 2018. Under the original form of the presidential proclamation issued on March 8, 2018, the steel tariff would have applied to the importation of steel materials from any country except for Canada and Mexico. However, on March 22, 2018, President Trump amended the proclamation by adding four more countries and one union to the country-wide exemption list. As a result, **until May 1, 2018, the steel tariffs will not apply to imports from Argentina, Australia, Brazil, Canada, the European Union, Mexico, and South Korea.**

If the president does not take any further action, the tariffs will apply to steel imports from all countries starting May 1, 2018. If country-wide exemptions are granted on a longer-term basis, the president may adjust the steel tariffs applicable to other countries or impose quotas on certain steel products that can be imported into the U.S.

Product-Based Exclusions

In addition to the foregoing country-specific exemptions, on March 19, 2018, the U.S. Department of Commerce's Bureau of Industry and Security (BIS) began taking applications from interested parties in the U.S. for exclusions of certain steel products from the tariff. In order to request BIS to consider excluding certain steel products, an affected applicant must be located within the U.S. and use one or more steel products subject to the new tariff in the U.S.

In completing and submitting the exclusion request to BIS, the applicant must provide a full factual description of its specific steel product and business activities in the U.S., as well as technical specifications and chemical compositions of the product. For BIS to grant exclusion on the requested product, the applicant must show

that its product is: **(1) not produced in the U.S. in a sufficient and reasonably available amount; (2) not produced in the U.S. in a satisfactory quality; or (3) to be excluded for a specific national security consideration.**

While there is currently no deadline for interested parties to file exclusion requests with BIS, the government agency estimates that each request will require 90 days to process. The applicant must submit separate exclusion requests for each unique steel product import, and BIS requires that each exclusion request be limited in length to 25 pages, including all exhibits and attachments. Once the applicant submits the request electronically, this request will be accessible by the general public for a 30-day comment period, during which other interested parties (competitors or advocacy groups) may file objections to the request.

Once the exclusion request is approved by BIS, it will take effect within five (5) business days of publication in the federal rulemaking portal and the exclusion will generally be valid for a period of one (1) year. In the event BIS grants an exclusion request, the exclusion will be limited to the individual or organization that submitted the request, unless otherwise indicated. Additionally, the product-specific exclusion will apply retroactively to the date on which the exclusion request was posted for public comment.

Next Steps

Given the foregoing, it is critical for individuals and companies using steel products to seriously consider submitting an exclusion request or an objection to another's exclusion request, in order to protect their business interests. Also, the country-based exemptions are temporarily effective through May 1, 2018, and this list of exempt countries may change as long as trade talks continue between the Trump administration and other countries. Accordingly, we will continue to closely monitor the situation and provide timely updates.

For more information regarding the new steel tariffs or for any questions on trade compliance matters, please contact [Jan de Beer](#), [Katherine Berkley](#) or [Chanhee Han](#) on Frost Brown Todd's

International Trade Compliance Service Team.

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