American Chemistry Council
Public Comments
on
“Submissions of Exclusion Requests and Objections to Submitted Requests for Steel and Aluminum”

Docket No.: 180227217-8217-02

November 13, 2018

The American Chemistry Council (ACC) appreciates the opportunity to provide public comment on the revised Interim Final Rule (‘Interim Regulations’) amending the National Security Industrial Base Regulations. These amendments set forward the process for how U.S. companies may submit requests for exclusions taken by the President under Presidential Proclamations 9704 and 9705 on March 8, 2018, which place additional tariffs on certain imports of steel and aluminum pursuant to Section 232 of the Trade Expansion Act of 1962, as amended (Section 232). ACC’s public comments will describe the real-world impacts of the Section 232 tariffs on the business of chemistry in the United States and offer recommendations for improving the Interim Final Rule.

Tariffs and Quotas on U.S. Steel and Aluminum Threaten Announced U.S. Chemical Industry Construction and Expansion Projects

ACC remains firmly opposed to the Administration's decision to apply global tariffs of 25 percent for steel products and 10 percent for aluminum, under Section 232. The chemical industry is a steel and aluminum consuming industry as are most of our customers downstream in other sectors of manufacturing. As a result of the Section 232 tariffs on aluminum and steel, the chemical industry faces both increased costs and lost demand for our products downstream.

As a result of the revolution in shale gas and the increased supply of low-cost feedstocks in the United States, the American chemical industry is positioned for a historical expansion. However, these tariffs contribute a significant amount of uncertainty to the business environment in the U.S. and they are directly impacting the future of the chemical industry. ACC estimates that $128 billion in announced investments in steel-intensive chemical production facilities in the United States are at risk.

ACC conservatively estimates that the 25 percent tariff on steel could add as much as $1.8 billion to the costs of building and expanding the U.S. chemical industry over the next 5-6 years. The cost and availability of steel is essential to the expansion as steel is the most common material used in construction projects. For example, in order to construct a typical 1.5m metric ton per year cracker in the United States about 18,500 short tons of steel and 1,150 short tons of aluminium would be used. A 25 percent increase in steel costs would increase U.S. chemical
project construction costs by 0.5 percent. Unfortunately, prices of steel necessary to build a chemical manufacturing plant in the United States have increased significantly since March, according to Department of Commerce data\(^1\). Higher prices have also resulted in decreased availability.

The Administration’s absolute quotas on steel from Argentina, Brazil, and South Korea have contributed to this decreased availability. If the U.S. is to apply this quota system across a range of trading partners, it will increase supply constraints and associated operational costs. U.S. steel users will be assigning resources to secure supply, as opposed to manufacturing and building plants. It is doubtful that domestic steel producers will be able to meet users demand with supply in sufficient quality and quality.

Today, American chemical manufacturers produce 12 percent of the world’s chemicals, and account for 10 percent of all U.S. exports, amounting to $130 billion in 2017. The U.S. has a large and growing trade surplus in industrial chemicals of $33 billion in 2017. Given the competitive advantage that has been created by the American shale gas revolution, that surplus in chemicals is estimated to grow to $71 billion by 2023.

Critically, higher prices and decreased availability limit the ability of U.S. chemical manufacturers to construct large scale, steel-intensive facilities in the United States. These are the very investments expected to boost our industry’s competitive advantage, grow exports, and further expand our trade surplus. As a result, a number of ACC members have contemplated delaying the implementation of previously announced investments.

**ACC Member Companies Describe How Steel and Aluminum Tariffs Negatively Impact Their Businesses in the United States**

As an example of the chilling economic effect of these tariffs, higher costs of steel inputs will undermine new plant construction and investments in the United States. These new investments are long-term commitments to U.S. manufacturing, establishing high-technology plants and high-value-add workforce opportunities that will benefit America for decades – once they are built.

For one ACC member company, roughly 20 percent of the cost of its $6 billion in its latest U.S. Gulf Coast investments was related to steel. Structural steel and pipe and tubing are large components of chemical plants, as is rebar and piling. Steel-related costs also include carbon steel plate; pipe and tubing; sheets and strip and other direct products used in heat exchangers; distillation columns, reactors, and other pressure vessels and tanks; and process machinery.

In addition to the increased capital expenditure on new chemical project construction, these tariffs will also increase maintenance costs for existing facilities. Given the tariffs’ impact on purchases of foreign sourced pipe, structural steel, and domestic fixed equipment, one ACC member company estimates the tariffs will result in $15 million/year of incremental cost for maintenance, turnarounds and plant capital activities vs 2017 purchases.

\(^1\) [https://enforcement.trade.gov/steel/license/documents/execsumm.pdf](https://enforcement.trade.gov/steel/license/documents/execsumm.pdf)
A higher cost of steel inputs fundamentally changes the value proposition of new construction and directly discourages future investments. These cost increases may cause some companies to reconsider their projects and encourage them to consider building plants overseas, weakening the U.S. chemical industry’s export competitiveness.

**Steel and Aluminum Quotas with U.S. Trading Partners Will Make Matters Worse**

ACC is also concerned that the exemption agreements with Argentina, Brazil, South Korea, and potentially additional trading partners will result in severe supply constraints, price distortions, and diminished exports of chemicals from the United States to the rest of the world. The absolute and quarterly quotas for different categories of steel products as managed by Customs and Border Protection (CBP) are already constraining trade.

Consumers of steel in the United States will face significant supply constraints if they cannot acquire steel for a number of quarters if one or more quarterly quotas are filled, or if a yearly quota is filled. Furthermore, since these are absolute quotas, there is no opportunity for importers to pay the tariff and import the product if the quota is filled, which constrains supply even further.

In short, a broadly administered quota system will not be conducive to promoting job-creating manufacturing and investment in the United States. We strongly urge the Administration to provide a public consultation process on the impact of quotas on steel and aluminum consuming industries in the United States. In contrast with the use of tariffs, the Administration has not asked for stakeholder input on the use of quotas to administer steel and aluminum imports. A robust public consultation would provide greater transparency and accountability as the Administration increases its use of quotas.

**Retaliatory Tariffs Add to the Burden on U.S. Chemicals Manufacturers**

U.S. trading partners, including Canada, the European Union, and Turkey, have imposed retaliatory tariffs on $3.5 billion in U.S. exports of chemicals and plastics. Due to retaliation, the Administration’s Section 232 tariffs are limiting the ability of U.S. chemical manufacturers to access these markets. Other countries could also retaliate against exports from U.S. chemical manufacturers.

India has targeted chemicals in its proposed retaliatory tariffs but has delayed implementation several times. Japan has threatened to retaliate in 2021 without specifying its target products. Additional retaliation by trading partners would further limit the ability of U.S. chemical manufacturers to export to the rest of the world, undermining the potential of the investments they have made or will make in the United States.

Given the severity of the impact of this retaliation, ACC does not believe as a general matter that tariffs are consistent with the goals of U.S. economic growth, innovation and job creation.
Research by the Trade Partnership LLC\(^2\) on the impact of the steel and aluminum tariffs supports our viewpoint. Its June 5, 2018 study reached the following conclusions:

- The tariffs, quotas and retaliation would reduce U.S. GDP by 0.2 percent annually, in the short term. While U.S. imports would decline, so, too, would U.S. exports.
- The tariffs, quotas and retaliation would increase the annual level of U.S. steel employment and non-ferrous metals (primarily aluminum) employment by 26,280 jobs over the first one-three years, but reduce net employment by 432,747 jobs throughout the rest of the economy, for a total net loss of 400,445 jobs;
- Sixteen jobs would be lost for every steel/aluminum job gained;
- More than two thirds of the lost jobs would affect workers in production and low-skill jobs.
- Every state will experience a net loss of jobs.

**ACC’s Recommendations for Improving the Interim Final Rule**

The Administration’s Section 232 tariffs are intended to protect struggling domestic industries that have failed to achieve profitability in an increasingly global market. However, in an effort to prop up challenged industries, one of America’s most competitive and most successful industries – chemicals – is suffering. In addition, U.S. tariff actions and China’s retaliation will limit the chemical industry’s ability to economic growth and job creation in the United States. We urge you and the President to revoke these tariffs as soon as possible.

We believe the following recommendations would improve the Interim Final Rule by providing an efficient, fair, and non-discriminatory process for companies and associations to request the exclusion of products from the application of the tariffs and file rebuttals to objections:

1. **The Interim Final Rule should allow industry associations to submit requests for exclusions on behalf of their members and also file rebuttals to objections.** These tariffs are impacting millions of U.S. companies, particularly small and medium-sized enterprises that use steel and aluminum. Many of them do not have the financial or legal resources to file exclusion requests or submit rebuttals to objections. Those that do file may be filing requests for similar products. Requests and rebuttals from associations will streamline the Commerce review process and lead to a more transparent assessment of requests by Commerce staff. It will also allow Commerce to hear the voices of smaller companies who might not otherwise engage in the exclusion process.

2. **If a product is not made in the United States or is not made in sufficient quantity or quality, Commerce must grant a broader product exclusion (not just on company by company, product by product basis).** Broader product exclusions will allow manufacturers in the United States to continue to import the product they need for their operations and investments. Small and medium-sized enterprises will be disproportionate beneficiaries of broader product exclusions, as they will not have to make product by product requests. Commerce will staff will then avoid having to take into account small variations between

products in their review of requests, which will expedite their granting of broader product exclusions.

Furthermore, while we appreciate the additional guidance in the revised interim final rule, we are concerned that Commerce staff still has substantial leeway to interpret the criteria of “not produced in the United States in a sufficient and reasonably available amount” and “not produced in the United States in a satisfactory quality” too broadly. This broad interpretation could lead to the negation of exclusion requests in situations where one company files an objection that claims that it in theory could make that product in sufficient quantity or quality. Rebuttals to these claims are difficult to make without more detailed information from objectors on how they could make products in sufficient quantity or quality.

3. **Product exclusions should be permanent not temporary (and on a universal basis).**
   Temporary exclusions would inject significant uncertainty into the business planning of companies. Such uncertainty would only increase costs for companies as they have to alter their supply chains. It is not conducive to promoting stronger economic growth and investment in the U.S. economy.

In addition to these recommendations, we recommend that Commerce produce and publish for public review more detailed, statistically sound analysis of the impact of the tariffs and quotas on chemical manufacturers and downstream industries in the United States and the impact of retaliation by U.S. trading partners on costs, prices, jobs, and growth for chemical manufacturers and downstream industries.

ACC looks forward to working with Commerce staff to refine the exclusion process and mitigate the economic damage of these tariffs and quotas on the U.S. economy.