



Report in Brief

January 25, 2021

Background

Section 232 of the Trade Expansion Act of 1962 (the Act), as amended, authorizes the president of the United States to impose tariffs on imported goods that threaten to impair U.S. national security. According to the Act, the Secretary of Commerce (the Secretary) provides recommendations to the president for action or inaction following a formal investigation. In April 2017, the Secretary initiated two Section 232 investigations: one for steel imports and one for aluminum imports. The investigations were led by the U.S. Department of Commerce Bureau of Industry and Security (BIS), and the results were published in January 2018.

The Secretary determined that the level of imports of certain steel and aluminum articles into the United States threatened to impair the national security because they adversely impacted U.S. producers and weakened the domestic economy. He recommended that import levels of steel and aluminum products be adjusted through either quotas or tariffs to increase the capacity utilization of U.S. plants producing each commodity to 80 percent.

Why We Did This Review

Our audit objectives were to determine whether (1) BIS and the International Trade Administration adhere to the processes and procedures in place to review Section 232 product exclusion requests (ERs) and (2) ER decisions are reached in a consistent and transparent manner.

BUREAU OF INDUSTRY AND SECURITY AND THE INTERNATIONAL TRADE ADMINISTRATION

Decisions on Exclusions from Section 232 Tariffs Were Not Transparent and Based on Incomplete and Inaccurate Information

OIG-21-020-A

WHAT WE FOUND

We found that

- I. U.S. companies were denied exclusion requests based on incomplete and contradictory information, and
- II. the Section 232 exclusion request review process lacked transparency.

We also note separate matters for the auditees' attention with respect to timeliness, completion, and communications regarding exclusion requests within an "Other Matters" section of the report.

WHAT WE RECOMMEND

We recommend that the Under Secretary of Commerce for Industry and Security do the following:

- I. Reexamine the Section 232 ER review process to ensure decisions are based on complete and accurate information and are transparent. At a minimum:
 - a. Require an objector that indicates it has confidential business information to provide a public summary of it in its objection form.
 - b. Require personnel involved in the decision making process on whether ERs are granted or denied to document the reason for changes made to decision memoranda.
 - c. Protect spreadsheets that are used to track decision memoranda from unauthorized changes.

We recommend that the Under Secretary of Commerce for International Trade do the following:

2. Reexamine the Section 232 ER review process to ensure recommendations are based on complete and accurate information and are transparent. At a minimum:
 - a. Ensure evaluators properly consider an objector's capacity and current plant percentage utilization when determining whether there is a sufficient U.S. supply of a product.
 - b. Ensure subject matter experts are able to obtain the appropriate information needed to make an informed decision regarding the U.S. availability of a product.
 - c. Comply with the requirement that the objecting firm must be able to manufacture the product within 8 weeks to meet the demand identified in the ER.
 - d. Prepare and maintain complete documentation to support the rationale for determining the U.S. availability of a product.