



## **Motor & Equipment Manufacturers Association**

### **Comments to Department of Commerce**

#### **RE: Interim Final Rule; Submissions of Exclusion Requests and Objections to Submitted Requests for Steel and Aluminum**

**Docket No.: BIS-2018-0016; RIN 0694-AH55**

**November 13, 2018**

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#### **Introduction**

The Motor & Equipment Manufacturers Association (MEMA)<sup>1</sup> respectfully submits these written comments to the Interim Final Rule (IFR) on Submissions of Exclusion Requests and Objections to Submitted Requests for Steel and Aluminum issued by the Bureau of Industry and Security (BIS), U.S. Department of Commerce (DOC) on Sept. 11, 2018.

In the IFR, the BIS has proposed changes to a previously established process for importers to request product exclusions from the Section 232 tariffs. The changes allow for requesters to file rebuttal comments to objections and objectors to file surrebuttals to rebuttals. Additionally, the changes outline a process for the submission of confidential information. Through the process, DOC and BIS will determine that the product in question is: (a) not produced in the United States in a sufficient and reasonably available amount; (b) produced in the United States but not of a satisfactory quality; or, (c) should be granted an exclusion based upon specific national security considerations.

MEMA is very concerned about the adverse impact on manufacturing jobs resulting from the Section 232 steel and aluminum tariffs. Many of our member companies have been negatively impacted by increased costs both on domestic and imported steel and aluminum materials. Tariffs have had a negative impact on manufacturers and their investments; ultimately, tariffs impact the American consumer.

MEMA continues to oppose the tariffs because of the impact on motor vehicle parts manufacturers. However, we are encouraged that DOC, BIS and the White House are taking note of the challenges stemming from the first interim final rule exclusion process<sup>2</sup> and undertaking steps to improve the process. We also continue to be concerned that the overall tariff program and exclusion request process remains flawed. Therefore, we urge the Administration to consider greater flexibilities for companies as they begin the process of reshoring jobs and manufacturing in the United States.

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<sup>1</sup> MEMA represents its members through four divisions: Automotive Aftermarket Suppliers Association (AASA); Heavy Duty Manufacturers Association (HDMA); Motor & Equipment Remanufacturers Association (MERA); and, Original Equipment Suppliers Association (OESA).

<sup>2</sup> 83 FR at 12106, March 19, 2018

## **About MEMA**

MEMA represents 1,000 vehicle suppliers that manufacture and remanufacture new original equipment and aftermarket components and systems for use in passenger cars and heavy trucks. Our members lead the way in developing advanced, transformative technologies that enable safer, smarter, and more efficient vehicles, all within a rapidly growing global marketplace with increased regulatory and customer demands.

Vehicle suppliers are the largest sector of manufacturing jobs in the United States, directly employing over 871,000 Americans in all 50 states plus the District of Columbia. Together with indirect and employment-induced jobs, the total employment impact of the motor vehicle parts manufacturing industry is 4.26 million jobs. Nearly \$435 billion in economic contribution to the U.S. GDP is generated by motor vehicle parts manufacturers and their supported activity. In total, motor vehicle parts suppliers contribute more than 77 percent of the value in today's vehicles.

MEMA members operate in a global supply chain of domestic and international suppliers and customers. Our members range in size from large, multi-national corporations to small- and medium-sized enterprises. This model has contributed to continued growth in vehicle production and jobs here in the United States.

MEMA supports the administration's agenda to assure free, fair, and reciprocal trade and a level playing field for all Americans. However, MEMA remains very concerned about the adverse impact on manufacturing resulting from the Section 232 steel and aluminum tariffs.

MEMA urges the administration to consider greater flexibilities within the existing program, reset discussion with our trading partners to pursue our joint goal of free and fair trade, and exempt steel and aluminum imports from Canada and Mexico before moving forward on the implementation of the U.S.-Mexico-Canada Agreement (USMCA).

## **Impact of Steel and Aluminum Tariffs on Vehicle Supplier Industry**

The supplier industry is already feeling the effects of tariffs on steel and aluminum. Steel prices have risen steadily with the ongoing talks and then implementation of steel tariffs. The market prices increased by 50 percent with an increase from \$600 per ton for hot rolled steel up to \$900 per ton today following the date the tariffs took effect on March 23, 2018.

Steel and aluminum tariffs have led to retaliatory action by U.S. trading partners. In addition, it is forecasted that these tariffs could increase vehicle prices by \$2,000 to \$7,000 based on material price increases. These actions will have a detrimental impact on our economy. It is estimated that suppliers will absorb one-third of the steel price increases, thereby reducing earnings, resulting in less technology investment spending, less capital spending and lower wage increases. These cuts will lower consumer confidence, leading 60 percent of economists to forecast a recession in 2020. If this forecast comes to pass, the results will include reduced automobile sales with an estimated 15 percent decline and between 750,000 to 1,250,000 American automobile workers losing their jobs.

Suppliers support and rely on a strong domestic steel and aluminum industry to provide a wide range of raw and semi-finished materials to manufacture motor vehicle components and systems in the United States. However, many specialty steel and aluminum materials used in vehicle components are not available domestically.

Often, there are few producers in the world – in some cases only one or two – that can source the grade of specialty materials needed to meet component specifications. Examples include wire used in steel-belted radial tires and specialty metals used in fuel injectors.

These specialty producers operate in small, niche markets of low-volume, high-strength steel manufactured to stringent performance specifications (often for safety-critical, high-durability applications). For domestic producers, it is not a question of whether they can produce these materials, but instead will production of these niche materials be cost-effective and provide them a return on investment.

Given the low volume and high investment necessary to manufacture and smelt these specialty products, many U.S. steel producers simply have made the decision that it is not worth the investment to enter into these markets. Additionally, it can take many years for a company to test and validate that a material producer's product will meet the specifications necessary to perform as required for many of these safety-critical parts.

### **MEMA Urges Flexibilities Instead of Existing Program**

The Administration's focus on returning manufacturing capacity to the United States while also assuring free, fair and reciprocal trade with our trading partners is a worthy goal. However, the way the current program is being implemented hinders the ability of manufacturers to make the necessary investments to expand existing or build new facilities, train new or existing employees, or expand workforce development programs to provide potential workers with the necessary skills to work in a manufacturing setting. Instead, companies are paying increased steel prices for steel and aluminum produced domestically, tariffs on imported steel and aluminum, and increased legal fees to navigate the complicated and opaque exclusions process. These costs make it impossible for manufacturers to invest in expanding U.S. capacity.

Instead, MEMA urges the Administration to consider changes to program, move away from this exclusions process and instead create and develop a program that provides flexibility to more effectively allow manufacturers to invest in job creation and manufacturing capacity expansion. Such a program would allow opportunities for growth instead of limiting that ability by essentially increasing costs that may not be recoupable.

Additionally, MEMA recommends that DOC and BIS regularly review the impact of tariffs on the economy and downstream users and develop and implement a plan to sunset tariffs if they prove to have a significant negative impact. We urge you to consider the unintended consequences of these tariffs in any review. One such consequence would be companies further down the supply chain importing finished goods at lower prices instead of purchasing higher priced U.S. manufactured goods from companies that imported raw and semi-finished materials subject to tariffs.

### **Companies Should Be Able to Submit Confidential Information at Time of Original Submission**

MEMA applauds the decision to allow companies to submit Confidential Business Information (CBI) during the rebuttal and surrebuttal process. This important change will allow both requestors and objectors to provide proprietary information in a private and timely format. However, companies remain unable to submit confidential information relevant to the request at the time of original submission. MEMA urges BIS to consider changing this to allow the submission of CBI when the original request is submitted.

Companies that are submitting many applications at one time would benefit from the ability to submit information at the same time as the original application. Given the short seven-day window of the rebuttal process, allowing companies to submit CBI at the time of the application would relieve the unnecessary burdens placed on filers by the short rebuttal window.

### **Exclusion Denials for Incomplete Submissions Should be More Transparent**

Currently, requestors who receive denials based on submissions that do not meet the definition of “complete submission” are not given any additional information regarding the reason a submission is deemed incomplete. MEMA urges BIS to consider amending and expanding the decision memo to allow for more detail regarding the reason the incomplete ruling.

MEMA understands that many of the denials for incomplete submissions have been because of incorrect HTS codes. In these cases, the importer may have been using the same HTS code for years, not knowing it was incorrect. Providing the filer additional information within the decision memo on the reason for the denial will assist companies in rectifying any problems with their applications and refile quickly.

Additionally, supplier report that denials based on the grounds that the product is misclassified are many times penalizing a company that is not the importer. The importer has the liability to get the classification correct, not the downstream user. MEMA urges BIS to consider changes to the process to not penalize companies relying on third party importers.

### **Production Capacity for Steel and Aluminum Producers Must be Considered During Objection and Rebuttal Process**

As BIS considers objections filed by steel and aluminum companies, BIS must ask the steel and aluminum producers several questions to truly determine the capabilities of meeting the consuming industries’ needs and consider these answers surrounding domestic capacity when making exclusion decisions. These questions should include at a minimum:

1. Do the steel or aluminum companies currently manufacture and supply the product in the United States?
2. If so, have their deliveries to their customers been timely and for how long?
3. What is the steel or aluminum companies current manufacturing capacity and timeframe for ramping up if they currently do not have the capacity?

MEMA member companies report that the companies objecting to their requests are filing generic objections indicating current capacity to manufacture these products or will in the near future. Unfortunately, it is a lengthy process and can take years to qualify a steel or aluminum supplier to meet the stringent needs for quality the motor vehicle manufacturing industry requires.

### **Conclusion**

For the reasons set forth above, MEMA respectfully requests the Department of Commerce Bureau of Industry and Security to make changes to the IFR that will simplify and clarify the exclusion process. In addition to the IFR clarifications we raised, please consider MEMA’s further recommendations to improve the overall process. Please contact Catherine Boland, vice president, legislative affairs via email at [cboland@mema.org](mailto:cboland@mema.org) or call 202-312-9241, if there is any additional information MEMA can provide.