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DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Part 705

[Docket No. 201006-0266]

RIN 0694-AI26

Procedures to Grant Relief from the Quantitative Limitation Applicable to Certain Steel Articles for Brazil for Parties with Preexisting Contracts that Meet Specified Criteria

AGENCY: Bureau of Industry and Security, U.S. Department of Commerce.

ACTION: Temporary final rule.

SUMMARY: This temporary final rule establishes procedures to grant relief from the quantitative limitation applicable to certain steel articles for Brazil for parties with preexisting contracts that meet specified criteria as authorized by the President as part of the action he took to adjust imports under Section 232 of the Trade Expansion Act of 1962, as amended (“section 232”).

DATES: *Effective date:* This temporary final rule is effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], through December 31, 2020.

See **SUPPLEMENTARY INFORMATION** section for information on submitting certifications for relief from the quantitative limitation for Brazil for steel articles.

ADDRESSES: All certifications for relief from the quantitative limitation for Brazil for steel articles on this temporary final rule must be submitted through the email: steel232-exp@bis.doc.gov.

FOR FURTHER INFORMATION CONTACT: For questions regarding this temporary final rule, contact Erika Maynard at 202–482–5572 or via email *Erika.Maynard@bis.doc.gov*, or to *steel232-exp@bis.doc.gov*.

SUPPLEMENTARY INFORMATION:

Background

On August 28, 2020, President Trump issued Proclamation 10064 (85 FR 54877), Adjusting Imports of Steel Into the United States, which lowered one of the section 232 quantitative limitations applicable to Brazil for the remainder of 2020 and added a new basis for relief from those lowered quantitative limitations. The President determined that the modification to the quantitative limitations applicable to certain steel products was necessary to preserve the effectiveness of the alternative means to address the threatened impairment of national security posed by steel article imports which were previously agreed to with Brazil. This temporary final rule implements the President's directive to the Secretary of Commerce (Secretary) to grant relief from the modified quantitative limitations in a limited aggregate amount under specific circumstances related to the fulfillment of existing contracts.

Background on quantitative limitations applicable to Brazil

On January 11, 2018, the Secretary transmitted to President Trump a report on his investigation into the effect of imports of steel mill articles (steel articles) on the national security of the United States under section 232 of the Trade Expansion Act of 1962, as amended (19 U.S.C. 1862). The Secretary found and advised President Trump that steel articles were being imported into the United States in such quantities and under such circumstances as to threaten to impair the national security of the United States.

In Proclamation 9705 of March 8, 2018 (Adjusting Imports of Steel Into the United States) (83 FR 11625), President Trump concurred in the Secretary's finding that certain steel articles were being imported into the United States in such quantities and under such circumstances as to threaten to impair the national security of the United States, and decided to

adjust the imports of these steel articles by imposing a 25 percent ad valorem tariff on such articles imported from most countries.

In Proclamation 9705, President Trump further stated that any country with which the United States has a security relationship is welcome to discuss with the United States alternative ways to address the threatened impairment of the national security caused by imports from that country. The President noted that, should the United States and any such country arrive at a satisfactory alternative means to address the threat to the national security such that he determines that imports from that country no longer threaten to impair the national security, the President may remove or modify the restriction on steel article imports from that country.

Alternative means to address the threatened impairment to U.S. national security posed by steel articles imported from Brazil

In Proclamation 9759 of May 31, 2018 (Adjusting Imports of Steel Into the United States) (85 FR 25857), President Trump noted that the United States had agreed on measures with Brazil that would provide effective, long-term alternative means to address Brazil's contribution to the threatened impairment to our national security. These included quantitative limitations that restrict the volume of steel articles imported into the United States from Brazil. In light of these agreed-upon measures, President Trump determined that steel article imports from Brazil would no longer threaten to impair the national security and decided to exclude Brazil from the tariff proclaimed in Proclamation 9705, as amended.

Monitoring implementation of quantitative limitations

In Proclamation 9759, President Trump also noted that the United States would monitor the implementation and effectiveness of the quantitative limitations applicable to steel article imports from Brazil, and directed the Secretary to inform him of any circumstance that in the Secretary's opinion might indicate that an adjustment of the quantitative limitation is necessary.

The Secretary has advised President Trump that there have been significant changes in the United States steel market since the President decided to exclude Brazil, on a long-term basis, from the tariff proclaimed in Proclamation 9705, as amended. The United States steel market has contracted in 2020. After increasing in 2018 and 2019, steel shipments by domestic producers through June of this year were approximately 15 percent lower than shipments for the same time period in 2019, with shipments in April and May of this year more than 30 percent lower than the shipments in the same months in 2019. The Secretary has further advised President Trump that domestic producers' adjusted year-to-date capacity utilization rate through August 15, 2020 is below 70 percent and that the rate has been near or below 60 percent since the second week of April. Brazil is the second largest source of steel imports to the United States and the largest source of imports of semi-finished steel products. Moreover, while imports from most countries have declined this year in a manner commensurate with this contraction, imports from Brazil have decreased only slightly.

Actions taken to address significant changes in the United States steel market

In light of these significantly changed market conditions, President Trump determined in Proclamation 10064 that absent modifications, the alternative measures applicable to Brazilian steel imports would be ineffective in eliminating the threat to the national security posed by imports of such articles in the current environment. The United States and Brazil have held

consultations regarding Brazil's steel exports to the United States in light of the changed market conditions. As a result of these discussions, the United States will lower, for the remainder of 2020, one of the quantitative limitations set forth in Proclamation 9759 applicable to steel articles imported from Brazil.

In President Trump's judgment, this modification will preserve the effectiveness of the alternative means to address the threatened impairment to U.S. national security by further restraining steel article exports to the United States from Brazil during the current period of market contraction. In light of these modifications, President Trump has determined that steel article imports from Brazil will not threaten to impair the national security and thus has decided to continue to exclude Brazil from the tariff proclaimed in Proclamation 9705, as amended. The United States and Brazil will hold further consultations in December 2020 to discuss the state of the steel trade between the two countries in light of then-prevailing market conditions.

Ensuring that lowered quantitative limitations for Brazil do not delay or disrupt specific production activities in the United States already contracted for delivery

President Trump in Proclamation 10064 noted that he has been informed that a reduction in the quantitative limitation set forth in Proclamation 9759 applicable to certain steel article imports from Brazil may delay or disrupt specific production activities in the United States for which imports of the steel articles covered by the quantitative limitations have already been contracted for delivery in the fourth quarter of this year. In light of these circumstances, and after considering the impact on the economy and the national security objectives of section 232, President Trump in Proclamation 10064 determined to direct the Secretary to provide relief from the modified quantitative limitations in certain limited circumstances specified in more detail

below and in paragraph (j) of this rule. This relief is in addition to the relief from the quantitative limitations that the Secretary is already authorized to provide pursuant to clause 1 of Proclamation 9777 of August 29, 2018 (Adjusting Imports of Steel Into the United States) (83 FR 45025). However, exclusion requests submitted under paragraph (j) involve different criteria and procedures than those submitted under existing paragraph (c) and determined pursuant to the criteria and procedures described in existing paragraphs (a)-(i). In addition, the Secretary may not, prior to January 1, 2021, grant relief under paragraph (c) for steel articles for which relief is granted under paragraph (j).

Proclamation 10064 sets forth several directives that are being implemented in this rule. Clause 1 of Proclamation 10064 specifies that the quantitative limitation applicable to imports of steel articles classified under subheading 9903.80.57 of subchapter III of chapter 99 of the HTSUS from Brazil are being lowered for the remainder of calendar year 2020, and specifies that the new quantitative limitation is described in the Annex to the proclamation. For calendar year 2021 and for subsequent years, the annual aggregate limit for steel articles classified under this subheading from Brazil reverts to the annual aggregate limit for Brazil set forth in the Annex to Proclamation 9759, unless that limit is further modified or terminated by President Trump.

Under clause 2 of Proclamation 10064, President Trump directed that the Secretary shall, on an expedited basis, grant relief from the modified quantitative limitation now applicable to subheading 9903.80.57 of subchapter III of chapter 99 of the HTSUS for Brazil for any steel article where:

(i) the party requesting relief entered into a contract or other written agreement for the production and shipment of such steel article before August 28, 2020;

(ii) such agreement specifies the quantity of such steel article that is to be produced and shipped to the United States prior to December 31, 2020;

(iii) such steel article is to be used in production activities in the United States and such steel article cannot be procured from another supplier to meet the delivery schedule and specifications contained in such agreement; *and*

(iv) lack of relief from the quantitative limitation on such steel article would significantly disrupt the production activity in the United States for which the steel article specified in such agreement is intended.

Also under clauses 2 and 5, President Trump specified that the volume of imports for which the Secretary grants relief under this clause shall not exceed 60,000,000 kilograms in the aggregate, and under clauses 1 and 5 that any steel article for which relief is granted must be entered for consumption or withdrawn from warehouse for consumption on or before December 31, 2020. Also under clause 5, President Trump further provided that the Secretary may not, prior to January 1, 2021, grant further relief for such an article through the preexisting exclusion request process (set out in paragraphs (a)-(i) of this supplement) applicable to items not available in the United States in sufficient or reasonably available quantity or of satisfactory quality or based on specific national security considerations, as provided for by clause 1 of Proclamation 9777.

Under clause 3 of Proclamation 10064, President Trump directed that the Secretary shall grant relief under clause 2 of this proclamation only upon receipt of a sworn statement signed by the chief executive officer and the chief legal officer of the party requesting relief, attesting that:

(i) the steel article for which relief is sought and the associated contract or other written agreement meet the criteria for relief set forth in clause 2(i) through (iv) of Proclamation 10064;

(ii) the party requesting relief will accurately report to U.S. Customs and Border Protection (CBP), in the manner that CBP prescribes, the quantity of steel articles entered for consumption, or withdrawn from warehouse for consumption, pursuant to any grant of relief; *and*

(iii) the quantity of steel articles entered pursuant to a grant of relief will not exceed the quantity for which the Secretary has granted relief.

Clause 3 of Proclamation 10064 also specified that the Secretary shall notify CBP of any grant of relief made pursuant to Proclamation 10064. Clause 3 further provided that the Secretary shall revoke any grant of relief under clause 2 of the proclamation if the Secretary determines at any time after such grant that the criteria for relief have not been met and may, if the Secretary deems it appropriate, notify the Attorney General of the facts that led to such revocation.

Under clause 4 of Proclamation 10064, President Trump directed that as soon as practicable, the Secretary shall issue procedures for the requests for relief described in clauses 2 and 3 of the proclamation, which BIS is doing on behalf of the Secretary with the publication of this temporary final rule. Lastly, clause 4 specified that CBP shall implement relief provided under clause 2 of this proclamation as soon as practicable.

Under clause 5 of Proclamation 10064, until the modified quantitative limitation provided under subheading 9903.80.57 of subchapter III of chapter 99 of the HTSUS from Brazil has been reached, CBP will count steel articles granted relief under clause 2 of Proclamation 10064 toward that modified quantitative limitation when the steel article is entered for consumption or withdrawn from warehouse for consumption. (Clause 5 also provides that steel articles for which relief is granted pursuant to clause 2 of Proclamation 10064 shall be subject to the duty treatment

provided in subheading 9903.80.62 of subchapter III of chapter 99 of the HTSUS for Brazil, as established by the Annex to Proclamation 10064).

Changes made in this temporary final rule

In Supplement No. 1 to Part 705 - Requirements for Submissions Requesting Exclusions from the Remedies Instituted in Presidential Proclamation 9705 of March 8, 2018 Adjusting Imports of Steel Articles into the United States, under new paragraph (j) (*Certification for requesting relief from quantitative limitation for Brazil*), this temporary final rule makes the following changes:

In Note to paragraph (c)(2), this temporary final rule adds one sentence to the end of this note to provide a cross reference to new paragraph (j) which is added by this rule. The Note to paragraph (c)(2) provides guidance to directly affected individuals or organizations located in the United States seeking exclusions from quantitative limitations imposed on certain countries. The new sentence that this rule adds to the note specifies that directly affected individuals or organizations located in the United States and importing steel articles from Brazil, a country subject to quantitative limitations, should first review new paragraph (j) prior to submitting any exclusion requests.

This temporary final rule adds new paragraph (j) to describe the requirements to request relief from the quantitative limitations applicable to steel article imports from Brazil under the new process created by clause 2 of Proclamation 10064. The introductory text of paragraph (j) provides background on the quantitative limitations for steel articles for Brazil. This introductory text references Proclamation 9759 on May 31, 2018 and the most recent Proclamation 10064 of August 28, 2020. The introductory text explains that paragraph (j) provides a process for relief

separate from the section 232 exclusions process as required by Proclamation 10064. Under this process a party may request relief from the quantitative limitation for certain steel articles from Brazil, which will be approved by the Department of Commerce (the “Department”) under stated criteria.

Paragraph (j) describes the requirements for a party to obtain this relief, how the Department reviews these requests for relief, the administration and use of granted requests of relief, and when revocation of grants of relief may occur. These procedures are all contained in paragraph (j), which unless extended on or before December 31, 2020, will be removed from the regulations on January 1, 2021. This process of requesting grants for relief from the quantitative limitations for Brazil is a separate process from the 232 exclusions process described elsewhere in supplement no. 1 to part 705.

New paragraph (j) consists of five paragraphs: (j)(1) (*Sworn statement required to grant relief*); (j)(2) (*Where to submit requests for grants of relief?*); (j)(3) (*Disposition of requests for grants of relief*); (j)(4) (*Administration and use of granted requests of relief*); and (j)(5) (*Revocation of grants of relief*).

New paragraph (j)(1) specifies that pursuant to clause 3 of Proclamation 10064, the Secretary will grant relief from the lowered quantitative limitation for steel articles under subheading 9903.80.57 of subchapter III of chapter 99 of the HTSUS for Brazil only upon receipt of a sworn statement signed by the chief executive officer and the chief legal officer of the party requesting relief. The sworn statement made under new paragraph (j)(1) must attest to the criteria specified in paragraphs (j)(1)(i) to (iii). These criteria are required in order to determine whether the steel article for which relief is sought and the associated contract or other

written agreement meet the criteria for relief set forth in clause 2(i) through (iv) of Proclamation 10064.

The party requesting relief must certify under paragraph (j)(1)(i)(A) that they entered into a contract or other written agreement for the production and shipment of such steel article before August 28, 2020. The party requesting relief must also include in the certification a description of the steel article by HTS classification and Chapter 99 quota category HTS classification. The certification must also specify under paragraph (j)(1)(i)(B) that the associated contract or other written agreement states the quantity of such steel article that is to be produced and shipped to the United States prior to December 31, 2020. The party requesting relief must certify under paragraph (j)(1)(i)(C) that such steel article is to be used in production activities in the United States. This includes certifying that such steel article cannot be procured from another supplier to meet the delivery schedule and specifications contained in such agreement. Lastly, under the certification requirement under paragraph (j)(1)(i)(D), the party requesting relief must certify that lack of relief from the quantitative limitation on such steel article would significantly disrupt the production activity in the United States for which the steel article specified in such agreement is intended.

Requesters are required to comply with the certification requirement under paragraph (j)(1)(ii) in order to ensure that if approved, the relief provided can be properly administered and enforced by CBP. Specifically, the party requesting relief must accurately report to CBP, in the manner that CBP prescribes, the quantity of steel articles entered for consumption, or withdrawn from warehouse for consumption, pursuant to any grant of relief. The last requirement of the certification under paragraph (j)(1)(iii) is to acknowledge that the requester will not, in entering

steel articles pursuant to any grant of relief, exceed the quantity for which the Secretary grants relief.

Under new paragraph (j)(2), this temporary final rule specifies where to submit requests for grants of relief. This paragraph specifies that all requests for grants of relief pursuant to paragraph (j) must be in electronic form and submitted by email to steel232-exp@bis.doc.gov. This paragraph specifies that in order to submit a request for a grant of relief under paragraph (j), the request must be submitted as an attachment to the email sent to steel232-exp@bis.doc.gov. Paragraph (j)(2) specifies the only information required to be submitted for these requests is the sworn statement under paragraph (j)(1).

New paragraph (j)(3) describes how the Department will dispose of requests for grants of relief. Paragraph (j)(3) specifies that the Department will grant requests for relief that meet the criteria specified in paragraphs (j)(1) and (2) until such time as the maximum quantity under this relief program is met. Paragraph (j)(3) specifies that pursuant to Proclamation 10064, the volume of imports for which the Secretary grants relief under this paragraph shall not exceed 60,000,000 kilograms in the aggregate. The Department will use a “first submitted, first approved” process until such time as the maximum aggregate limit has been approved and will not accept submissions after this limit is reached.

This rule also adds a Note to paragraph (j)(3) to provide guidance on when the Department will deny a requested grant for relief. This note specifies that denials will occur if the sworn statement does not meet the requirements specified in paragraphs (j)(1) and (2). It also specifies that requests for relief will be denied to the extent granting the request would result in the aggregate amount of imports for which relief is granted under paragraph (j) exceeding 60,000,000 kilograms. This note also clarifies that once the aggregate amount of approved grants

for relief reaches 60,000,000 kilograms, the Department will post a statement on the BIS website under www.bis.doc.gov/232-steel-Brazil to alert requesters that the aggregate limit has been reached, so that they are informed that they may no longer submit requests for grants of relief. This statement will save time for requesters, as well as the Department.

This temporary final rule adds new paragraph (j)(4) to specify how granted requests for relief will be administered and the validity periods for these granted requests for relief. Any relief granted under paragraph (j) will only be valid if the subject steel article is entered for consumption, or withdrawn from warehouse for consumption, on or before December 31, 2020. Paragraph (j)(4) also specifies that further relief may not be granted for such article by the Secretary under clause 1 of Proclamation 9777.

This temporary final rule adds new paragraph (j)(5) to specify when the Secretary may revoke grants of relief made pursuant to paragraph (j). Paragraph (j)(5) specifies that the Secretary will revoke any such grant of relief if the Secretary determines at any time after relief is granted that the criteria for relief have not been met. Paragraph (j) also specifies that if the Secretary deems it appropriate, he may notify the Attorney General of the facts that led to such revocation.

Rulemaking Requirements

1. Executive Orders 13563 and 12866 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the

importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has been determined to be a “significant regulatory action,” although not economically significant, under section 3(f) of Executive Order 12866. Pursuant to clause 4 of Proclamation 10064 of August 28, 2020, this rule is exempt from Executive Order 13771 (85 FR 54877, September 2, 2020).

2. The Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.) (PRA) provides that an agency generally cannot conduct or sponsor a collection of information, and no person is required to respond to nor be subject to a penalty for failure to comply with a collection of information, unless that collection has obtained Office of Management and Budget (OMB) approval and displays a currently valid OMB Control Number.

This temporary final regulation involves one collection currently approved by OMB with the following control number: Procedures for Submitting Requests for Expedited Relief from Quantitative Limits – Existing Contract: Section 232 National Security Investigations of Steel Imports (OMB control number 0694-0140).

BIS is making a change to this collection for OMB control number 0694-0140 to account for the certification in the form of a sworn statement that needs to be made and submitted to the Department by requesters via email to steel232-exp@bis.doc.gov under Supplement No. 1 to 15 CFR part 705, paragraphs (j)(1) and (2), when requesting relief from the quantitative limitation applicable to Brazil for certain steel articles. Any comments regarding the collection of information associated with this rule, including suggestions for reducing the burden, may be sent to Jasmeet K. Seehra, Office of Management and Budget (OMB), by e-mail to Jasmeet_K_Seehra@omb.eop.gov, or online at <https://www.reginfo.gov/public/do/PRAMain>.

3. This rule does not contain policies with Federalism implications as that term is defined in Executive Order 13132.

4. The provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, the opportunity for public comment, and a delay in effective date are inapplicable because this regulation involves a military or foreign affairs function of the United States. (*See* 5 U.S.C. 553(a)(1)). The reduction in the quantitative limitation for certain steel articles from Brazil is needed to protect U.S. national security interests in light of recent deterioration in the U.S. steel industry that was being further harmed by steel imports from Brazil, as described further below. This needed measure to protect U.S. national security could also result in adverse impacts on certain parties in the United States that import steel articles from Brazil, so this rule creates a process to allow those parties to request relief that meet specified criteria. Creating this process to allow parties to request relief is needed to ensure that the required actions needed to protect U.S. national security can be taken without doing unintended harm to other parts of the U.S. economy and national security.

As explained in the report submitted by the Secretary to the President on January 11, 2018, steel is being imported into the United States in such quantities or under such circumstances as to threaten to impair the national security of the United States and therefore the President has implemented these remedial adjustments of imports (as described in in Proclamation 9705 of March 8, 2018, as amended) to protect U.S. national security interests.

In Proclamation 9759, President Trump directed the Secretary to monitor implementation of quantitative limitations applicable to steel article imports from Brazil and inform him of any circumstance that in the Secretary's opinion might indicate that an adjustment of the quantitative limitation is necessary. The Secretary has advised President Trump that there have been

significant changes in the United States steel market since the time President Trump decided to exclude, on a long-term basis, Brazil from the tariff proclaimed in Proclamation 9705.

The United States steel market has contracted in 2020. After increasing in 2018 and 2019, steel shipments by domestic producers through June of this year are approximately 15 percent lower than shipments for the same time period in 2019, with shipments in April and May of this year more than 30 percent lower than the shipments in the same months in 2019. The Secretary has further advised President Trump that domestic producers' adjusted year-to-date capacity utilization rate through August 15, 2020 is below 70 percent and that the current rate has been near or below 60 percent since the second week of April. Brazil is also the second largest source of steel imports to the United States and the largest source of imports of semi-finished steel products. Moreover, imports from most countries have declined this year in a manner commensurate with this contraction, whereas imports from Brazil have decreased only slightly.

In light of these significantly changed market conditions, President Trump determined in Proclamation 10064 that the alternative measures regarding Brazilian steel imports, without any modifications, would be ineffective in eliminating the threat to the national security posed by imports of such articles in the current environment. The United States and Brazil have held consultations regarding Brazil's steel exports to the United States. As a result of these discussions, the United States will lower, for the remainder of 2020, one of the quantitative limitations set forth in Proclamation 9759 applicable to steel articles imported from Brazil. In President Trump's judgment, this modification will preserve the effectiveness of the alternative means to address the threatened impairment to U.S. national security by further restraining steel article exports to the United States from Brazil during this period of market contraction. In light of this modification, President Trump has determined that steel article imports from Brazil will

not threaten to impair the national security and thus has decided to continue to exclude Brazil from the tariff proclaimed in Proclamation 9705, as amended.

President Trump in Proclamation 10064 noted that he has been informed that a reduction in this quantitative limitation set forth in Proclamation 9759 applicable to steel article imports from Brazil may delay or disrupt specific production activities in the United States for which imports of steel articles covered by the quantitative limitation have already been contracted for delivery in the fourth quarter of this year. In light of these circumstances, and after considering the impact on the economy and the national security objectives of section 232, President Trump directed the Secretary in Proclamation 10064 to provide relief from the modified quantitative limitations in certain limited circumstances specified in paragraph (j) of this rule.

The implementation of the President's directive includes the creation of a process by which domestic parties can submit a certification requesting relief from this modified quantitative limitation for Brazil. Establishing these procedures in this temporary final rule are needed to ensure that the reduction in this quantitative limitation for Brazil can occur as needed to protect U.S. national security interests while not causing unintended economic harm for those affected parties in the U.S. with existing contracts that meet the specified criteria in this rule.

In addition, the Department finds that there is good cause under 5 U.S.C. 553(b)(B) to waive the provisions of the Administrative Procedure Act requiring prior notice and the opportunity for public comment and under 5 U.S.C. 553(d)(1) and (d)(3) to waive the delay in effective date because this rule is a substantive rule which grants or recognizes an exemption and such delays would be either impracticable or contrary to the public interest.

Under clause 4 of Proclamation 10064, President Trump directed that as soon as practicable, the Secretary shall issue procedures for the requests for relief described in clauses 2

and 3 of this proclamation, which BIS is doing on behalf of the Secretary with the publication of this temporary final rule. Clause 4 also specified that CBP shall implement relief provided under clause 2 of this proclamation as soon as practicable, which is also contingent on the publication of this temporary final rule. If this rule was delayed for public comment, those impacted parties that are intended to benefit from this relief would not be allowed to benefit from this exemption and may not be able to import steel articles from Brazil when above the reduced quantitative limitations.

The provisions of new paragraph (j) are of a temporary nature. As directed by President Trump, any steel article for which relief is granted under clause 2 of Proclamation 10064 must be entered for consumption, or withdrawn from warehouse for consumption, on or before December 31, 2020. Because of the immediate need for these provisions and the short term during which these provisions will be effective (*i.e.*, from [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER] through December 31, 2020), it would be impractical to allow for public comments or a delay in effective date because by the time the changes became effective the public would have very little time to benefit from these changes.

Because a notice of proposed rulemaking and an opportunity for prior public comment are not required for this rule by 5 U.S.C. 553, or by any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., are not applicable. Accordingly, no regulatory flexibility analysis is required and none has been prepared.

List of Subjects in 15 CFR Part 705

Administrative practice and procedure, Business and industry, Classified information, Confidential business information, Imports, Investigations, National security.

For the reasons set forth in the preamble, part 705 of subchapter A of 15 CFR chapter VII is amended as follows:

PART 705 – [AMENDED]

1. The authority citation for part 705 continues to read as follows:

Authority: Section 232 of the Trade Expansion Act of 1962, as amended (19 U.S.C. 1862) and Reorg. Plan No. 3 of 1979 (44 FR 69273, December 3, 1979).

2. Supplement No. 1 to part 705 is amended:

- a. By revising the heading;
- b. By adding one sentence to the end of Note to Paragraph (c)(2); and
- c. By adding paragraph (j).

The additions and revision read as follows:

Supplement No. 1 to Part 705 - Requirements for Submissions Requesting Exclusions from the Remedies Instituted in Presidential Proclamations Adjusting Imports of Steel Articles into the United States

* * * * *

(c) * * *

(2) * * *

Note to paragraph (c)(2): * * * Parties intending to request an exclusion from quantitative limitations applicable to imports of items classified under subheading 9903.80.57 of subchapter III of chapter 99 of the HTSUS for Brazil should consult paragraph (j) of this supplement prior to submitting an exclusion request.

* * * * *

(j) *Certification for requesting relief from quantitative limitation for Brazil.* Brazil is a country subject to quantitative limitations for steel articles. Pursuant to Proclamation 10064 of August 28, 2020, the United States will lower, for the remainder of 2020, one of the quantitative limitations set forth in Proclamation 9759 of May 31, 2018 (Adjusting Imports of Steel Into the United States) applicable to certain steel articles imported from Brazil in order to protect U.S. national security interests. President Trump in Proclamation 10064 noted that he has been informed that a reduction in this quantitative limitation set forth in Proclamation 9759 applicable to steel article imports from Brazil may delay or disrupt specific production activities in the United States for which imports of steel articles covered by this quantitative limitation have already been contracted for delivery in the fourth quarter of 2020. In light of these circumstances, and after considering the impact on the economy and the national security objectives of section 232 of the Trade Expansion Act of 1962, as amended, President Trump in Proclamation 10064 directed the Secretary to provide relief from this modified quantitative limitation in certain limited circumstances that are specified in Proclamation 10064 and repeated in this paragraph (j). This authority is in addition to the relief from the quantitative limitations that the Secretary is already authorized to provide pursuant to clause 1 of Proclamation 9777 of August 29, 2018 (Adjusting Imports of Steel Into the United States), and involves different exclusion criteria and procedures. This paragraph (j) describes what must be done to obtain this

relief, how the U.S. Department of Commerce reviews these requests for relief, the administration and use of granted requests of relief, and when revocation of grants of relief may occur.

(1) *Sworn statement required to grant relief.* The Secretary will grant relief from the modified quantitative limitation applicable to imports of steel articles classified under subheading 9903.80.57 of subchapter III of chapter 99 of the HTSUS from Brazil only upon receipt of a sworn statement signed by the chief executive officer and the chief legal officer of the party requesting relief, attesting to the following criteria:

(i) The steel article for which relief is sought, (insert description here of the steel article by HTS classification and Chapter 99 quota category HTS classification), and the associated contract or other written agreement meet the criteria for relief set forth in clause 2(i) through (iv) of Proclamation 10064, described here under paragraphs (j)(1)(i)(A) through (D) of this supplement:

(A) The party requesting relief entered into a contract or other written agreement for the production and shipment of such steel article before August 28, 2020;

(B) Such agreement specifies the quantity of such steel article that is to be produced and shipped to the United States prior to December 31, 2020;

(C) Such steel article is to be used in production activities in the United States and such steel article cannot be procured from another supplier to meet the delivery schedule and specifications contained in such agreement; and

(D) Lack of relief from the quantitative limitation on such steel article would significantly disrupt the production activity in the United States for which the steel article specified in such agreement is intended;

(ii) The party requesting relief will accurately report to U.S. Customs and Border Protection (CBP), in the manner that CBP prescribes, the quantity of steel articles entered for consumption, or withdrawn from warehouse for consumption, pursuant to any grant of relief; and

(iii) The quantity of steel articles entered pursuant to a grant of relief will not exceed the quantity for which the Secretary has granted relief.

(2) Where to submit requests for grants of relief? All exclusion requests for grants of relief pursuant to this paragraph (j) must be in electronic form and submitted to BIS by email: steel232-exp@bis.doc.gov. In order to submit a request for a grant of relief, you must submit your request for a grant of relief as an attachment to the email sent to steel232-exp@bis.doc.gov. The only documentation required for a request for a grant of relief is the sworn statement required under paragraph (j)(1) of this supplement. There are no objection, rebuttal, or surrebuttal submissions or review periods, and no provisions of the exclusion request process specified in this supplement apply except those provided in this paragraph (j).

(3) Disposition of requests for grants of relief. The U.S. Department of Commerce will grant requests for relief that meet the criteria specified in paragraphs (j)(1) and (2) of this supplement until such time as the maximum quantity under this relief program is met, and will post granted requests publicly on the BIS website as described below. In Proclamation 10064 under clause 2, President Trump specified that the volume of imports for which the Secretary grants relief under

this clause shall not exceed 60,000,000 kilograms in the aggregate and this paragraph (j)(3) imposes this same limitation. The Department will use a “first submitted, first approved” process until such time as the maximum aggregate limit has been approved and will not accept submissions after this limit is reached. The Secretary will notify CBP of any grant of relief made pursuant to this proclamation.

Note to paragraph (j)(3): Denials will occur if the sworn statement does not meet all of the requirements specified in paragraphs (j)(1) and (2) of this supplement, or will be denied to the extent the amount of imports for which the Secretary has granted relief under this paragraph (j)(3) would exceed 60,000,000 kilograms in the aggregate. Once the aggregate amount of approved grants for relief reaches 60,000,000 kilograms, the U.S. Department of Commerce will post a statement on the BIS website under www.bis.doc.gov/232-steel-Brazil to alert other requesters that the aggregate limit has been reached, and no more requests will be approved.

(4) *Administration and use of granted requests of relief.* Any relief granted under paragraph (j)(3) of this supplement will only be valid if the subject steel article is entered for consumption, or withdrawn from warehouse for consumption, on or before December 31, 2020. Where a party has received relief under the provisions of this paragraph (j), they are not eligible for further relief under clause 1 of Proclamation 9777 prior to January 1, 2021, for the same steel article pursuant to an exclusion request submitted under paragraph (c) of this supplement.

(5) *Revocation of grants of relief.* The Secretary of Commerce will revoke any grant of relief under paragraph (j)(3) of this supplement if the Secretary determines at any time after such grant

that the criteria for relief to which the party must attest under paragraphs (j)(1)(i) through (iii) of this supplement have not been met and may, if the Secretary deems it appropriate, notify the Attorney General of the facts that led to such revocation.

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