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UK Hones Retaliation Against US Metal Tariffs Post-Brexit

By **Jennifer Doherty**

Law360 (May 24, 2021, 4:13 PM EDT) -- The U.K. is reviewing the retaliatory tariffs that the country imposed on certain U.S. goods while it was still part of the European Union, the British Department for International Trade announced Monday, saying it hoped to deescalate the dispute.

The government opened a public consultation inviting U.K. businesses to weigh in on a list of U.S. goods that the country is considering for revised levies, which were put in place in response to national security tariffs that the Trump administration imposed on steel and aluminum imports in 2018.

"The U.K. will do whatever is necessary to protect our steel industry against illegal tariffs that could undermine British industry and damage our businesses," U.K. Trade Secretary Liz Truss said in a statement announcing the review.

In 2018, the EU set 25% levies on U.S. goods including motorcycles, tobacco and whiskey to counter the Trump administration's 25% and 10% margins on steel and aluminum, respectively. When the U.K. left the union in January 2020, it rolled over the reprisal measures.

Now that the U.K. has the power to decide its trade policy unilaterally, the government is looking to update the tariffs to better suit its economy, Truss said.

Hundreds of U.S. goods, including candies, shoes, screws, wallpaper, lobster and petticoats are under consideration for "rebalancing measures," according to a list published by the Department for International Trade. The consultation will be open to public comment for six weeks.

"Ultimately, however, we want to deescalate these disputes so we can move forward and work closely with the U.S. on issues like [World Trade Organization] reform and tackling unfair trade practices by non-market economies," she said.

The consultation comes less than a week after the EU canceled plans to increase its retaliatory tariffs from 25% to 50% next month, citing ongoing negotiations between Brussels and Washington, D.C.

In a joint statement last week, the U.S. and EU affirmed their partnership and named China and other countries that "support trade-distorting policies" as trade adversaries. The unified front was the latest in a rapprochement between the world's two largest trading blocs by GDP, following the pair's decision to suspend tariffs in their long-running squabble over aircraft subsidies in March.

Adam Hodge, spokesperson for the U.S. Trade Representative, echoed the position in response to the UK's consultation announcement.

"We are seeking to work constructively with our trading partners to find effective solutions that address global steel and aluminum overcapacity by China and other countries while ensuring the long-term viability of our steel and aluminum industries," Hodge said in a statement to Law360.

On May 19, U.S. Trade Representative Katherine Tai tweeted about a "productive" meeting with Truss ahead of next month's G7 summit. In a post the same day, Truss said it was "great" speaking with Tai.

But the U.K.'s announcement does not necessarily signal a similar warming toward its ally across the pond, according to Crowell & Moring attorney Michael Bowen.

"[It's] moreso about the U.K. wanting to appear strong standing on its own post-Brexit," Bowen said in a statement to Law360. "This is more about leverage. Basically, this 'review' is code for 'more' unless the U.S. is willing to soften its stance."

Hogan Lovells partner Kelly Ann Shaw, who joined the firm following a career in government that saw her lead the U.S.-UK Economic Working Group, was more positive, specifically in light of the progress the U.S. and the EU have made.

"While the politics surrounding a potential lifting of the steel and aluminum tariffs are more challenging than our trading partners may have initially realized, the UK may be able to do better than the EU's détente, depending on whether the UK is willing to do more than just explore ways to address global overcapacity of both products," Shaw told Law360.

At a U.S. Senate hearing on May 12, Tai called for an update to Section 232, attributing the trade tensions caused by the national security tariffs to "the discordance between the authority provided and the nature of the problem we are dealing with now."

The same week, John G. Murphy, the U.S. Chamber of Commerce's senior vice president for international policy, posited that key pieces of a deal to end the global Section 232 tariffs while preventing China from encroaching on the U.S. steel market already exist.

In a post on the organization's website, Murphy called on the Biden administration to relaunch the Global Forum on Excess Steel Capacity. Updates to the U.S. Department of Commerce's Steel Import Monitoring and Analysis, or SIMA, system, as well as bilateral agreements with Canada and Mexico, also showed that the U.S. knows how to protect itself against transshipment of Chinese steel through third countries and import surges, he said.

Commerce did not respond to a request for comment.

--Additional reporting by Alex Lawson. Editing by Steven Edelstone.