



US President Donald Trump has made clear: when it comes to leverage, tariffs are king.

Since taking office in January 2017, President Trump has made use of several provisions of US law – including Section 301, targeting unfair trade practices, and Section 232, targeting threats to national security – to bring trading partners to the negotiating table. Major developments over the last two weeks could impact global supply chains across a wide range of industries, including the automotive and manufacturing sectors. Here is what you need to know.

Section 301 Tariffs: Escalating Tensions with China

Last year, using the authority granted to the US President under Section 301 of the Trade Act of 1974, the Trump Administration announced three lists of tariffs on Chinese imports. List 1 and List 2 imposed 25% tariffs on US\$34 billion and US\$16 billion worth of products from China, respectively. List 3 imposed 10% tariffs on US\$200 billion worth of products from China. In return, China responded with its own tit-for-tat tariffs on US products. The List 3 tariffs were scheduled to increase to 25% at the end of 2018, but President Trump and Chinese President Xi Jinping struck a deal in early December 2018 to pause the planned increase and begin work on a broader trade deal.

Just a few weeks ago, observers were optimistic that a deal between the two countries was imminent. However, since then, the two sides have taken a series of escalating trade actions against each other that could impact your business.

The Latest

In early May 2019, President Trump unexpectedly [announced](#) that he would increase the List 3 tariffs from 10% to 25%, effective May 10, 2019 (note: boats on the water before May 10, 2019 that arrive in the US before June 1, 2019 will still face the lower 10% duty). The Trump Administration also released a draft List 4, which could lead to tariffs of up to 25% on US\$300 billion worth of products from China, potentially affecting nearly 4,000 tariff lines that constitute nearly all remaining trade between the two countries. China followed suit by announcing retaliatory tariffs on US\$60 billion (or 5,140 tariff lines) worth of US imports.

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What Is Next – What You Can Do

Given the sheer volume of the recent tariff actions, virtually any company that imports from or exports to China will be impacted. Fortunately, there are a number of ways you can weigh in to potentially mitigate the costs to your business:

- **List 3 Tariffs Increase Exclusion Process.** The Trump Administration plans to announce a product exclusion process for List 3, which will allow companies to request relief from the increased tariffs. Details remain sparse, but we expect the process to be similar to those used for Lists 1 and 2.
- **List 4 Tariffs Public Comments.** The Trump Administration is [accepting public comments](#) to the proposed List 4, especially how tariffs on these products may impact US businesses and consumers. You can weigh in:
 - **By June 10, 2019** – You can request to appear at a hearing on List 4 that is scheduled for June 17, 2019.
 - **By June 17, 2019** – Regardless of whether you want to participate in the hearing, you can submit comments on how this action could impact your business.
- **Chinese Tariffs Exclusion Process.** China's Ministry of Finance [plans to set up exclusion processes](#) for its retaliatory tariffs. The Chinese Government will accept exclusion requests in two rounds, depending on the tariff line in question. The first round will run from June 3 to July 9, 2019 and the second round will run from September 2 to October 18, 2019.



Section 232 Auto Tariffs: Postponed... For Now

On May 23, 2018, the US Department of Commerce initiated an investigation into the threat of automotive imports to US national security under Section 232 of the Trade Expansion Act of 1962, as amended. This trade action faced significant opposition from all fronts, on Capitol Hill, across domestic and international auto manufacturers, and among the countless small- and medium-sized US businesses that rely on international inputs for their business operations. The Commerce Department transmitted its report to the President in February 2019, but its contents – including the agency's recommendations – were kept secret.

The Latest

On May 17, 2019, President Trump signed a Proclamation "[Adjusting Imports of Automobiles and Automobile Parts Into the United States.](#)" It confirms that the President concurs with a finding by the Secretary of Commerce that auto/auto parts "are 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." However, the President decided not to implement any import restrictions in the immediate future.

What Is Next

Tariffs are not off the table. In the proclamation, President Trump directed US Trade Representative Robert Lighthizer to lead negotiations with the EU, Japan and "any other country the Trade Representative deems appropriate" to address the threatened impairment of national security with respect to imported autos/auto parts. Ambassador Lighthizer has been directed to update the President on the status of these negotiations within 180 days (by November 13, 2019).

The Trump Administration is beginning talks with the EU and with Japan for new bilateral agreements suggesting this 180-day deadline will put significant pressure on those negotiations. Businesses in auto supply chains must closely monitor these talks and engage with US negotiators on how any limits to trade in autos and auto parts could impact their operations.



Section 232 Steel and Aluminum Tariffs: Canada and Mexico Exempted

On March 8, 2018, President Trump signed proclamations establishing Section 232 tariffs on certain steel and aluminum imports. President Trump enacted a 25% tariff on covered steel imports and a 10% tariff on covered aluminum imports. The Commerce Department subsequently established an exclusion process, under which steel users can request their imports be excluded from the tariffs and through which domestic steel producers can file objections setting out their capacity to manufacture the requested product. Tens of thousands of exclusions have been filed to date and new petitions are submitted daily.

The Latest

In order to pave the way for ratification of the United States-Mexico-Canada Agreement (USMCA), the Administration lifted the Section 232 steel and aluminum tariffs against Canada and Mexico. Canada and Mexico agreed to lift their respective retaliatory tariffs as well, clearing the air for North American businesses that rely on these products.

In a separate action, President Trump also signed a proclamation lowering the 232 tariffs on Turkish steel products from 50% back to the original 25% level. In August 2018, President Trump increased Section 232 tariffs on Turkish steel products from the original 25% to 50%, due to bilateral tensions.

What Is Next

Just as the Canada/Mexico tariffs are lifted, pressure is only increasing on companies importing covered goods from the rest of the world. Companies will continue to participate in the 232 tariff and quota exclusion process, especially as some of the earliest granted exclusions are reaching or will soon reach their one-year expiration date.

Contacts

Our multipractice, cross-jurisdictional team covering all facets of international business and commerce, including international trade, automotive and global supply chain, have the legal expertise and experience to support you as you analyze how potential impacts to your supply chains could ultimately affect your bottom line. Coupled with our policy acumen and political understanding, we have filed a significant number of Section 232 and 301 exclusion requests, effectively helping clients seek relief from the burdensome tariffs. We have achieved exceptional success as compared to industry average in securing product removals/exclusions from tariff lists. We are on the pulse of international trade negotiations and critical developments, and can help you navigate how proposals may impact your business operations.



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