Industrials Insight

Summary of Recent US Trade Actions and the Potential Impact on the Automotive Industry

Section 232 Investigation Into Automobile and Automotive Parts Imports

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. These imports include cars, SUVs, vans and light trucks, and auto parts. At the end of July, public hearings were conducted related to the investigation, and currently, the Trump Administration is considering a 25% tariff on vehicles and auto parts from all foreign countries of origin. Domestic automakers and consumers worry that, if imposed, the tariffs would significantly cut auto production in the US, raise car prices, and cost hundreds of thousands of US jobs. Furthermore, if recent trends continue, foreign countries will almost certainly take retaliatory measures, resulting in more burden on the US auto industry.

On August 20, Secretary of Commerce Wilbur Ross said that the ongoing Section 232 investigation into automobiles and auto parts imports could take longer than expected due to ongoing trade talks with the EU, Canada and Mexico. He had previously indicated a report on the investigation would be completed by the end of August. During the US-Mexico bilateral trade negotiations, Mexico sought to find a way to avoid the pending 232 auto tariffs. Notably, Mexico reportedly retained its right to challenge the US on any 232 auto tariffs before the World Trade Organization (WTO).

While this investigation continues, US auto manufacturers need to consider the impacts of the potential 25% tariff. Recently, some domestic companies have been caught off guard by the 232 steel and aluminum tariffs, as well as other trade actions, forcing them to quickly adapt to the new measures. Thus, it is vital to monitor and evaluate this investigation and to begin assessing supply chains and potential impacts.

Current Status of US Tariffs and Trade Actions

a. Section 232 Steel and Aluminum Tariffs

On March 8, President Trump imposed a 25% tariff on steel imports and a 10% tariff on aluminum imports under Section 232 of the *Trade Expansion Act of 1962*, as amended. The tariffs went into effect on March 23 and have affected domestic industries ranging from manufacturing and automotive to agriculture. On March 19, the Department of Commerce began allowing domestic industries to apply for exclusions. As of August 6, the Department of Commerce had received 33,099 exclusion requests, approving 1,428 requests, while denying 702.

Late on August 29, the White House released new steel and aluminum presidential proclamations allowing product exclusions for quota countries (steel – Argentina, Brazil, South Korea; aluminum – Argentina). The Department of Commerce noted, in particular:

- Companies can apply for product exclusions based on insufficient quantity or quality available from US steel or aluminum producers. In such cases, an exclusion from the quota may be granted and no tariff would be owed.
- In a limited number of cases, steel articles are being used in facility construction projects in the US that were contracted for purchase prior to the decision to impose quotas, and cannot presently enter into the US because a quota has already been reached. In such cases, an exclusion from the quota may be granted, but the product may only be imported upon payment of the 25% tariff.

In August, the US also doubled steel tariffs (50% respectively) on Turkey. While President Trump said aluminum tariffs would also be doubled, a presidential proclamation of this nature has not been issued. Turkey announced it would retaliate to the increased steel duties by banning US electronic consumer goods, such as iPhones. The ongoing dispute between the US and Turkey sent the Turkish lira into freefall.

In response to the tariffs, quotas and other regulatory actions, a number of US trade partners, including Canada, Mexico, China, Russia, Turkey and the EU, have implemented retaliatory tariffs on US goods, increasing the burden on US manufacturers, ranchers and farmers. As US trade actions and retaliatory measures continue, domestic companies are forced to navigate this unpredictable landscape.

b. Section 301 Tariffs Against China

The Section 301 tariffs against China – regarding its intellectual property policies and practices – have been organized into three tranches of tariffs or potential tariffs on Chinese imports. In April, the US Trade Representative (USTR) announced "List 1," imposing a 25% duty rate and totaling US$34 billion in trade value. List 1 tariffs went into effect on July 6. List 2 went into effect on August 23 and totaled US$16 billion in trade value, with an imposition of a 25% duty rate. The final tranche, List 3, would include a 25% duty rate and a total of US$200 billion in trade value. More recently, USTR held six days of public hearings on List 3. Post-hearing public comments are due by September 6.

China has responded with its own tit-for-tat tariffs on US products, with a focus on negatively impacting the US agriculture sector. To view these and other retaliatory tariffs currently in effect, please review the Squire Patton Boggs Tariff Book. As the trade war with China continues, Chinese and US businesses will be forced to adapt and reassess business operations.

The US-China mid-level trade discussions at the end of August resulted in no breakthrough and no further dates for continuing the bilateral talks to avert the growing trade war. In September, the EU is reportedly planning to host trade ministers from the US and Japan in Brussels, Belgium, as part of a broader effort to address China's trade practices in a manner that maintains the effectiveness of the WTO. In response to both the 232 and 301 trade actions, China, Mexico, Canada, the EU and many others have filed complaints to the WTO over US trade actions.

c. NAFTA Negotiations

US and Mexican negotiators resumed bilateral negotiations to modernize the North American Free Trade Agreement (NAFTA) after Mexico's July 1 presidential elections. On August 27, US President Donald Trump and Mexican President Enrique Peña Nieto announced a preliminary bilateral deal that President Trump said would replace NAFTA, despite Canada not currently being a part of the bilateral deal. President Trump stated Canada could either join the agreement reached with Mexico or enter into a separate bilateral agreement with the US.

US Trade Representative Robert Lighthizer has stated the new US-Mexico Trade Agreement will be signed by the end of November, in accordance with the Trade Promotion Authority (TPA) and in alignment with Mexico's desire to have current President Peña Nieto sign it prior to departing office on November 30. Canada is expected to continue negotiating its possible participation in the bilateral agreement in September, despite a setback this past week after some off-the-record comments by President Trump were leaked, whereby President Trump reportedly said he would not compromise with Canadian Prime Minister Justin Trudeau.

In submitting the notification to Congress on August 31, Ambassador Lighthizer said: "Today the President notified the Congress of his intent to sign a trade agreement with Mexico – and Canada, if it is willing – 90 days from now. The agreement is the most advanced and high-standard trade agreement in the world. Over the next few weeks, Congress and cleared advisors from civil society and the private sector will be able to examine the agreement." Ambassador Lighthizer said recent talks with Canada were constructive; he added talks with Canadian Foreign Minister Chrystia Freeland and her colleagues would resume in September. Via Twitter on September 1, President Trump warned Congress not to interfere with the ongoing talks with Canada.

It remains unclear whether the 115th Congress will entertain consideration of the bilateral deal, prior to its adjournment on January 3, 2019. The general consensus is the House and Senate parliamentarians are the ones who will ultimately decide whether TPA applies to the bilateral US-Mexico (currently sans Canada) agreement. Moreover, Congress may not have the political will for adding floor consideration of implementing legislation (given the limited number of legislative days remaining), which could complicate the timing of the introduction of the implementing bill this year.

With respect to automobiles, the US and Mexico have agreed to raise the regional automotive content threshold for tariff-free access to 75% from 62.5%. Some have indicated the new set of auto rules of origin (ROOs) are complex and will consequently result in additional costs on the industry, as they work to meet the new thresholds. Automotive manufacturers will need to understand the various requirements associated with the new auto ROOs agreed to in the new bilateral agreement and associated timeframes by which new rules will take effect, if the agreement is ratified.

Summary of Actions US Auto Manufacturers Should Take Now

- Consider the impact of the potential 25% tariff on vehicle and auto parts and monitor the Section 232 investigation to assess the potential impact on supply chains
- Seek advice in navigating the unpredictable tariffs landscape with other trading partners
- Review retaliatory tariffs currently in effect, as set out in our Tariff Book
- Understand the various requirements associated with the new auto Rules of Origin and timeframes by which they may take effect

Webinar: Summary of Section 232: Impact on the Automotive Industry

Did you find this useful and want to know more? Sign up to our webinar, "What Is the Potential Impact of Recent US Tariffs and Trade Actions on the Automotive Industry?"

In this live webinar, our experts will cover subjects including:

- Impact of the Section 232 investigation into imports of automotive and automotive parts
- Current status of US tariffs and trade actions
- Retaliation from foreign suppliers: reviewing the impact of the 25% auto tariff if it is passed
- How the two proclamations on steel and aluminum will force businesses to assess their supply chains
- Section 301 tariffs against China
- Navigating NAFTA: examining the outcome of US and Mexican bilateral trade negotiations

Date – Friday 28 September 2018

Time – 3 – 4 p.m. BST, 10 – 11 a.m. EST

- To sign up for this webinar you can register online now.