

Is China Discriminating against U.S. Firms Related to Technology Transfer, IP, Trade Secrets, and Innovation?

By Daniel Cannistra & Cherie Walterman on March 14, 2018

POSTED IN [SECTION 301 INVESTIGATION](#)

U.S. Trade Representative (USTR) Ambassador Robert Lighthizer **initiated an investigation** on August 18, 2017 pursuant to Section 301 of the Trade Act of 1974. The probe will determine whether acts, policies, and practices of the People's Republic of China (PRC) related to technology transfer, intellectual property, trade secrets, and innovation are discriminatory towards U.S. firms by undermining the United States' ability to compete fairly in the global market. Section 301 allows the President to retaliate by removing any act, policy, or practice of a foreign government that violates an international agreement.

The investigation began after PRC President Xi Jinping unveiled a cybersecurity law to “protect personal information and individual privacy,” as reflected in China's *Made in China 2025* initiative. The law requires foreign companies operating in China to store their data on local servers. U.S. companies are now also being instructed to participate in joint ventures with Chinese enterprises, therefore sharing valuable technology information with their Chinese counterparts.

USTR allegedly finalized its report in December 2017, and the remedies are undergoing vetting in the interagency process. However, the U.S. may partner with the European Union and Japan to seek consultations through the WTO, rather than solve the issue unilaterally.

Pursuant to the Trade Act, Ambassador Lighthizer must determine within 12 months from the date of the initiation whether the Chinese government violated U.S. intellectual property laws. The retaliatory action proposed by USTR, if any, must be implemented within 30 days of the determination. USTR may delay the implementation up to 180 days if the agency determines that substantial progress could be made by the foreign government. If the determination is affirmative, then USTR will decide what action to take.

If Ambassador Lighthizer recommends retaliation under Section 301, the President could impose sanctions on certain Chinese industries, specifically steel. The current administration has demonstrated a tough stance on overcapacity by imposing a 25 percent global tariff on imported steel products, and a 10 percent global tariff on imported aluminum products.

As expected, the Chinese government is already demonstrating “tit for tat” retaliation by self-initiating anti-dumping (AD) and countervailing (CVD) investigations on imports of sorghum from the United States. In addition, China is already among one of the countries that has requested consultations from the WTO regarding the safeguard measures on solar cells and residential washing machines.

The USTR is expected to release its findings to the President within the coming months.

USTR: China Discriminates Against U.S. Firms Related to Tech Transfer, IP, and Trade Secrets

By Daniel Cannistra, Robert Holleyman, Bob LaFrankie, Melissa Morris, Amanda Simpson & Cherie Walterman on March 23, 2018

POSTED IN [SECTION 301 INVESTIGATION](#), [WORLD TRADE ORGANIZATION \(WTO\)](#)

On August 18, 2017, the Office of the United States Trade Representative (USTR) launched a formal investigation pursuant to Section 301 of the Tariff Act of 1974 on the People's Republic of China (PRC). The probe sought to determine whether the acts, policies, and practices of the PRC related to technology transfer, intellectual property, trade secrets, and innovation were discriminatory towards U.S. firms and undermined the United States' ability to compete fairly in the global market. Section 301 allows the President to seek removal of any act, policy, or practice of a foreign government that violates an international agreement or that unfairly burdens or restricts U.S. commerce.

On March 22, [President Trump issued a Memorandum](#) stating the USTR found PRC actions do undermine U.S. firms' ability to compete fairly in the global market by (1) requiring or pressuring U.S. companies to transfer technology to Chinese companies; (2) imposing restrictions on, and intervening in, U.S. firms' investments and activities, including through restrictions on technology licensing terms; (3) obtaining cutting-edge technology by directing and facilitating the investment and acquisition of U.S. companies by Chinese companies; and (4) conducting and supporting intrusions and theft from the computer networks of U.S. companies.

In response, the President has directed the USTR to address these violations via a combination of retaliatory tariffs, World Trade Organization (WTO) dispute settlement, and the Department of the Treasury to address via investment restrictions.

For complete details, [please see Crowell's Client Alert](#).

Section 301 Update: USTR Releases Proposed Tariffs on Chinese Products; China Publishes Retaliatory List

By Daniel Cannistra & Cherie Walterman on April 4, 2018

POSTED IN [CHINA RETALIATORY TARIFFS](#), [SECTION 232 INVESTIGATIONS](#), [SECTION 232 TARIFFS](#), [SECTION 301 INVESTIGATION](#)

On April 3, 2018, the Office of the U.S. Trade Representative (USTR) released [the proposed list of Chinese products](#) that could be subject to an additional 25 percent tariff as part of the Section 301 probe into Chinese IP practices.

USTR recommended that a 25 percent tariff be applied to \$50 billion worth of Chinese goods, covering nearly 1,300 HTS codes. Products within the scope of the proposed duty include engines, agricultural and textile machinery, semiconductors, batteries, tires, medical products, and instruments used in aeronautical and space navigation.

In addition, China unveiled another retaliation list of U.S. goods worth \$50 billion that could be subject to an additional 25 percent tariff. China's list of 106 products includes soybeans, airplanes, automobiles, beef, and chemicals.

The Section 301 Committee will convene a public hearing on May 15, 2018 to discuss the proposed action in response to China's IP acts, policies, and practices. Requests to appear at the hearing must be submitted by April 23, 2018. The request must also include a summary of testimony, along with the pre-hearing submission. Interested parties may submit written comments by May 11, 2018, and post-rebuttal comments by May 22, 2018.

USTR requests that public comments include the following:

- The specific products to be subject to increased duties, including whether products listed in the Annex should be retained or removed, or whether products not currently on the list should be added.
- The level of increase in the rate of duty, if any.
- The appropriate aggregate level of trade to be covered by additional duties. USTR also requests that commenters specify whether maintaining or

imposing additional tariffs on the product would cause economic harm to U.S. interests.

- If a party is commenting on the inclusion or removal of a product already listed as a proposed item to be subject to additional tariffs, USTR requests that commenters address whether imposing increased tariffs on the product would be practicable or effective in eliminating China's IP acts, policies, and practices.

USTR Posts Federal Register Notice on Section 301

By John Brew & Edward Goetz on April 6, 2018

POSTED IN SECTION 301 INVESTIGATION

Although details were released earlier this week, on April 6 the Office of the U.S. Trade Representative (USTR) published the official Federal Register Notice concerning China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation (otherwise known as the Section 301 investigation).

On March 22, President Trump issued a Memorandum stating USTR determined that the acts, policies, and practices of the Government of China related to technology transfer, intellectual property, and innovation covered in the investigation are unreasonable or discriminatory and burden or restrict U.S. commerce.

USTR is proposing an additional duty of 25 percent on a list of products from China. The list of products, defined by 8-digit subheadings of the Harmonized Tariff Schedule of the United States (HTSUS), is set out in the Annex to the Federal Register Notice.

USTR is now seeking public comment and will hold a public hearing regarding a proposed determination on appropriate action in response to these acts, policies, and practices.

To be assured of consideration, you must submit comments and responses in accordance with the following schedule:

- *April 23, 2018*: Due date for filing requests to appear and a summary of expected testimony at the public hearing and for filing pre-hearing submissions.
- *May 11, 2018*: Due date for submission of written comments.
- *May 15, 2018*: The Section 301 Committee will convene a public hearing in the main hearing room of the U.S. International Trade Commission, 500 E Street SW Washington DC 20436 beginning at 10:00 a.m.
- *May 22, 2018*: Due date for submission of post-hearing rebuttal comments.

USTR strongly prefers electronic submissions made through the Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for

submitting comments in sections F and G of this Notice. The docket number is USTR-2018-0005. For alternatives to on-line submissions, please contact Sandy McKinzy at (202) 395-9483.

For questions about the ongoing investigation or proposed action, contact Arthur Tsao, Assistant General Counsel, at (202) 395-5725. For questions on customs classification of products identified in the Annex to this Notice, contact Evan Conceicao at [*Evan.M.Conceicao@cbp.dhs.gov*](mailto:Evan.M.Conceicao@cbp.dhs.gov).

First Section 301 Tariffs Effective on July 6; Second List of Tariff Lines Introduced for Review

By John Brew, Spencer Toubia, Cherie Walterman & Edward Goetz on June 15, 2018
POSTED IN [CUSTOMS](#), [SECTION 301 INVESTIGATION](#), [SECTION 301 TARIFFS](#)

On June 15, the Office of the United States Trade Representative (USTR) issued a press release announcing its intent to impose additional tariffs on products imported from China. The additional tariffs are part of the U.S.' response to China's unfair trade practices related to "the forced transfer of American technology and intellectual property" pursuant to Section 301 of the Trade Act of 1974.

Two lists of tariff lines were released. The first list includes 818 of the original 1,333 lines and is valued at \$34 billion worth of imports from China. Products falling under these tariff lines will see an additional duty of 25 percent beginning on July 6.

The second list consists of 284 new tariff lines identified by the interagency Section 301 Committee as "benefiting from Chinese industrial policies, including the "Made in China 2025" industrial policy."

These 284 lines cover approximately \$16 billion worth of imports from China. This list will undergo further review in a public notice and comment process, including a public hearing. After completion of this process, USTR will issue a final determination on the products from this list that would be subject to the additional duties.

Section 301	For covered products, please click here for the Federal Register Notice. See Annex B.	25%	7/6/2018
	For covered products, please click here for the Federal Register Notice. See Annex C.	TBD	TBD

List 1 is composed of 818 of the original 1,333 tariff lines, and goes into effect on 7/6/2018.

Status:

List 2 is composed of 284 proposed tariff lines identified by the interagency Section 301 Committee. These will see further review, to include a public hearing.

[For full details, please click here.](#)

China Responds in Kind to U.S. Section 301 Tariffs – 545 Categories of Goods Get Increased Tariffs Starting July 6

By Yun Gao, Jing Jing Zhang, Cherie Walterman & Edward Goetz on June 18, 2018
POSTED IN [CHINA RETALIATORY TARIFFS](#), [SECTION 301 INVESTIGATION](#), [SECTION 301 TARIFFS](#)

On June 15, China’s State Council announced it would retaliate against new U.S. tariffs stemming from its Section 301 investigation of China’s unfair trade practices related to the “forced transfer of American technology and intellectual property”.

The list of retaliatory tariffs expanded some 106 types of products China originally disclosed in April in response to the U.S. Section 232 tariffs on steel and aluminum products. China announced that the added tariffs would target \$50 billion of U.S. goods to be implemented in two phases. The first list hits \$34 billion of U.S. products across 545 categories with 25% tariffs beginning on July 6. This is the same day the United States will increase duties on the import of 818 tariff lines from China, also valued at \$34 billion.

Agricultural products, sport utility vehicles, and electric vehicles are among the goods targeted by China.

China also released a second list with an additional \$16 billion of U.S. goods to target with higher tariffs. The tariff rate and start date on the second list will be finalized later. The U.S. is also planning a second set of tariffs on \$16 billion worth of Chinese goods after July 6, and the list will undergo further review in a public notice and comment process, including a public hearing. After completion of this process, USTR will issue a final determination on the products from this list that would be subject to the additional duties.

China (Response to Section 301 Tariffs)	For covered products in List 1, please click here.	25%	7/6/2018
	(Unofficial Version)		

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For covered products in
List 2, please [click here](#).

TBD

TBD

(Unofficial Version)

List 1 is composed of 545 tariff lines, and goes into effect on 7/6/2018.

Status:

List 2 contains 114 tariff lines on U.S. goods worth \$16 billion. Start date is unknown.

U.S. and Other Countries to Raise Additional Tariffs this Week

By John Brew, Spencer Toubia & Edward Goetz on July 2, 2018

POSTED IN CHINA RETALIATORY TARIFFS, MEXICO RETALIATORY TARIFFS, SECTION 232 INVESTIGATIONS, SECTION 232 TARIFFS, SECTION 301 INVESTIGATION, SECTION 301 TARIFFS

This week will see the **implementation of previously announced tariff increases** from the U.S., China, and Mexico.

Thursday, July 5 – Section 232 (Mexico)

Mexico will **implement the second round of its retaliation** for the U.S.' increased tariffs on imports of certain steel and aluminum products with additional tariffs of 10-15% on pork and cheese products.

Friday, July 6 – Section 301 (U.S. and China)

The U.S. will **impose another 25% in duties on 818 tariff lines** (see Annex B) worth \$34 billion from China on July 6. The additional tariffs are part of the U.S.' response to China's alleged unfair trade practices related to "the forced transfer of American technology and intellectual property" pursuant to Section 301 of the Trade Act of 1974.

That same day, China has announced it will respond in kind by **increasing duties on 545 tariff lines** by the same amount. This action is also valued at \$34 billion. Agricultural products, sport utility vehicles, and electric vehicles are among the goods targeted by China.

For all of the latest tariff news, please [click here](#).

Highlights from July 5th CBP Teleconference on Section 301 Requirements and Questions

By John Brew, Aaron Marx, Yun Gao, Spencer Toubia & Edward Goetz on July 6, 2018
POSTED IN SECTION 232 INVESTIGATIONS, SECTION 232 TARIFFS, SECTION 301 INVESTIGATION, SECTION 301 TARIFFS

On July 5, 2018, U.S. Customs and Border Protection (CBP) hosted a teleconference to review Section 301 filings requirements, allow members of the trade community to seek clarifications and raise questions, and outline resources CBP has in place.

The **first set of Section 301 tariff increases is effective on July 6, 2018.**

This is the second round of tariff increases following the recent **Section 232 tariffs on steel and aluminum**. CBP is highly interested in hearing from the trade community to ensure effective implementation of the new 301 tariffs. If a business or importer has specific questions or concerns, CBP encourages them to contact the agency at traderemedy@cbp.dhs.gov.

CBP recommends monitoring the Federal Register and USTR website for the forthcoming exclusion process. This will be provided in a separate Federal Register Notice (FRN).

There is also a **second list of 284 tariff lines** covering approximately \$16 billion of imports from China under consideration for implementation. These were identified by the interagency Section 301 group and are currently undergoing a public notice and comment process, including a public hearing.

On the call, CBP clarified that the 25% tariff is limited to goods with a country of origin (CoO) and NOT a country of export, of the People's Republic of China (excluding Hong Kong and Macao).

Other highlights are included below:

- Free Trade Zones (FTZ): Goods entering as privileged foreign (PF) before 12:01 AM on July 6 will not be subject to, or assessed, the new duties. The FRN specifies applicability to products admitted to FTZs on or after the

effective date. The notice does not discuss PF status prior to the effective date. It was confirmed that the ACE system has been updated to reflect this.

- Harmonized Tariff Schedule of the U.S. (HTSUS) Subheading 9903.88.10 should be active in system.
- There are no quotas related to Section 301. The ACE quota module is not being used and is not tied to Section 301 products. Members of the trade community should not receive any quota messages unless the product is subject to an applicable quota, however, CBP does not believe that the over 800 HS codes subject to the 25% tariff are also subject to an applicable quota.
- If Chapter 98 provisions are applied correctly from a compliance perspective, then the rates of duty imposed under Section 301 will not apply. Importers must follow the instructions and properly file claims for HTSUS Chapter 98 entries.
- Importers must report if a product meets the requirements of Section 301 by using the correct HTSUS Subheading (i.e., 9903.88.10).
- De Minimis: It was noted that if a product meets Section 301 requirements and is under the \$800 threshold, the shipment should follow existing procedures.
- CBP has indicated that they will, under a case-by-case review approach, grant leeway to members of the trade community experiencing some of the more complicated questions and/or complex technical matters raised on the call. CBP has asked parties to document questions, so that they can be responded to. For example, there are open FTZ questions, questions related to sets and kits where an import specialist may be able to assist and/or a ruling needs to be requested.

The CBP web page for Section 301 trade remedies against China **may be found here**.

CBP announced it is developing a Section 301 Frequently Asked Questions (FAQs) web page.

USTR Posts Section 301 Exclusion Procedures on Products from China Subject to 25% Duties

By John Brew, Spencer Toubia, Cherie Walterman & Edward Goetz on July 8, 2018
POSTED IN SECTION 301 EXCLUSION PROCESS, SECTION 301 INVESTIGATION, SECTION 301 TARIFFS

In a notice published on June 20, 2018, the U.S. Trade Representative (USTR) announced the imposition of an additional *ad valorem* duty of 25 percent on products from China classified in the 818 subheadings of the Harmonized Tariff Schedule of the United States (HTSUS) set out in Annex A of the notice in response to China's alleged acts, policies, and practices related to technology transfer, intellectual property, and innovation included. Note that Annex B to the notice contains the same list of tariff subheadings, with unofficial descriptions of the types of products covered in each subheading.

The additional duties on these products took effect on July 6, 2018.

The June 20 notice also announced that the USTR would establish a process by which U.S. stakeholders may request that particular products classified within a covered tariff subheading be excluded from the additional duties.

On July 6, 2018, USTR issued a press release with a link to the soon-to-be published Federal Register Notice which explains the procedures and criteria related to requests for product exclusions. A docket for the receipt of exclusion requests will be established on *regulations.gov*.

The notice will be published in the Federal Register sometime during the week of July 9, 2018.

A key piece of information for importers is that “[a]ny exclusion will be effective starting from the July 6, 2018 effective date of the additional duties, and extending for one year after the publication of the exclusion determination in the Federal Register. In other words, an exclusion, if granted, will apply retroactively to the July 6 date of the imposition of the additional duties. USTR will periodically announce decisions on pending requests.”

Key Dates

- Interested parties will have 90 days to file a request for a product exclusion; and
- The request period will end on October 9, 2018.

Rationale for Requested Product Exclusion

Each request should explain the following factors:

- Whether the particular product is available only from China. In addressing this factor, requesters should address specifically whether the particular product and/or a comparable product is available from sources in the United States and/or in third countries;
- Whether the imposition of additional duties on the particular product would cause severe economic harm to the requester or other U.S. interests; and
- Whether the particular product is strategically important or related to “Made in China 2025” or other Chinese industrial programs.

Process Timeline

- Following public posting of a request on Regulations.gov, the public will have 14 days to comment on a certain product exclusion request; and
- After the close of the 14 day response period, interested persons will have an additional 7 days to reply to any responses received in support of or opposition to the request.

Highlights

The notice includes information on:

- How to identify products in the exclusion request;
- Submission Instructions – to include the submission of business confidential information; and
- Document Format Instructions.

Check back here for the latest developments on all the on-going trade actions.

China Section 301 Exclusion Request Procedures Published in Federal Register

By Frances Hadfield, Spencer Toubia & Edward Goetz on July 10, 2018

POSTED IN SECTION 301 EXCLUSION PROCESS, SECTION 301 INVESTIGATION, SECTION 301 TARIFFS

On July 11, 2018, the United States Trade Representative (USTR) **published a notice in the Federal Register** explaining the procedures and criteria related to requests for product exclusions from the additional tariffs placed on goods from China on July 6.

USTR must receive requests to exclude a particular product by October 9, 2018. Per the notice, a docket will be opened on [regulations.gov](https://www.regulations.gov) for the receipt of exclusion requests in docket number USTR–2018–0025.

Responses to a request for exclusion of a particular product are due 14 days after the request is posted.

Any replies to responses to an exclusion request are due 7 days after the close of the 14 day response period.

On July 6, 2018, **USTR issued an initial press release** with a link to an advance copy of this **Federal Register Notice**.

For more details regarding this important announcement, **please click here for Crowell's July 8 post** discussing the specifics of the notice.

USTR Initiates Process to Levy Additional Duties on \$200 Billion Worth of Chinese Goods

By John Brew, Alexander H. Schaefer, Frances Hadfield, Spencer Toubia & Edward Goetz on July 11, 2018

POSTED IN CHINA RETALIATORY TARIFFS, CUSTOMS, SECTION 301 INVESTIGATION, SECTION 301 TARIFFS, U.S. TRADE POLICY, U.S.-CHINA TRADE RELATIONS

On July 10, 2018, U.S. Trade Representative (USTR) Robert Lighthizer **announced** that at President Trump's request, USTR has initiated the process of imposing an additional 10 percent *ad valorem* duty on approximately \$200 billion worth of imports from China including apparel, textiles, chemicals, and agricultural & aquacultural goods.

The USTR statement includes a [link to an advance copy of the Federal Register Notice](#) with the list of proposed tariffs and the process for the public notice and comment period. The notice will be published in the Federal Register later this week.

This is the third round of additional tariffs proposed by the Trump administration as a result of its Section 301 investigation into China's alleged unfair trade practices related to "the forced transfer of American technology and intellectual property."

The notice indicated the USTR will maintain the first round of tariffs on \$34 billion worth of goods implemented on July 6, and will continue with a second round of proposed tariffs on \$16 billion worth of goods. This second list is currently under review in a public notice and comment process, with a public hearing scheduled for July 24, 2018.

The Harmonized Tariff Schedule of the United States (HTSUS) subheadings of the products subject to the proposed tariffs is listed in the Annex (pages 11-205) to the notice.

The notice also included a list of key dates for a public notice, comment, and hearing process:

- July 27, 2018: Due date for filing requests to appear and a summary of expected testimony at the public hearing, and for filing pre-hearing submissions.
- August 17, 2018: Due date for submission of written comments.
- August 20-23, 2018: The Section 301 Committee will convene a public hearing in the main hearing room of the U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436 beginning at 9:30 am.
- August 30, 2018: Due date for submission of post-hearing rebuttal comments.

	For covered products in List 1, please click here .	25%	7/6/2018
Section 301	For covered products in List 2, please click here .	TBD	TBD
	For covered products in List 3, please click here and see Annex	10%	TBD

List 1 totaling \$34 billion worth of imports is composed of 818 tariff lines, and went into effect on 7/6/2018.

Status:

List 2 totaling \$16 billion worth of imports is composed of 284 proposed tariff lines identified by the interagency Section 301 Committee. These are in a public review process.

List 3 includes a list of tariff lines of products from China with an annual trade value totaling approximately \$200 billion. These are also subject to a public review process.

USTR Publishes ‘China 301 Product Exclusion Form’; Docket Open for Submissions

By John Brew, Robert Holleyman, Spencer Toubia, Yun Gao, Cherie Walterman & Edward Goetz on July 11, 2018

POSTED IN SECTION 301 EXCLUSION PROCESS, SECTION 301 INVESTIGATION, SECTION 301 TARIFFS

On July 11, 2018, the United States Trade Representative (USTR) opened the docket for China 301 Product Exclusion Requests on [regulations.gov](https://www.regulations.gov). The Docket ID is USTR-2018-0025.

The docket includes USTR’s ‘China 301 Product Exclusion Form’.

In its [July 11 Federal Register Notice](#) describing the procedures to use for product exclusion requests, USTR states, “To assist in review of requests for exclusion, USTR has prepared a request form that will be posted on the USTR website under “Enforcement/Section 301 investigations” and on the www.regulations.gov docket in the “supporting documents” section. **USTR strongly encourages interested persons to use the form to submit requests.**”

The Section 301 exclusion form is more simplified than the earlier Section 232 exclusion form. Interested parties can still submit supporting documents in addition to the form, and there is no page limit to the submission

As a reminder, this product exclusion request process only applies to those goods subject to the *ad valorem* duty of 25 percent on products from China classified in the 818 subheadings of the Harmonized Tariff Schedule of the United States (HTSUS) [set out in Annex A of the June 20, 2018, Federal Register Notice](#). Note that Annex B to the notice contains the same list of tariff subheadings, with unofficial descriptions of the types of products covered in each subheading.

For more information on key dates and submission guidelines for China Section 301 Product Exclusion Requests, [please click here for Crowell’s post discussing the specifics of the notice](#).

\$200 billion in Proposed China Section 301 Tariffs Published in Federal Register

By Frances Hadfield, Spencer Toubia & Edward Goetz on July 17, 2018

POSTED IN [SECTION 301 INVESTIGATION](#), [SECTION 301 TARIFFS](#)

On July 10, 2018, U.S. Trade Representative (USTR) Robert Lighthizer **announced** that at President Trump's request, USTR has initiated the process of imposing an additional 10 percent *ad valorem* duty on approximately \$200 billion worth of imports from China.

The USTR statement included a [link to an advance copy of the Federal Register Notice](#) with the list of proposed tariffs and the process for the public notice and comment period.

This is the [formal publication in the Federal Register of this notice](#).

For more information on the proposed tariffs and the process for the public notice and comment period, [please see our previous article](#).

Highlights from USTR’s Second Section 301 Hearings – Rebuttal Comments Due July 31

By John Brew, Aaron Marx, Edward Goetz & Cherie Walterman on July 25, 2018

POSTED IN SECTION 301 INVESTIGATION, SECTION 301 TARIFFS

On July 24-25, 2018, the Office of the United State Trade Representative (USTR) held public hearings regarding proposed tariffs on approximately \$16 billion of Chinese products.

Rebuttal comments are due on Tuesday, July 31, 2018.

The [list identifying these products](#) (also known as “List 2”) was released last month and represents 284 new tariff lines identified by the interagency Section 301 Committee as “benefiting from Chinese industrial policies, including the “Made in China 2025” industrial policy.”

	For covered products in List 1, please click here.	25%	7/6/2018
Section 301	For covered products in List 2, please click here.	TBD	TBD
	For covered products in List 3, please click here and see Annex	10%	TBD

List 1 totaling \$34 billion worth of imports is composed of 818 tariff lines, and went into effect on 7/6/2018.

Status: List 2 totaling \$16 billion worth of imports is composed of 284 proposed tariff lines identified by the interagency Section 301 Committee. This was the subject of the hearings.

List 3 includes a list of tariff lines of products from China with an annual trade value totaling approximately \$200 billion. These are also subject to a public review process.

The Committee heard testimony from over 80 witnesses on whether to include certain tariff lines in List 2. The witnesses represented trade organization and corporations of all sizes. The USTR intends to publish a transcript of the hearing, but did not provide a date.

Most of the witnesses requested that the Committee remove specific tariff lines from the list. The most common justifications were as follows:

- The United States has a trade surplus in a particular good, and the 301 duties would harm that industry;
- The increased duties would:
 - lead directly to the loss of U.S. manufacturing jobs;
 - lead directly to an increase in the price of goods to the U.S. consumer; and
 - would have no effect on China's intellectual property practices;
- The goods targeted on List 2:
 - are only available from China; and
 - are not relevant to the "Made in China 2025" program.

Witnesses who supported the Section 301 duties asserted that they were necessary to protect U.S. manufacturing concerns and that sufficient capacity existed in the United States to manufacture the listed products.

The Committee asked questions of the witnesses when their testimony was complete. The questions fell into several broad categories:

- Would the Section 301 duties affect the cost and availability of medical devices?
- Why isn't current U.S. manufacturing capacity available to meet U.S. demand?
- Are the listed goods available from non-Chinese foreign suppliers?
- How long would it take to increase production in the U.S., or to requalify a new non-Chinese supplier?

When preparing rebuttal comments, the Committee's questions to the witnesses should be considered.

USTR Adjusts Public Comment Due Dates for Latest China Section 301 Tariff List

By John Brew, Spencer Toubia & Edward Goetz on August 2, 2018
POSTED IN SECTION 301 INVESTIGATION, SECTION 301 TARIFFS

President Trump has directed the Office of the United States Trade Representative (USTR) to consider increasing the proposed tariffs under Section 301 from 10% to 25% for the **entire \$200 billion list (also known as “List 3”)**. Because of this, the USTR has extended several of the dates in the public comment process.

The USTR circulated an e-mail on August 2 to parties that had submitted a request to appear in the upcoming Section 301 hearing for the “List 3” products. In it, the **USTR clarified information** provided in a **press release on August 1**.

To summarize:

- The due date for filing **requests to appear and a summary of expected testimony** at the public hearing and for filing **pre-hearing submissions** is extended from **July 27 to August 13, 2018**.
- The due date for submission of **written comments** is extended from **August 17 to September 5, 2018**.
- The due date for submission of **post-hearing rebuttal comments** is also extended from **August 30 to September 5, 2018**.
- The scheduled start date of the Section 301 hearing (August 20) **has not changed**.
- The Section 301 Committee may extend the length of the hearing depending on the number of additional interested persons who request to appear. As of now, the hearing is scheduled to take place from August 20 to August 23.
- The USTR will provide the full hearing schedule the day before the hearing, per USTR policy.

USTR Publishes Formal Notice for China Section 301 List 2 Tariffs; Notice on Exclusion Procedures to be Published Separately

By Frances Hadfield, Spencer Toubia & Edward Goetz on August 16, 2018
POSTED IN SECTION 301 INVESTIGATION, SECTION 301 TARIFFS

On August 16, 2018, the Office of the U.S. Trade Representative (USTR) published in the Federal Register the formal notice for the China Section 301 tariffs beginning on August 23.

The USTR published the final list of 279 Harmonized Tariff Schedule of the United States (HTSUS) subheadings known collectively as ‘List 2’ on August 7, 2018. These tariff lines will see an additional *ad valorem* duty of 25% on products from China and is worth \$16 billion.

Unlike the notice implementing List 1 from June 20, 2018, the USTR:

- Added to Annex A of this notice clarifications on the application of the additional duties to goods entered under certain provisions of Chapter 98 and 99 of the HTSUS;
- In Annex C to this notice, modifies the HTSUS note in Annex A to the June 20 notice in order to reflect these clarifications; and
- Annex C makes a conforming amendment to the HTSUS heading in Annex A to the June 20 notice, and makes a technical correction to the HTSUS note in Annex A to the June 20 notice.

The tariff subheadings in Annex A and B are the same. The latter list includes unofficial descriptions of the types of products covered in each subheading.

Regarding product exclusions, the notice states, “...the Trade Representative has determined that USTR will establish a process by which U.S. stakeholders may request that particular products classified within an HTSUS subheading listed in Annex A be excluded from these additional duties. The process will be comparable to the exclusion process established in connection with the initial, \$34 billion trade action. USTR will publish a separate notice describing the product exclusion process, including the procedures for

submitting exclusion requests, and an opportunity for interested persons to submit oppositions to a request.”

[Check here](#) for the latest developments on all the on-going trade actions.

China's Retaliatory Tariffs on \$60 Billion in U.S. Goods – List of Affected HTS Subheadings

By Frances Hadfield, Yun Gao & Edward Goetz on August 19, 2018

POSTED IN [CHINA RETALIATORY TARIFFS](#), [SECTION 301 INVESTIGATION](#), [SECTION 301 TARIFFS](#)

NOTE – this post was updated on 9/19/2018 to reflect the change in retaliation duties on affected U.S. goods.

In a [press release issued on August 1](#), United States Trade Representative (USTR) Robert Lighthizer announced the President directed him to consider increasing the proposed level of the additional duty on the latest Section 301 List (List 3 worth \$200 billion) from 10% to 25%.

On August 3, China responded in kind and threatened to increase retaliatory tariffs on \$60 billion in U.S. goods should President Trump move forward with new tariffs on imports from China.

In addition to USTR's proposed action on List 3, the second U.S. Section 301 List (worth \$16 billion) just finished a public comment process. The White House has not announced its decision on List 2 as of yet. For an overview of the current U.S. Section 301 tariff status, [please click here](#).

On 9/19/2018, China announced the rates would be 5 or 10%, instead of 5, 10, 20, or 25%.

[Please click here](#) for an unofficial version of the HTS Subheadings for Annex 1 (10% instead of 25%).

[Please click here](#) for an unofficial version of the HTS Subheadings for Annex 2 (10% instead of 20%).

[Please click here](#) for an unofficial version of the HTS Subheadings for Annex 3 (5% instead of 10%).

[Please click here](#) for an unofficial version of the HTS Subheadings for Annex 4 remain set at 5%.

Public Hearing Information on Proposed \$200B China Section 301 Tariff List

By Frances Hadfield & Edward Goetz on August 21, 2018
POSTED IN [SECTION 301 INVESTIGATION](#), [SECTION 301 TARIFFS](#)

The Office of the U.S. Trade Representative (USTR) is holding public hearings from August 20 to August 24, 2018, and on August 27, 2018, regarding the proposed tariffs on approximately \$200 billion worth of Chinese products.

[Click here to view a schedule of witnesses.](#) The public hearings are being held at the following times at the U.S. International Trade Commission in Washington, DC:

- Monday, August 20, 2018 from 9:30 AM – 6:00 PM EDT
- Tuesday, August 21, 2018 from 9:30 AM – 6:00 PM EDT
- Wednesday, August 22, 2018 from 9:30 AM – 6:00 PM EDT
- Thursday, August 23, 2018 from 9:30 AM – 6:00 PM EDT
- Friday, August 24, 2018 from 9:30 AM – 6:00 PM EDT
- Monday, August 27, 2018 from 9:30 AM – 4:00 PM EDT

According to a USTR press release, the proposed tariffs are in response to China's unfair trade practices related to technology transfer, intellectual property, and innovation, based on the [findings in USTR's investigation](#) of China under Section 301 of the Trade Act of 1974.

Tariffs on \$34 billion in goods from China are currently in effect, and tariffs on an additional \$16 billion will take effect on August 23, 2018.

The Federal Register notice publishing the proposed tariff list and soliciting public comment can be viewed [here](#).

China Section 301 List 2 Exclusion Request Procedures Published in Federal Register

By John Brew, Frances Hadfield & Edward Goetz on September 18, 2018

POSTED IN CUSTOMS, SECTION 301 EXCLUSION PROCESS, SECTION 301 TARIFFS, U.S.-CHINA TRADE RELATIONS

On September 18, 2018, the United States Trade Representative (USTR) published a notice in the Federal Register explaining the procedures and criteria related to requests for product exclusions from the additional tariffs placed on goods from China on August 23, 2018.

Deadlines

The USTR must receive requests to exclude a particular product by **December 18, 2018**. Responses to a request for exclusion of a particular product are due 14 days after the request is posted in the docket. Any replies to responses to an exclusion request are due the later of 7 days after the close of the 14 day response period, or 7 days after the posting of a response.

Per the notice, a docket will be opened on [regulations.gov](https://www.regulations.gov) for the receipt of exclusion requests. The docket number is USTR–2018–0032. One product is allowed per request. Each request must identify a specific product and the 10-digit HTS. The product exclusion request must include the identity of the product, its physical characteristics and how to differentiate that product from others under the 8-digit HTSUS subheading. The USTR will not consider requests that identify the product using criteria that cannot be made public, or that identify the product by using the producer, importer, customer, chief use, trademark or trade name.

The USTR will periodically announce decisions on exclusion requests. If granted, the exclusion will be retroactively effective starting August 23, 2018 and extend for one year after the date on which the decision is published in the Federal Register.

USTR Publishes Notice Formalizing 10% Tariffs on Section 301 List 3 on Sept. 24. CM's Unofficial List of the Affected HTS Codes Provided Here

By John Brew, Frances Hadfield, Aaron Marx & Edward Goetz on September 21, 2018
POSTED IN CUSTOMS, SECTION 301 EXCLUSION PROCESS, SECTION 301 TARIFFS, U.S.-CHINA TRADE RELATIONS

On September 17, 2018, the White House directed the United States Trade Representative (USTR) to implement 10 percent tariffs on nearly all the tariff lines in the original Section 301 List 3 valued at approximately \$200 billion. Significantly, the notice does NOT indicate that there will be an exclusion process similar to Section 301 List 1 and 2.

The following day, the USTR issued a press release stating, "The [final] list contains 5,745 **full or partial lines** of the original 6,031 tariff lines that were on a proposed list of Chinese imports **announced on July 10, 2018.**"

On September 18, 2018, the USTR published the formal notice of this action in the Federal Register. 83 Fed Reg. 47,974.

For an unofficial downloadable spreadsheet providing affected HTS subheadings across all Section 301 actions, [please click here](#). This includes:

- Final List 1 (\$34 billion);
- Final List 2 (\$16 billion);
- Original List 3 (\$200 billion);
- Final List 3
- Part 1 (5,745 lines);
- Part 2 (11 Partial Lines listing 8-digit lines with their 10-digit exceptions); and
- The 286 removed HTS codes.

The White House statement said the tariffs will rise to 25 percent on January 1, 2019.

On August 3, 2018, China threatened retaliatory tariffs on \$60 billion worth of U.S. goods should President Trump move forward with any tariffs. This would result in a possible List 4.

[Check here](#) for the latest developments on all the on-going trade actions.

Latest Section 301 Product Exclusion Request Status – No Exclusions Granted to Date (Nov. 8, 2018)

By Frances Hadfield, Edward Goetz & Rebecca Toro Condori on November 6, 2018
POSTED IN SECTION 301 EXCLUSION PROCESS, SECTION 301 INVESTIGATION, SECTION 301 TARIFFS

The Office of the U.S. Trade Representative (USTR) previously announced a process to obtain product exclusions from the additional tariffs in effect on certain products imported from China under the U.S. response to China's unfair trade practices related to the forced transfer of U.S. technology and intellectual property. The 301 lists of products subject to tariffs was determined by a 90-day process that included public hearings and a notice and comment period. You can also find an unofficial spreadsheet with the final 301 lists [here](#).

The USTR also provided an opportunity for the public to request the exclusion of a particular product from the additional duties in order to address situations that warranted excluding a particular product within a subheading, but not the tariff subheading as a whole.

All posted exclusion requests can be found on:
<https://www.regulations.gov/docket?D=USTR-2018-0025>.

The USTR recently announced that it is *still* in the process of posting exclusion requests due to the high volume of submissions, and therefore there is currently a lag between the filing of an exclusion request and the posting of an exclusion request when public and confidential versions are been filed. The date of posting is the triggering date for initial comments regarding an exclusion requests. Permissible comments include letters of support as well as opposition. After the comment period is closed, an additional deadline will be established for rebuttal comments.

As of the date of this report, **815** exclusion requests have been denied.

None have been granted.

We hope you find this report helpful and please contact us if you have any questions.

USTR Grants First Section 301 List 1 of Product Exclusions

By John Brew, Spencer Toubia & Edward Goetz on December 26, 2018

POSTED IN SECTION 301 EXCLUSION PROCESS, SECTION 301 INVESTIGATION, SECTION 301 TARIFFS

On December 21, 2018 USTR submitted for publication a **Federal Register Notice** with the first list of products excluded from Section 301 Tariffs on certain products from China. The Products were originally published on the USTR's "List 1" which included \$34 Billion worth of imports from China. The USTR granted 984 individual exclusion requests involving 21 separate HTS codes. An **index** of all "List 1" exclusion requests and their status in the review process was also released by the USTR.

Once published in the Federal Register, the product exclusions apply as of the July 6, 2018 effective date of "List 1," and will extend for one year after the publication of this notice. U.S. Customs and Border Protection will issue instructions on entry guidance and implementation.

Exclusions were granted in two ways.

1) Exclusions that apply to the following 8 individual 10 digit HTS codes regardless of product descriptions noted in exclusion requests:

(i) 8412.21.0075

(ii) 8418.69.0120

(iii) 8480.71.8045

(iv) 8482.10.5044

(v) 8482.10.5048

(vi) 8482.10.5052

(vii) 8525.60.1010

2) Products that meet 24 separate product descriptions sourced from language in exclusion requests.

The publication date is currently unknown due to the lapse in government funding and partial government shutdown.

First Section 301 List 1 Product Exclusions Published in Federal Register

By Alexander H. Schaefer, Spencer Toubia & Edward Goetz on December 28, 2018
POSTED IN SECTION 301 EXCLUSION PROCESS, SECTION 301 INVESTIGATION, SECTION 301 TARIFFS



On December 28, 2018, USTR published in the Federal Register the first **Section 301 List 1 Product Exclusions**. The exclusions apply as of the July 6, 2018 effective date of “List 1,” and will extend for one year after the publication of this notice. U.S. Customs and Border Protection will issue instructions on entry guidance and implementation.

Please see our [earlier blog post discussing the details of this notice](#), as it was announced and posted by USTR on December 21, 2018.

USTR Announces Special Review under Section 301 – Hearing Set for February 27

By Alexander H. Schaefer & Spencer Toubia on December 28, 2018

POSTED IN SECTION 301 "SPECIAL REVIEW", SECTION 301 INVESTIGATION, SECTION 301 TARIFFS



Photo by Allen Allen;

The USTR published a **Federal Register Notice** announcing its yearly “special review” to identify countries that deny adequate and effective protection of intellectual property rights (IPR) or deny fair and equitable market access to U.S. persons who rely on intellectual property protection under Section 301 of the Trade Act of 1974 (Section 301). Based on this review, the USTR will determine whether to identify “Priority Foreign Countries” defined under Section 182 of the Trade Act of 1974.

Priority Foreign Countries are countries for which the USTR can implement an investigation pursuant to Section 301 to determine whether certain trade measures are appropriate to address a country’s restrictions on trade and intellectual property rights. The most recent investigation under Section 301 occurred in 2017 and 2018 and resulted in the USTR implementing tariffs on approximately \$250 billion of imports from China.

The USTR requested that interested parties provide written comments to identify “countries whose acts, policies, or practices deny adequate and effective protection for intellectual property rights or deny fair and equitable market access to U.S. persons who rely on intellectual property protection.”

The Special 301 provisions also require the Trade Representative to identify any act, policy, or practice of Canada that affects cultural industries, was adopted or expanded after December 17, 1992, and is actionable under Article 2106 of the North American Free Trade Agreement (NAFTA).

The USTR requested that interested parties file written comments that identify acts, policies, or practices that may form the basis of a country's identification as a Priority Foreign Country or placement on the Priority Watch List or Watch List by February 7, 2019. USTR also requests that parties file notices of intent to appear at the public hearing by February 21, 2019. The public hearing will be held on February 27, 2019. Parties who testified at the hearing must submit posthearing written comments by March 5, 2019. The USTR indicated that it will publish the 2019 Special 301 Report on or around April 26, 2016.

I. **CBP Posts Notice on Section 301 Product Exclusions Announced on December 28, 2018**

By John Brew & Edward Goetz on January 2, 2019

POSTED IN [SECTION 301 EXCLUSION PROCESS](#), [SECTION 301 TARIFFS](#)



Photo by Vidar Nordli-Mathisen on

Unsplash;

Earlier this week, [U.S. Customs and Border Protection](#) posted a notice on Section 301 Product Exclusions announced on December 28, 2018.

The notice provided the following guidance regarding exclusions granted by USTR:

- On December 28, 2018, the U.S. Trade Representative published Federal Register Notice 83 FR 67463 announcing the decision to grant certain exclusion requests from the 25% duty assessed on goods of China with an annual trade value of approximately \$34 billion (Tranche 1), as part of the action in the Section 301 investigation of China's acts, policies, and practices related to technology transfer, intellectual property, and innovation. The product exclusions announced in this notice will apply as of the July 6, 2018 effective date of the \$34 billion action (see Federal Register 83 FR 28710), and will extend for one year after the publication of this notice.
- At the conclusion of the government funding hiatus, CBP will issue instructions on entry guidance and implementation. Any updates to the Automated Customs Environment (ACE) will be implemented 10 business days after the shutdown has concluded. Until these updates are completed, entry and entry summaries must be submitted without the Chapter 99 product exclusion number referenced in 83 FR 67463. Entry and entry summaries will be rejected by ACE if the Chapter 99 product exclusion number referenced in 83 FR 67463 is transmitted.

- Once CBP issues guidance and implements ACE enhancements, a Post Summary Correction (PSC) or a Protest may be submitted for a refund.
- All questions related to Section 301 entry filing requirements should be emailed to traderemedy@cbp.dhs.gov. After the funding hiatus, questions from the importing community concerning ACE rejections should be referred to their ABI Client Representative.

USTR: No Exclusion Process on \$200 Billion List 3 Products Unless Tariff Raised to 25%

By Frances Hadfield & Edward Goetz on January 15, 2019

POSTED IN SECTION 301 EXCLUSION PROCESS, SECTION 301 INVESTIGATION, SECTION 301 TARIFFS



Photo by Vincent Guth on Unsplash;

On October 18, 2018, **U.S. Senator Tim Kaine (D-VA) and ten other Democratic senators sent a letter** to the Office of the U.S. Trade Representative (USTR) asking why an exclusion process was not in place for the 10 percent tariff on List 3's \$200 billion of imported Chinese goods.

On January 11, 2019, **USTR replied, telling Senator Kaine** an exclusion process will not be initiated on List 3 unless negotiations fail with China and the President raises the tariff on the \$200 billion worth of goods from 10 percent to 25 percent. Currently, President Trump has agreed to delay the implementation of the higher tariff until March 2, 2019.

USTR's reply also addressed Chinese goods admitted into a Foreign Trade Zone (FTZ). The letter said, "Understandably, every importer, including importers who make use of FTZs, would prefer a special exemption from the additional tariffs. As of this time, we have not found a basis for exempting U.S. importers who use FTZs from the additional duties, when those duties apply to all other U.S. importers."

U.S. and Other Countries to Raise Additional Tariffs this Week

By John Brew, Spencer Toubia & Edward Goetz on July 2, 2018

POSTED IN CHINA RETALIATORY TARIFFS, MEXICO RETALIATORY TARIFFS, SECTION 232 INVESTIGATIONS, SECTION 232 TARIFFS, SECTION 301 INVESTIGATION, SECTION 301 TARIFFS

This week will see the **implementation of previously announced tariff increases** from the U.S., China, and Mexico.

Thursday, July 5 – Section 232 (Mexico)

Mexico will **implement the second round of its retaliation** for the U.S.' increased tariffs on imports of certain steel and aluminum products with additional tariffs of 10-15% on pork and cheese products.

Friday, July 6 – Section 301 (U.S. and China)

The U.S. will **impose another 25% in duties on 818 tariff lines** (see Annex B) worth \$34 billion from China on July 6. The additional tariffs are part of the U.S.' response to China's alleged unfair trade practices related to "the forced transfer of American technology and intellectual property" pursuant to Section 301 of the Trade Act of 1974.

That same day, China has announced it will respond in kind by **increasing duties on 545 tariff lines** by the same amount. This action is also valued at \$34 billion. Agricultural products, sport utility vehicles, and electric vehicles are among the goods targeted by China.

For all of the latest tariff news, please [click here](#).

Latest U.S. Trade Actions/Tariffs and Other Countries Retaliatory Measures – Updated January 17, 2019

By John Brew, Frances Hadfield, Spencer Toubia, Edward Goetz, Cherie Waltermann & Rebecca Toro Condori on October 30, 2018

POSTED IN CANADA RETALIATORY TARIFFS, CHINA RETALIATORY TARIFFS, EU RETALIATORY TARIFFS, MEXICO RETALIATORY TARIFFS, SECTION 232 INVESTIGATIONS, SECTION 232 TARIFFS, SECTION 301 INVESTIGATION, SECTION 301 TARIFFS, TURKEY

Last updated on 1/17/2019: India Retaliatory Tariffs on goods of US origin-effective date now 1/31/2019.

Unofficial spreadsheet with Final 301 list, partial list, and HTS' removed added.

U.S. Trade Actions

Action	Covered Products	Rate Increase	Effective Date
Section 232	Steel and Aluminum	Steel – 25% Aluminum – 10%	6/1/2018
	Steel – all countries of origin except South Korea, Brazil, and Argentina (agreed to quotas); and Australia (exempted).		
	Aluminum – all countries of origin except Argentina (agreed to quota); and Australia (exempted).		
Status:	Beginning August 13, steel articles covered by Section 232 from Turkey are subject to an <i>ad valorem</i> duty rate of 50%.		
	On October 24, South Africa was granted exemptions on 161 aluminum and 36 steel products by the Commerce Department.		
Section 232	Autos and Automotive Parts	TBD	TBD
Status:	For the latest status, please click here .		
Section 301	For the final list of	25%	7/6/2018

products in List 1, please [click here](#).

For the final list of products in List 2, please click here .	25%	8/23/2018
-------------------------------------------------------------------------------	-----	-----------

For the final list of products in List 3, please click here .	10%	9/24/2018
	25%	TBD

List 1 totaling \$34 billion worth of imports is composed of 818 tariff lines, and went into effect on 7/6/2018.

List 2 totaling \$16 billion worth of imports was originally composed of 284 proposed tariff lines identified by the interagency Section 301 Committee. 279 of the 284 lines went into effect on 8/23/2018.

For full details on List 2, please [click here](#).

Status:

List 3 totaling approximately \$200 billion of imports was originally composed of 6,031 tariff lines. 5,745 full and partial lines go into effect on 9/24/2018.

For full details on List 3, please [click here](#).

[Unofficial searchable and filterable spreadsheet with Current U.S. Section 301 Tariff Lists \(Updated for Final List 3\)](#)

Retaliatory Actions

Canada	For covered products, please click here.	Table 1 – 25% Table 2 – 10% Table 3 – 10%	7/1/2018
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The Canadian government received over 1,000 submissions of public feedback during public consultations on its original list.

Status:

Canada is imposing countermeasures against C\$16.6 billion in imports of steel, aluminum, and other products from the U.S., representing the value of 2017 Canadian exports affected by the U.S. tariffs.

EU	For covered products,	Annex I – 10% or	Annex I – 6/22/2018
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	please click here.	25% Annex II – 10% – 50%	Annex II – 3/23/2021 or 5th day after WTO Dispute Settlement Body rules against the U.S. action, whichever is first.
Status:	For the latest status, please click here.		
Mexico	For the translated list of covered products, please click here.	7% – 25% (pages 1-4) 10% – 15% (page 5)	6/5/2018 7/5/2018
Status:	Most retaliatory measures effective as of 6/5/2018. An “exception” list is effective on 7/5/2018.		
China (Response to Section 232 Tariffs)	For covered products, please click here.	Annex I – 15% – 25%	4/3/2018
Status:	See above.		
	For covered products in List 1, please click here.	25%	7/6/2018
	(Unofficial Version)		
	For covered products in List 2, please click here. (Unofficial Version)	25%	8/23/2018
China (Response to Section 301 Tariffs)		Annex 1 and 2 – now 10%	
	For covered products in List 3 (announced August 3), please click here. (Unofficial Version)	Annex 3 – now 5% Annex 4 – remains 5%	9/24/2018
		(Originally 1-3 were 25, 20, and 10 percent, respectively)	
Status:	List 1 is composed of 545 tariff lines, and goes into effect on 7/6/2018.		

List 2 contains 333 tariff lines on U.S. goods worth \$16 billion. Start date is 8/23/2018.

List 3 contains 5,207 tariff lines on U.S. worth \$60 billion. Start date is 9/24/2018.

India **For covered products, please click here.** Up to \$10.6 billion; Annex I – 5% – 100% 1/31/2019

Status: The U.S. declined India’s request for WTO consultations.

Japan **For covered products, please click here.** Up to \$1.91 billion TBD – no earlier than March 23, 2021, or the 5th day following the date of a decision from the WTO DSB, whichever comes first.

Status: No update since May 18, 2018. Ambassador Lighthizer is holding trade talks with Economy Minister Motegi in July. Under Secretary McKinney is also leading a trade mission to Japan to discuss a possible bilateral trade deal.

Russia **For covered products, please click here.** Additional Tariffs of 25, 30, 35, or 40% 8/6/2018

Status: On August 6, 2018, Russia began imposing additional tariffs on selected U.S. products.

Turkey **For covered products, please click here.** Up to \$1.78 billion; Annex I – 5% – 40% Increased certain duties by 4 to 140% 6/21/2018 8/15/2018

Status:

Continue Reading Latest U.S.

Commerce Initiates Investigation into Steel Imports' Impact on U.S. National Security

By **Alexander H. Schaefer**, **Charles De Jager**, **Jeff Snyder**, **Daniel Cannistra**, **John Brew**, **Bob LaFrankie** & **Alan W. H. Gourley** on April 20, 2017

POSTED IN SECTION 232 INVESTIGATIONS

Commerce Secretary Wilbur Ross has initiated an investigation under section 232 of the Trade Expansion Act of 1962 (19 U.S.C. § 1862) to determine whether steel is being imported into the U.S. in such quantities or under such circumstances as to threaten to impair national security. The Department of Commerce (DOC) now has 270 days to conduct an investigation and prepare a report on its findings for submission to the president.

In the event action against steel imports is found to be necessary on the basis of DOC's report, the president has authority to take action to "adjust imports" of steel. The potential remedies available to the president in this context include changing the rate and form of import duties on steel without apparent limitation, as well as limiting or restricting steel imports, including through the negotiation of an agreement to that effect.

If, as a result of its investigation DOC finds that action is required, the president then has 90 days to determine (i) whether he agrees and, if so, (ii) the nature and duration of the action necessary to adjust steel imports. Such action must then be taken no later than 15 days after the president's determination. Within 30 days of making his determination, the president must inform Congress in writing of the reasons for his determination.

In the course of its investigation, DOC must consider not only the quantities of steel being imported and other circumstances related to steel trade as they affect the state of the domestic steel industry, but also national security requirements related to steel, including the following:

1. Domestic production needed for projected national defense requirements.
2. The capacity of domestic industries to meet projected national defense requirements.
3. The existing and anticipated availabilities of human resources, products, raw materials, production equipment and facilities, and other supplies and services essential to the national defense.
4. The growth requirements of domestic industries to meet national defense requirements and the supplies and services including the investment, exploration and development necessary to assure such growth.
5. Any other relevant factors.

In addition, DOC must also consider the following elements regarding the quantity, availability, character, and uses of imported steel:

1. The impact of foreign competition on the economic welfare of any domestic industry essential to U.S. national security.

2. The displacement of any domestic products causing substantial unemployment, decrease in the revenues of government, loss of investment or specialized skills and productive capacity, or other serious effects.
3. Any other relevant factors that are causing or will cause a weakening of the U.S. economy.

The Secretary of Commerce must consult with the Secretary of Defense during DOC's investigation and may request of his counterpart an assessment of the defense requirements for steel. The communications DOC receives from other U.S. Government agencies such as the Department of Defense are not available for public inspection. In the course of its investigation, DOC may also solicit additional information from other sources through the use of questionnaires or other means.

Interested parties will only be afforded an opportunity to present information and advice relevant and material to the investigation (*e.g.*, written comments, opinions, data, information or advice) if DOC determines that it is appropriate. Such an opportunity would be announced in due course in the Federal Register. Similarly, a public hearing allowing interested parties the opportunity to submit oral or written information may only be held if DOC deems it appropriate and would also be announce in the Federal Register.

Commerce Probes Impact of Steel, Aluminum Imports on National Security

By Alexander H. Schaefer, Charles De Jager, Jeff Snyder, Daniel Cannistra, John Brew, Bob LaFrankie & Alan W. H. Gourley on June 8, 2017
POSTED IN SECTION 232 INVESTIGATIONS

STEEL

A Federal Register Notice published on April 26 provided additional information to industry on the Department of Commerce's investigation of steel imports and U.S. national security.

- For more detail on the April 21 Presidential Memorandum directing the investigation, please see Crowell's Client Alert.

We learned a three-hour public hearing will be held on May 24 at DOC and that interested parties must request to speak by May 17. The requests need to include a written summary of the planned presentation. Written comments will also be accepted until May 31.

DOC provided a list of criteria it is interested in learning about, as they relate to national security:

- Quantity of steel or other circumstances related to the importation of steel.
- Domestic production and productive capacity needed for steel to meet projected national defense requirements.
- Existing and anticipated availability of human resources, products, raw materials, production equipment, and facilities to produce steel.
- Growth requirements of the steel industry to meet national defense requirements and/or requirements to assure such growth.
- The impact of foreign competition on the economic welfare of the steel industry.
- The displacement of any domestic steel causing substantial unemployment, decrease in the revenues of government, loss of investment or specialized skills and productive capacity, or other serious effects.
- Relevant factors that are causing or will cause a weakening of the U.S. national economy.

Five general categories of steel are being looked at: flat products, long products, pipe and tube products, semi-finished products, and stainless products. The notice also refers to "specialty steel alloys that require unusual production skills and are used for armor, vehicles, ships, aircraft, and infrastructure."

Because the scope remains overly broad, the Section 201 Steel Safeguard of 2001-2002 may serve as a general guide. The following categories of products were targeted in that proceeding:

- Certain carbon flat-rolled steel, including carbon and alloy steel slabs.
- Plate (including cut-to-length plate and clad plate).
- Hot-rolled steel (including plate in coils).
- Cold-rolled steel (other than grain-oriented electrical steel).
- Corrosion-resistant and other coated steel.
- Carbon and alloy hot-rolled bar and light shapes.
- Carbon and alloy cold-finished bar.
- Carbon and alloy rebar.
- Carbon and alloy welded tubular products (other than oil country tubular goods).
- Carbon and alloy flanges, fittings, and tool joints.
- Stainless steel bar and light shapes.
- Stainless steel rod.
- Carbon and alloy tin mill products.
- Stainless steel wire.

The measures imposed were subject to significant product exclusions. Pursuing a similar product-exclusion strategy in the new Section 232 proceeding will likely be important for affected companies.

The timeline for the steel proceeding is shown below.

Request to Appear at Public Hearing	May 17
Public Hearing	May 24
Submission of Post-Hearing Comments or other Written Comments	May 31
Completion of DOC investigation	January 15, 2018*
Presidential Determination	April 16, 2018*
President Informs Congress	May 16, 2018*

* At the latest

ALUMINUM

On April 27, President Trump directed an investigation into the impact of aluminum imports on U.S. national security.

This investigation is being held under the same authority as the previously announced probe on steel, section 232 of the Trade Expansion Act of 1962 (19 U.S.C. § 1862). As with steel, DOC is charged with determining whether aluminum is being imported into the U.S. in such quantities or

under such circumstances as to threaten to impair national security. DOC has 270 days to conduct its investigation and prepare a report on its findings for submission to the president.

The next step will be a Federal Register Notice providing information about the upcoming public hearing.

For more on section 232 investigations, please [see Crowell's Client Alert](#) from the steel case.

Recap and Analysis of May 24 Steel Import Investigation Hearing

By **Alexander H. Schaefer**, **Charles De Jager**, **Jeff Snyder**, **Daniel Cannistra**, **John Brew** & **Bob LaFrankie** on June 8, 2017

POSTED IN SECTION 232 INVESTIGATIONS

Commerce Recommendation Expected By End Of June

The Department of Commerce held a public hearing on its Section 232 National Security Investigation of Imports of Steel on May 24. The hearing was chaired by Commerce Secretary Wilbur Ross, who stayed for the majority of the 37 witnesses' remarks. The balance of the panel included representatives from Commerce's Bureau of Industry and Security, Commerce's International Trade Administration, the Department of Defense, and the Office of the U.S. Trade Representative.

Congresswoman Marcy Kaptur from Ohio's 9th District was the first witness. In her testimony, she urged the panel to stop the "flood" of dumped and subsidized steel imports entering the U.S. market and recommended relief in the form of (1) bridge financing to allow the industry to modernize; (2) "addressing" overcapacity in general and Chinese overcapacity in particular; and (3) exploring ways to "neutralize" the Value Added Tax (VAT) prevalent in steel-producing countries.

In closing, she reminded Secretary Ross of President Trump's request that the investigation be handled expeditiously. In response, the Secretary indicated he had "no intention" of taking the full 270 days permitted by statute for the conduct of the investigation, but rather expects to issue a recommendation by the end of June.

The Congresswoman's remarks set the tone for much of the remainder of the proceeding. Of the 36 speakers who followed, only about a half dozen expressed any opposition to relief. Notably, most of this group were not expressing opposition to relief in principle, but rather were arguing for the exclusion of specific products not domestically available. For instance, the U.S. Tire Manufacturers' Association witness testified that no U.S. producer has the technology to produce the high-quality tire cord currently sourced from Japan, and that as such it should be excluded from any relief the government ultimately grants.

That testimony prompted one of the few remarks from the panel, as one of the Commerce representatives requested that the domestic producers comment on whether they do or can produce the products for which exclusion is sought.

Aside from the handful of witnesses seeking carve-outs, and the few opposing relief entirely, the balance of speakers were steel company executives requesting relief from imported steel. Although they represented discrete industry segments, as a group they sought to address two potential analytic vulnerabilities.

- In anticipation of the argument that the industry has already been granted significant relief in the form of dozens of Antidumping and Countervailing Duty (AD/CVD) orders over the

last several years, the executives made a point of saying that “the trade remedies laws aren’t enough” because the rates are too low to lock out imports effectively and because foreign producers “cheat” by circumventing existing orders and/or moving production to non-subject countries.

- In anticipation of the argument that everything sold to the Department of Defense already must be of U.S. origin as a matter of law, the executives argued that actual defense sales are only a small portion of their overall customer base, and that it is not sufficient to offset the impact of imports on their base businesses. They also made a concerted effort to include non-defense sectors within the rubric of “national security” – they variously argued critical infrastructure, food packaging (which consumes tin mill products), energy (which consumes oil country tubular goods and line pipe), power generation and transmission (which consumes grain-oriented and non-oriented electrical steels), and the automotive sectors all contribute to U.S. “national security.”

The executives repeatedly pointed out that there is significant global overcapacity, and that over half of that overcapacity is in China alone. For the most part they did not provide specifics on the type of relief, although a few suggested that if quotas are to be established then they should be indexed to 2010-2011 import volume levels.

Comments, which were due on May 31, [may be found here](#).

The next step is waiting to see what action, if any, the department will recommend to the president.

National Security Investigations of Steel and Aluminum Imports Heat Up

By Jeff Snyder, Daniel Cannistra, Robert Holleyman & Bob LaFrankie on July 10, 2017
POSTED IN SECTION 232 INVESTIGATIONS

In May and June, the U.S. Department of Commerce held hearings and accepted hundreds of public comments for its investigations under section 232 of the Trade Expansion Act of 1962 to determine whether U.S. imports of steel and aluminum threaten national security.

DOC missed its self-imposed deadline of June 30 to release its reports and recommendations to President Trump as to what, if any, action to take to “adjust imports”. The delay was due to increased pressure from Capitol Hill and important members of the Trump administration (including Treasury Secretary Mnuchin, Defense Secretary Mattis, and National Economic Council Director Cohn) against any broad import restrictions due to concerns over supply chain disruptions and retaliation from major trading partners.

U.S. trading partners at the G-20 Summit in Germany last week reiterated their concerns over possible section 232 actions and promised swift retaliation against politically-sensitive U.S. exports (agricultural products and bourbon were specifically mentioned) and challenges at the World Trade Organization.

The G-20 Leaders declaration issued on July 8 called for the Global Forum on Steel Excess Capacity “to fulfill their commitments on enhancing information sharing by August 2017, and to rapidly develop concrete policy solutions to reduce steel excess capacity” with a “substantive report with concrete solutions by November” of this year. Arising out of last year’s G-20 summit in Hangzhou, the Global Forum is facilitated by the OECD and includes major steel producing nations. Leaders like Angela Merkel seek to invigorate the forum as a means of pressuring China on its excess capacity while warding off unilateral measures like those contemplated by the U.S. However, it has been slow in starting as it was only formally established last December. It is also important to note any recommendations arising from the forum would be non-binding.

Friday, July 7, brought two new developments which could cause further delays in the release of the section 232 reports. First, Politico reported Defense Secretary Mattis directed the Defense Logistics Agency to undertake a 60-day review of steel use in U.S. defense applications. Second, the U.S. International Trade Commission released its comprehensive study “Aluminum: Competitive Conditions Affecting the U.S. Industry”, conducted pursuant to Congressional request.

As of Monday, July 10, no section 232 reports or recommendations have been released. There have been many rumors regarding what measures DOC will recommend and President Trump will take under section 232, ranging from across-the-board import duties on all steel and aluminum from all sources, as well as tariff rate quotas, to exemptions for NAFTA and European sources, or certain types of steel and aluminum either not produced or available in sufficient supply domestically. The latter option could include an exemption/exclusion request and analysis period after the reports are issued, but no such process is required under the statute.

Until the reports are issued, companies should continue to monitor developments, advocate for desired outcomes, prepare for possible exclusion processes, and review their supply chains and contracts to be ready to deal with any broad section 232 action(s).

In addition to likely challenges by foreign governments at the WTO, companies and trade associations will likely challenge any adverse section 232 measures in U.S. court. Both WTO and U.S. challenges would raise novel questions regarding import restrictions taken in the name of “national security.”

Below are the remaining deadlines based for the two section 232 investigations, though action is expected well before these dates.

Steel 232 Investigation

Event	Allotted Time	No Later than Date
DOC Report Submitted to President	270 days from Initiation	January 15, 2018
Presidential Decision Whether to Act	90 days from DOC Report	April 15, 2018
Presidential Action	15 days from Determination	April 30, 2018
President Must Inform Congress	30 days from Determination	May 15, 2018

Aluminum 232 Investigation

Event	Allotted Time	No Later than Date
DOC Report Submitted to President	270 days from Initiation	January 21, 2018
Presidential Decision Whether to Act	90 days from DOC Report	April 21, 2018

Presidential Action	15 days from Determination	May 6, 2018
President Must Inform Congress	30 days from Determination	June 5, 2018

First Self-Initiated AD/CVD Investigation in over 25 years – Alloy Sheet

By Daniel Cannistra, Frances Hadfield & Yun Gao on December 18, 2017

POSTED IN ANTIDUMPING/COUNTERVAILING DUTY (AD/CVD), SECTION 232 INVESTIGATIONS

The U.S. Department of Commerce (DOC) has self-initiated an antidumping duty (AD) and countervailing duty (CVD) investigation of imports of common alloy aluminum sheet (common alloy sheet) from the People's Republic of China (China). So far in 2017, the DOC has initiated 77 AD and CVD investigations in response to petitions filed by the domestic industry. This self-initiation brings the total to 79 – a 65 percent increase from 48 in the previous year. In 2016, imports of common alloy sheet from China were valued at an estimated \$603.6 million. This self-initiated investigation is part of the Trump Administration's continued effort to play hardball on trade issues with China. Further, this investigation is separate from the much broader probe on Aluminum products under Section 232 of the Trade Expansion Act of 1962, which could lead to duties being imposed on aluminum imports from a variety of countries to protect manufacturing interests that are critical to national security.

These AD and CVD investigations will proceed like any other trade remedy investigation. If the DOC determines that common alloy sheet from China is being dumped into the U.S. market, and/or receiving unfair government subsidies, and if the U.S. International Trade Commission (ITC) determines that dumped and/or unfairly subsidized U.S. imports of common alloy sheet from China are causing injury to the U.S. industry, the DOC will impose duties on those imports in the amount of dumping and/or unfair subsidization found to exist. The estimated dumping margin is 56.54 to 59.72 percent.

The ITC will make its preliminary determinations on or before January 16, 2018. If the ITC preliminarily determines that there is injury or threat of injury then the DOC investigations will continue, with a preliminary CVD determination scheduled for February 2018 and a preliminary AD determination scheduled for April 2018 – unless these deadlines are extended.

During the DOC investigation, the ITC will conduct its own investigations into whether the U.S. industry and its workforce are being injured, or threatened with injury, by such imports. If the DOC preliminarily determines that dumping or unfair subsidization is occurring, then it will instruct U.S. Customs and Border Protection (CBP) to start collecting cash deposits from all U.S. companies importing the subject aluminum sheet from China.

The merchandise subject to investigation is common alloy aluminum sheet, which is a flat-rolled aluminum product having a thickness of 6.3 mm or less, but greater than 0.2 mm, in coils or cut-to-length, regardless of width. Common alloy aluminum sheet is typically used in building and construction, transportation, basic electrical applications, appliances, etc. It may be made to ASTM specification B209-14, but can also be made to other specifications.

Common alloy sheet is currently classifiable under HTSUS subheadings: 7606.11.3060, 7606.11.6000, 7606.12.3090, 7606.12.6000, 7606.91.3090, 7606.91.6080, 7606.92.3090, and 7606.92.6080. Further, merchandise that falls within the scope of these investigations may also be entered into the United States under HTSUS subheadings 7606.11.3030, 7606.12.3030,

7606.91.3060, 7606.91.6040, 7606.92.3060, 7606.92.6040, 7607.11.9090. Although the HTSUS subheadings are provided by the DOC for convenience and customs purposes, the written description of the scope of these investigations is dispositive.

Final determinations by the DOC in these cases are scheduled for April 2018 for the CVD investigation, and July 2018 for the AD investigation, but those dates may be extended. If either the DOC finds that products are not being dumped or unfairly subsidized, or the ITC finds in its final determinations there is no harm to the U.S. industry, then the investigations will be terminated and no duties will be applied.

Commerce Submits its Section 232 Report on Steel Imports to President Trump

By Daniel Cannistra, Alexander H. Schaefer, Bob LaFrankie & Cherie Walterman on January 12, 2018

POSTED IN ANTIDUMPING/COUNTERVAILING DUTY (AD/CVD), SECTION 232 INVESTIGATIONS, U.S. TRADE POLICY, U.S.-CHINA TRADE RELATIONS

The Department of Commerce submitted its report on the impact of steel mill product imports on U.S. national security to President Trump on January 11.

In a statement on its website, the Department announced that the long-awaited results of the investigation, commonly known as the Section 232 Report, will not be made public until after the President makes his final decision.

Although the president has 90 days to act, he has the discretion to announce his decision early.

COMMERCE REVIEWING SECTION 232 PETITION ON URANIUM IMPORTS

By Daniel Cannistra, Bob LaFrankie & Cherie Walterman on February 12, 2018

POSTED IN SECTION 232 INVESTIGATIONS

Ur-Energy and Energy Fuels Resources signed a joint petition on January 16 regarding imports of uranium from state-owned and state-subsidized companies primarily in Russia, Kazakhstan, Uzbekistan, and possibly China. The petitioners claim that “[the United States] cannot afford to depend on foreign sources – particularly Russia, and those in its sphere of influence, and China – for the element that provides the backbone of our nuclear deterrent, powers the ships and submarines of America’s nuclear Navy, and supplies 20 percent of the nation’s electricity.”

The Petitioners have asked the Department of Commerce to expedite the investigation and for the President to impose quota restrictions on uranium products from Russia. Specifically, they seek to reserve 25 percent of the U.S. market for domestic uranium and a requirement for U.S. government agencies to purchase uranium from domestic sources.

Senator John Barrasso (R-WY) also asked for Commerce to launch an investigation under Section 232 on the effects of uranium imports on national security. According to the U.S. Senate Committee on Environment and Public Works, uranium from state-subsidized companies in Russia, Kazakhstan, and Uzbekistan, provides approximately 40 percent of U.S. uranium. Barrasso argues that the United States, however, produces less than 5 percent of the yellowcake (uranium oxide) it consumes, with the majority of U.S. uranium production in Wyoming.

Commerce’s Bureau of Industry and Security (BIS) is still reviewing the petition to determine if it meets the threshold to begin an investigation. If Commerce decides to act, it has 270 days to report their findings to the President. The President then has 90 days to decide whether an article that is imported into the United States has threatened or impaired national security. If the President determines that the article is impairing national security, he has 15 days to implement any potential action. Once the President makes a decision, he has 30 days to write a public statement on why he decided to take (or refused to take) such action.

An investigation on uranium imports would be the third probe under Section 232 of the Trade Expansion Act of 1962 since President Trump took office early 2017. Commerce Secretary Wilbur Ross submitted the Section 232 reports to the White House on steel and aluminum on January 11 and January 22, respectively.

COMMERCE RECOMMENDS TARIFF/QUOTAS ON MAJOR STEEL AND MOST ALUMINUM PRODUCTS

By **Daniel Cannistra**, **Bob LaFrankie**, **Charles De Jager** & **Cherie Waltermann** on February 21, 2018

POSTED IN SECTION 232 INVESTIGATIONS, U.S. TRADE POLICY

On February 16, U.S. Secretary of Commerce Wilbur Ross released the findings of the Department of Commerce (Commerce) investigations on the effects of steel and aluminum imports on U.S. national security pursuant to Section 232 of the Trade Expansion Act of 1962.

Commerce concluded the present quantities of steel imports are “weakening [the U.S.] internal economy” and threaten to impact the national security of the United States. The same was said of aluminum imports, with the report noting that “recent import trends have left the U.S. almost totally reliant on foreign producers of primary aluminum ... that is essential for key military and commercial systems.”

Steel Remedies

In terms of specific remedies, Commerce recommends the President adjust the level of steel imports through quotas and/or tariffs imposed on a broad range of all major categories of steel currently produced in the United States. The relief is intended to ensure that U.S. domestic steel producers maintain a capacity utilization rate of 80 percent or better. The report does not mention the duration of any proposed remedies.

Commerce presented two recommendations:

- A global quota of 63 percent or global tariff of 24 percent on imports from all countries.
 - Commerce proposes that under this option the President could exempt specific countries by granting them a quota of 100 percent of their 2017 import volumes. Such exemption would be based on an overriding U.S. economic or security interest.
- A higher overall tariff of 53 percent, but only on a subset of countries (Brazil, South Korea, Russia, Turkey, India, Vietnam, China, Thailand, South Africa, Egypt, Malaysia, and Costa Rica)

Under either alternative, quotas and/or tariffs would be imposed on imports of all steel products that fall into one of the following five broad product categories:

Carbon and alloy flat products produced by rolling semi-finished steel through varying sets of rolls, including sheets, strips, and plates;

Carbon and alloy long products that fall outside the flat products category, including bars, rails, rods, and beams;

Carbon and alloy pipe and tube products either seamless or welded pipes and tubes, some of which may include stainless and alloys other than stainless;

Carbon and alloy semi-finished products consisting of initial, intermediate solid forms of molten steel, to be re-heated and further forged, rolled, shaped, or otherwise worked into finished steel products, including blooms, billets, slabs, ingots, and steel for castings; and

Stainless steel products in flat-rolled, long, pipe and tube, and semi-finished forms, containing at minimum 10.5 percent chromium and, by weight, 1.2 percent or less of carbon, offering better corrosion resistance than other steel.

Steel Exclusions

The Secretary also proposes a separate exclusion process through which affected U.S. parties may seek exclusions from the quota or tariff for specific products based on the following: (1) lack of sufficient U.S. production capacity of comparable products; or (2) specific national security-based considerations. Commerce will lead the exclusion appeal process, providing for public comment on exclusion requests and decisions within 90 days of the requests' filing. Commerce will also consider whether the quota or tariff for remaining products must be adjusted to ensure the domestic industry achieves projected production levels.

Aluminum Remedies

The Secretary determined it necessary to reduce imports to a level that will allow the domestic industry to restart idled capacity of primary aluminum in order to remove the threat of impairment. The Secretary recommends the President impose quotas and/or tariffs on a wide range of aluminum products to ensure that U.S. aluminum producers operate profitably and maintain an average capacity utilization rate of 80 percent. The remedies' duration is fairly open-ended, as the Secretary recommends that the action taken remain in effect long enough to "stabilize the U.S. industry" by building cash flow to reduce debt and raising capital for plant modernization. (The report mentions that it can take up to nine months to restart idled smelting capacity.)

Commerce presented two recommendations:

- A global quota of 86.7 percent or global tariff of 7.7 percent on imports from all countries.
- A higher overall tariff of 23.6 percent, but only on a subset of countries (China, Hong Kong, Russia, Venezuela, and Vietnam).

Under either alternative, quotas and/or tariffs would be imposed on imports of:

Unwrought aluminum (HTS code 7601)
Aluminum castings and forgings (HTS codes 7616.99.5160 and 7616.99.5170)
Aluminum plate, sheet, strip, and foil (HTS codes 7606 and 7607)
Aluminum wire (HTS code 7605)
Aluminum bars, rods and profiles (HTS code 7604)
Aluminum tubes and pipes (HTS code 7608)
Aluminum tube and pipe fittings (HTS code 7609)

Aluminum Exemptions/Exclusions

Importantly, Commerce further proposes that under either alternative the President could exempt specific countries either entirely or by granting them a quota of 100 percent of their 2017 import volumes. Such exemption would be based on an overriding U.S. economic or security interest, including the exempted countries' willingness to help address "global excess capacity and other challenges facing the U.S. aluminum industry." (Any exemption would require a corresponding adjustment to the final quota or tariff imposed on the other countries.)

The Secretary also proposes a separate exclusion process through which affected U.S. parties may seek exclusions from the quota or tariff for specific products based on the following: (1) lack of sufficient U.S. production capacity of comparable products; or (2) specific national security-based considerations. Commerce will lead the exclusion appeal process, providing for public comment on exclusion requests and decisions within 90 days of the requests' filing. Commerce will also consider whether the quota or tariff for remaining products must be adjusted to ensure the domestic industry achieves projected production levels.

Deadline for President Trump

President Trump has until April 11, 2018 to determine whether he agrees with the Secretary's recommendations on steel, and until April 20, 2018 on aluminum.

PRESIDENT TRUMP ANNOUNCES TARIFFS ON STEEL AND ALUMINUM IMPORTS – QUESTIONS REMAIN

By Daniel Cannistra, Bob LaFrankie, Yun Gao & Cherie Walterman on March 1, 2018
POSTED IN SECTION 232 INVESTIGATIONS, U.S. TRADE POLICY

President Trump announced plans to approve tariffs on both steel and aluminum products pursuant to Section 232 of the Trade Expansion Act of 1962. According to his meeting earlier today with top steel and aluminum executives, the U.S. will impose a 25 percent tariff on steel imports and a 10 percent tariff on aluminum for a “long period” amount of time.

The President has yet to specify any country exemptions, nor did he discuss the process to exclude certain products from the scope. The official announcement is expected to be formally signed and released next week.

President Opts for Tariffs on Steel and Aluminum Imports

By Daniel Cannistra, Robert Holleyman, Bob LaFrankie & Cherie Walterman on March 2, 2018
POSTED IN SECTION 232 INVESTIGATIONS, U.S. TRADE POLICY

On March 1, President Trump abruptly announced his decision to impose tariffs on steel and aluminum imports pursuant to Section 232 of the Trade Expansion Act of 1962. The day started with conflicting news reports as to whether the president would announce his decision to impose tariffs, followed by the spontaneous announcement by President Trump during a White House meeting with key U.S. steel and aluminum executives.

According to those in attendance, the president announced that the U.S. will impose a 25 percent tariff on all imported steel and a 10 percent tariff on all imported aluminum for an “unlimited period” of time. The president did not specify any country exemptions, nor did he discuss the process to exclude products from the scope.

[Click here to continue reading the full version of this alert.](#)

Steel and Aluminum Tariffs: Recovery and Risk Reduction for Federal Contractors

By Peter J. Eyre, J. Chris Haile, Steve McBrady, Brian Tully McLaughlin & Gail D. Zirkelbach
on March 7, 2018

POSTED IN SECTION 232 INVESTIGATIONS

On March 1, the President announced his intention to impose tariffs of 25 percent on all imported steel and 10 percent on all imported aluminum. When finalized, the tariffs could increase costs of performance and restrict available supply for contractors across a range of industries. Federal contractors who manufacture or use products containing steel or aluminum should examine their existing contracts, as many may include risk-shifting provisions with opportunities for recovery through price adjustments or relief through schedule adjustments. Federal contractors also should consider re-evaluating pricing of offers and revising standard contract terms. [Click here](#) to read the full post on our Government Contracts blog.

President Trump Signs Section 232 Proclamations – Tariffs Start March 23

By Daniel Cannistra, Bob LaFrankie, J. Chris Haile & Cherie Walterman on March 9, 2018
POSTED IN SECTION 232 INVESTIGATIONS

On March 8, President Trump officially signed proclamations imposing a 25 percent tariff on imported steel and a 10 percent tariff on imported aluminum pursuant to Section 232(b) of the Trade Expansion Act of 1962.

The signing of the proclamations came exactly one week after the president abruptly announced his decision to impose the global tariffs during a White House meeting with key steel and aluminum executives.

The effective date of the tariffs is March 23, exactly 15 days after the official announcement.

The proclamations provide for Country Exemptions and Product Exclusions.

Country Exemptions

The tariffs apply to steel and aluminum imported from all countries. However, Mexico and Canada are exempt from the tariffs. Certain other countries with which the United States has “a security relationship” may be eligible for a similar exemption. No countries are listed and the term “security relationship” is undefined. The U.S. Trade Representative, Ambassador Robert Lighthizer, will lead negotiations with countries seeking such exemptions. A timeframe for such discussions has not been announced.

Product Exclusions

The specific procedure to seek product exclusions has not yet been announced. The proclamations require it to be “issued within 10 days,” which is March 18. The Department of Commerce, in coordination with other agencies including the Department of Defense and the U.S. Trade Representative, is responsible for creating the procedures, as well as reviewing and approving submitted product exclusion requests.

The proclamations included certain requirements for product exclusions.

First, an exclusion request may only be made by “a directly affected party located in the United States.” Thus, foreign entities appear ineligible to submit the request.

Second, the following criteria are listed for exclusion requests:

1. An eligible requestor must show a product is not produced in the United States in a sufficient and reasonably available amount, or of a satisfactory quality.
2. The request must be based on specific national security considerations.

Country Retaliation

Shortly after the president announced his decision to impose a global tariff on steel and aluminum imports, the President of the European Commission, Jean-Claude Juncker, drafted a proposal for dispute settlement consultations with the United States. Other countries also announced retaliation on U.S. exports including Kentucky bourbon, orange juice, Levi jeans, Harley-Davidson motorcycles, and certain steel products under Chapters 72 and 73 of the Harmonized Tariff Schedule. This sets the stage for international negotiations.

To keep up with the latest developments on the Section 232 steel and aluminum investigations and tariffs, [please click here to subscribe to the blog's Section 232 Investigations section.](#)

Products Affected by Section 232 Tariffs on Steel and Aluminum

By **Daniel Cannistra**, **Bob LaFrankie** & **Cherie Walterman** on March 12, 2018
POSTED IN **SECTION 232 INVESTIGATIONS**

The president's decision last week to impose a 25 percent global tariff on certain steel imports, and a 10 percent global tariff on certain aluminum imports, includes the following products:

Aluminum products within the scope of the global tariffs:

- Primary unwrought aluminum, not alloyed – 7601.10
- Primary unwrought aluminum, alloyed – 7601.20
- Semi-finished aluminum bars, rods, and profiles – 7604
- Aluminum wire – 7605
- Semi-finished aluminum plates, sheets, and strip – 7606
- Foil of all types – 7607
- Tubes and Pipe Extrusions – 7608
- Tube or Pipe Fittings – 7609
- Castings and Forgings – 7616.99.5160 and 7616.99.5170

Steel products within the broad scope of the global tariffs:

- Carbon and alloy flat products – produced by rolling semi-finished steel through varying sets of rolls, including sheets, strips, and plates.
- Carbon and alloy long products – that fall outside the flat products category, including bars, rails, rods, and beams.
- Carbon and alloy pipe and tube products – either seamless or welded pipes and tubes, some of which may include stainless and alloys other than stainless.
- Carbon and alloy semi-finished products – consisting of initial, intermediate solid forms of molten steel, to be re-heated and further forged, rolled, shaped, or otherwise worked into finished steel products, including blooms, billets, slabs, ingots, and steel for castings.
- Stainless steel products – flat-rolled, pipe and tube, and semi-finished forms, containing at minimum 10.5 percent chromium and, by weight, 1.2 percent or less of carbon, offering better corrosion resistance than other steel.

The tariffs are effective on March 23.

Companies can seek to get product exclusions of the aforementioned products via exclusion requests. The Secretary will publish the procedures on the Federal Register notice by March 18, 2018.

For what is known about product exclusions at this time, [please click here](#).

EU Publishes List of Proposed U.S. Retaliation Targets in Response to Section 232 Tariffs

By Cherie Walterman & Bob LaFrankie on March 16, 2018

POSTED IN SECTION 232 INVESTIGATIONS, SECTION 232 TARIFFS

The European Commission released a list of U.S. products on Friday, March 16, that could be subject to tariffs if the President does not exclude the EU from the Section 232 tariffs. The list was released a week after President Trump signed the proclamations to impose a 25 percent tariff on steel imports and a 10 percent tariff on aluminum imports, which officially take effect on March 23.

Canada and Mexico are currently excluded from the tariffs, but other countries with a 'security relationship' to the United States could be eligible for exemption. The U.S. Trade Representative, Ambassador Robert Lighthizer, is leading the negotiations with countries seeking exemptions from the Section 232 tariffs. The European Commission, along with Brazil, South Korea, Japan, India, and Australia, has pressed the United States to exempt them from the upcoming tariffs.

The products that could be subjected to the retaliatory tariffs include U.S. agricultural goods such as sweetcorn, grain rice, and cranberries, along with Kentucky bourbon, cigars, t-shirts, jeans, and motorcycles.

Commerce Publishes Forms and Instructions for Section 232 Exclusions

By **Bob LaFrankie, Yun Gao & Ru Xiao-Graham** on March 19, 2018

POSTED IN SECTION 232 INVESTIGATIONS, SECTION 232 TARIFFS

On March 19, Commerce published a Federal Register Notice which detailed the procedure to request product exclusions from the new imported steel and aluminum tariffs.

In addition, the agency established two web pages and accompanying exclusion request forms, one each for steel and aluminum, explaining the process, how to file exclusion requests, the detailed information to be provided, and how to file exclusion objections.

Per its new web pages and exclusion request forms, Commerce explains:

- Exclusion Requests will be open for public review after being posted to the federal rulemaking portal.
- There is no specific deadline to file exclusion requests, as they may be submitted at any time.
- During the initial 30 days, U.S. parties may file objections to the exclusion request.
- After this initial 30 day period, approximately 60 days will be necessary for complete review and vetting of the Exclusion Request and any related Objection Filings.
- The total processing time for exclusion requests is estimated at 90 business days.
- A single response to each exclusion request and related objection filings will be posted in regulations.gov indicating if the exclusion request has been granted or denied.

There is a link on each page to the exclusion forms and instructions on how to upload it once completed.

Further, Commerce provided some guidelines, to include:

- A separate Exclusion Request must be submitted on each distinct type and dimension of aluminum or steel product to be imported.
- Exclusion Request Requirements: Only individuals or organizations that use aluminum or steel products in business activities in the United States may submit an Exclusion Request. This includes those involved in construction, manufacturing, and supplying steel or aluminum products to users.
- For an Exclusion Request to be considered, the exclusion requester must provide factual information on:
 - 1) the single type of aluminum or steel product they require using a 10-digit HTSUS code, including its specific dimension;
 - 2) the quantity of product required (stated in kilograms) under a one-year exclusion; and

- 3) a full description of the properties of the aluminum or steel product it seeks to import, including chemical composition, dimensions, strength, toughness, ductility, magnetic permeability, surface finish, coatings, and other relevant data.
- All exclusion requests will be reviewed for completeness. Only fully completed exclusion requests will be considered and posted for public review. All exclusion requests will be made available for public inspection and copying.

President Exempts Certain Countries from Section 232 Tariffs Until May 1, 2018

By Daniel Cannistra, Robert Holleyman, Bob LaFrankie, Melissa Morris & Ru Xiao-Graham on March 23, 2018

POSTED IN SECTION 232 INVESTIGATIONS, SECTION 232 TARIFFS

On March 22, President Trump issued two new Proclamations exempting Australia, Argentina, South Korea, Brazil, and EU member countries from the Section 232 aluminum and steel tariffs, which enter into force March 23, until May 1, 2018.

A statement issued by the White House said the president made the decision “based on factors including ongoing discussions regarding measures to reduce global excess capacity in steel and aluminum production by addressing its root causes.”

President Trump will decide by May 1 whether or not to continue to exempt these countries based on the status of the discussions.

Canada and Mexico were exempted in the original Proclamations on steel and aluminum issued on March 8. Both are now subject to the same May 1 deadline for the U.S. to evaluate whether the countries’ exemptions will continue.

U.S. Customs and Border Protection issued a message via its Cargo Systems Messaging Service (CSMS) late on March 22 providing direction on the exemption of the countries named above.

China Imposes Retaliatory Tariffs on 128 U.S. Exports

By Robert Holleyman & Cherie Walterman on April 3, 2018
POSTED IN CHINA RETALIATORY TARIFFS, SECTION 232 INVESTIGATIONS,
SECTION 232 TARIFFS

On April 1, 2018, the Ministry of Commerce of the People's Republic of China announced the country's intention to impose retaliatory tariffs on U.S. goods. The Ministry suggested that China's response was not designed to escalate tensions between the two countries. Instead, China hopes that the U.S. will quickly rescind the Section 232 tariffs that "violate World Trade Organization rules," according to the Ministry's statement on Sunday.

China informed the WTO on March 29 that it would suspend concessions on 128 U.S. products in retaliation to the Section 232 tariffs on steel and aluminum imports. According to the filing, China will apply an additional duty of 15 percent on 120 items including fruits, nuts, wine, and steel and iron tubes and pipes; and an additional duty of 25 percent on 8 items including pork and aluminum scrap. China acted pursuant to Article 8 of the Agreement on Safeguards by notifying the WTO of its intention to impose retaliatory tariffs against the United States.

The Trump administration responded to China's retaliatory tariffs by telling China to focus on fixing its own "unfair trading practices" instead of targeting "fairly traded" U.S. exports by imposing additional tariffs.

The tariffs on the 128 U.S. goods took effect on April 2, 2018.

EU Initiates Steel Safeguard Proceeding to Protect Against Trade Diversion Due to U.S. 232 Measure

By Charles De Jager & Cherie Walterman on April 3, 2018

POSTED IN EU STEEL SAFEGUARD, SECTION 232 INVESTIGATIONS, SECTION 232 TARIFFS

On March 26, 2018, the European Commission launched a safeguard proceeding against imports into the EU of a wide range of steel products in 26 different categories. Per the Notice of Initiation, the proceeding is intended to counter the threat of trade diversion by exporting producers from various countries now subject to the Section 232 national security tariff of 25 percent on imports of steel into the U.S.

Since March 2016, the EU has maintained a surveillance system for steel imports. The system has provided recent evidence imports of certain steel products are increasing. This development may be further exacerbated as third-country producers are now likely to redirect to other markets, and especially the EU, an amount of their exports originally destined for the U.S.

In accordance with the rules of the WTO Agreement on Safeguards, the EU proceeding covers the products concerned from all origins. If upon conclusion of the proceeding in 9 months it is deemed necessary to protect EU steel producers from a surge in imports, the EU may impose import tariffs or quotas. In the meantime, the EU also has the option to impose provisional measures if EU steel producers are deemed to merit immediate protection from a surge in imports.

According to the Notice, in order to obtain the information needed for its investigation, the Commission will “send questionnaires to the known producers of the like or directly competing products and to any known associations of producers, in the Union. The completed questionnaires must reach the Commission within 21 days from the date on which they are sent.”

Also, “All interested parties including exporting producers, importers and users of the products concerned and their associations are invited to make known their views in writing, submit information and to provide supporting evidence. Representations in a free format should be submitted within 21 days of the date of publication of this Notice in the Official Journal of the European Union [April 16, 2018]. Interested parties may make themselves known by contacting the Commission, preferably by email, immediately but no later than 15 days after the publication of this Notice in the Official Journal of the European Union, and request a questionnaire [April 10, 2018]. The completed questionnaire should be submitted within 21 days from the date on which they are sent.”

President Makes Decisions on Country Exemptions for Section 232 Tariffs

By Daniel Cannistra, Alexander H. Schaefer & Cherie Walterman on May 1, 2018

POSTED IN SECTION 232 INVESTIGATIONS, SECTION 232 TARIFFS, U.S. TRADE POLICY, WORLD TRADE ORGANIZATION (WTO)

On April 30th, the President issued two proclamations extending country exemptions for certain U.S. allies on the steel and aluminum tariffs pursuant to Section 232(b) of the Trade Expansion Act of 1962.

The President extended temporary exemptions for Canada, Mexico, and the European Union, granted a permanent exemption on steel tariffs for South Korea, and is considering permanent exemptions for Australia, Argentina, and Brazil. Trump's administration unveiled its decision to extend the country exemptions just prior to the May 1st deadline, leaving the countries unaware whether the tariffs would go into effect by midnight.

In addition, the proclamation creates new limitations by eliminating the ability of manufacturers to receive a refund on steel/aluminum duties when exporting from the United States. Specifically, the new proclamation eliminates drawback claims on steel and aluminum. The elimination of drawback claims follows the elimination of foreign trade zone benefits for steel/aluminum imports in the earlier revisions to the steel/aluminum proclamations.

The United States temporarily extended the country exemptions for Canada, Mexico, and the European Union until June 1st, 2018. Trump originally stated that a successful NAFTA renegotiation between the three countries would result in a permanent exemption for Canada and Mexico. However, Canada and Mexico said that there is no connection between the NAFTA renegotiations and the Section 232 tariffs.

The United States determined to permanently exempt South Korea after the two countries concluded discussions to reduce steel overcapacity. South Korea agreed to limit its exports of steel products to 70 percent of its current volume, or 2.86 million tons of steel, to the U.S. each year. However, South Korea is no longer exempted from the aluminum tariffs as of May 1, 2018.

The proclamations also indefinitely extended temporary exemptions for Australia, Argentina, and Brazil. Although the agreements with Australia, Argentina, and Brazil will be finalized shortly, the President threatened to re-impose the tariffs if the deals are not finalized quickly. "Because the United States has agreed in principle with these countries, in my judgment, it is unnecessary to set an expiration date for the exemptions. Nevertheless, if the satisfactory alternative means are not finalized shortly, I will consider re-imposing the tariff," the President said in the steel and aluminum presidential proclamations.

What's Next?

China, India, and Turkey have requested WTO consultations with the United States over the Section 232 tariffs on imported steel and aluminum products. If the European Union does not receive a permanent exemption, then it is also likely that the EU will request WTO consultations with the U.S.

Countries argue that the tariffs violate the WTO's Agreement on Safeguards and Article XXI's National Security Exception pursuant to the 1994 GATT Agreement. If the U.S. successfully sets a precedent of Article XXI for national security reasons, then other members of the WTO could invoke the never-before-used Article to apply tariffs or sanctions as retaliation against U.S. exports.

President Imposes Section 232 Steel and Aluminum Duties on Imports from the European Union, Canada, and Mexico

By Spencer Toubia, Cherie Walterman & Edward Goetz on June 4, 2018

POSTED IN SECTION 232 INVESTIGATIONS, SECTION 232 TARIFFS

On May 31, 2018, President Trump signed two new presidential proclamations adjusting steel and aluminum duties initiated under Section 232 of the Trade Expansion Act of 1962.

These ended temporary exemptions of duties for imports of steel and aluminum products from the European Union (EU), Canada, and Mexico. As a result, a 25 percent duty on steel products and a 10 percent duty on aluminum products are now being collected on imports from those countries.

President Trump originally announced the Section 232 tariffs on March 8, 2018. However, on March 22, he temporarily exempted imports of steel and aluminum from Australia, Argentina, South Korea, Brazil, Canada, Mexico, and EU member countries from the tariffs until May 1, 2018. President Trump subsequently extended this deadline to June 1.

The most recent May 31 proclamations continued tariff exemptions for imports from Brazil, Argentina, and South Korea, as those countries negotiated quotas restricting steel and aluminum exports to the U.S. The Proclamations announced the aggregate limits of imports from Argentina and Brazil, while the administration previously announced specific quota amounts for steel products from South Korea on April 30, 2018. The only country exempted from the tariffs and not subject to quotas is Australia.

A statement issued by the White House noted that “measures are in place to address the impairment to the national security threatened by imports of steel and aluminum from Argentina, Brazil, and Australia” and that “similar measures are not in place with respect to steel or aluminum imports from Mexico, Canada, or the European Union.” The statement also said “the Administration will continue discussions with [Mexico, Canada, and the European Union] and remains open to discussions with other countries.”

U.S. Allies Release Lists of Retaliation Tariffs on American Exports

By John Brew, Cherie Walterman & Edward Goetz on June 5, 2018

POSTED IN SECTION 232 INVESTIGATIONS, SECTION 232 TARIFFS

On May 31, 2018, the Department of Commerce announced the imposition of tariffs on imported steel and aluminum products from Canada, Mexico, and the European Union (EU). The 25 percent tariff on imported steel and the 10 percent tariff on imported aluminum products officially took effect on June 1, 2018. Canada, Mexico, and the EU had been temporarily exempted from the Section 232 tariffs during the ongoing renegotiation of NAFTA and trade discussions with the EU.

In response to the Section 232 measures, all three countries immediately condemned President Trump's decision to eliminate the temporary country exemptions.

Canada unveiled a trade-restrictive tariff list valued at over \$12.8 billion worth of U.S. products that will take effect on July 1, 2018 and will remain in place until the U.S. terminates the steel and aluminum tariffs on Canada. The scope of countermeasures is separated into two tables. Table 1 includes steel and aluminum products, which will be subject to a 25 percent duty; while goods selected from Table 2 will be subject to a 10 percent duty. Canada lodged a WTO challenge last Friday and is also asking for the establishment of a NAFTA dispute settlement panel.

Earlier in May, the EU also published two retaliation lists targeting American exports that could reach up to \$7.5 billion. The first phase of tariffs will be implemented on June 20th, which will equal 2.8 billion euros (over \$3.3 billion USD) worth of U.S. goods. The second phase will either be implemented on March 23, 2021, or the 5th day following the date of the adoption by, or notification to, the WTO Dispute Settlement Body of a ruling that the U.S. Section 232 tariffs violate the WTO Agreement, whichever comes first.

Mexico announced on June 4 that it "will initiate a dispute settlement process against the U.S. at the WTO." Furthermore, Mexico's Ministry of Economy published a list of U.S. goods that will be subject to equivalent measures to the Section 232 tariffs – including flat steel, lamps, pork legs, sausages, food preparations, apples, grapes, blueberries, various cheeses, and other products.

Please [click here](#) for the full list in Spanish.

No Section 232 Product Exclusions for Countries Subject to Steel or Aluminum Quotas
By Alexander H. Schaefer, Yun Gao, Cherie Walterman & Edward Goetz on June 6, 2018
POSTED IN SECTION 232 INVESTIGATIONS, SECTION 232 TARIFFS

Media sources are reporting the Department of Commerce will not consider steel and aluminum product exclusions for countries subject to quotas. Only countries facing the tariffs will be considered for product exclusions.

Currently, South Korea, Brazil, and Argentina have agreed to an absolute quota deal on certain steel products that are subject to the Section 232 tariffs.

The steel quotas are separated into 54 subcategories for South Korea, Argentina, and Brazil. Argentina has already reached its absolute quota for 40 of the 54 subcategories, while 18 subcategories have been filled for Brazil, and 9 have been filled for South Korea.

As of June 1, 2018, all countries of origin except Argentina and Australia are subject to the 10 percent tariff on aluminum products. Argentina agreed to cap exports of aluminum at 100 percent of the average exports to the U.S. over the last 3 years. The absolute quota is divided into two subcategories, equaling over 180,000 short tons per year.

Once a country reaches its quota for the quota period no entry for consumption of the product will be permitted.

Australia is currently the only country to have maintained a country-based exemption without having agreed to a quota regime.

CBP Issues Instructions to Importers on Using Approved Steel And Aluminum Product Exclusions

By Frances Hadfield & Edward Goetz on June 7, 2018

POSTED IN CUSTOMS, SECTION 232 INVESTIGATIONS, SECTION 232 TARIFFS

On June 5, U.S. Customs and Border Protection (CBP) issued a message providing instructions for importers who receive approval for a steel or aluminum product exclusion from the Department of Commerce (DOC).

The message states, “Upon receipt of the approved product exclusion from the DOC, for the importer of record listed in the approved exclusion, please provide that company’s name, address and importer of record number, and the associated product exclusion number, to U.S. Customs and Border Protection (CBP) at Traderemedymail@cbp.dhs.gov. You must provide this information to CBP before the importer of record submits the exclusion number with entries to CBP.”

Further instructions on how to provide the information are included.

It adds, “Exclusions granted by DOC are retroactive on imports to the date the request for exclusion was posted for public comment at Regulations.gov. To request an administrative refund for previous imports of excluded products granted by DOC, importers may file a Post-Summary Correction (PSC) and provide the product exclusion number in the Importer Additional Declaration Field.”

The message also states if an “entry has already liquidated, importers may protest the liquidation.”

EU's Section 232 Retaliation Tariffs Expected to Start in July

By Edward Goetz & Charles De Jager on June 8, 2018

POSTED IN EU RETALIATORY TARIFFS, SECTION 232 INVESTIGATIONS, SECTION 232 TARIFFS

On June 6, the European Commission (Commission) issued a press release stating, “The College of Commissioners endorsed today the decision to impose additional duties on the full list of US products notified to the World Trade Organisation (WTO), as part of the EU’s response to the US tariffs on steel and aluminium products.”

The release went on to state, “Following today’s decision to apply additional duties to selected imports from the United States, the Commission expects to conclude the relevant procedure in coordination with Member States before the end of June so that the new duties start applying in July.”

The Commission asserts the “rebalancing duties is fully in line with WTO rules, and corresponds to a list of products previously notified to the WTO. The WTO Safeguards Agreement allows for a rebalancing corresponding to the damage caused by the US measures with EU exports worth €6.4 billion (2017) being affected. The EU will therefore exercise its rights immediately on US products valued at up to €2.8 billion of trade. The remaining rebalancing on trade valued at €3.6 billion will take place at a later stage – in three years’ time or after a positive finding in WTO dispute settlement if that should come sooner.”

The retaliation tariffs (the rebalancing duties) may be found here. Those expected to begin in July are listed in Annex I (almost all at 25 percent). Annex II contains those to begin in three years, or after a positive finding in WTO dispute settlement. Those tariffs range from 10 to 50 percent.

Canada Announces U.S. Section 232 Retaliatory Tariff List – Effective July 1

By Daniel Cannistra, Spencer Toubia & Edward Goetz on June 29, 2018
POSTED IN CANADA RETALIATORY TARIFFS, SECTION 232
INVESTIGATIONS, SECTION 232 TARIFFS

On June 29, 2018, Canada released its retaliatory tariff list in response to the U.S. Section 232 tariffs on imports of certain steel and aluminum products from Canada at the rates of 25% and 10%, respectively.

The list is broken out into three tables. Items in Table 1 will be subject to a 25 per cent surtax, while items in Tables 2 and 3 will be subject to a 10 per cent surtax.

Canada released an initial list for public consultation on May 31, 2018, and received over 1,000 submissions.

This final list is effective as of July 1, 2018. These countermeasures are against C\$16.6 billion in imports of steel, aluminum, and other products from the U.S., representing the value of 2017 Canadian exports affected by the U.S. tariffs.

The announcement states the countermeasures will not apply to U.S. goods that are in transit to Canada on the day on which these countermeasures come into force.

Country	Covered Products	Rate Increase	Effective Date
Canada	<u>For covered products, please click here.</u>	Table 1 – 25% Table 2 – 10% Table 3 – 10%	7/1/2018
Status:	The Canadian government received over 1,000 submissions of public feedback during public consultations on its original list. Canada is imposing countermeasures against C\$16.6 billion in imports of steel, aluminum, and other products from the U.S., representing the value of 2017 Canadian exports affected by the U.S. tariffs.		

USTR Orders Review of Turkey's GSP Eligibility and President proposes Section 232 tariffs of 50% and 20% on Turkey's Steel and Aluminum Exports

By Frances Hadfield, Cherie Walterman & Rebecca Toro Condori on August 10, 2018
POSTED IN CUSTOMS, SECTION 232 TARIFFS, U.S. TRADE POLICY

The USTR announced on August 3rd that it will review Turkey's eligibility for the Generalized System of Preferences (GSP) program that grants duty-free access to the U.S. market. GSP is a U.S. trade program designed to promote economic growth in the developing world by providing preferential duty-free entry for up to 4,800 products from 129 designated beneficiary countries and territories. Concern over Turkey's "compliance with the GSP market access criterion," led the USTR to initiate the review. This also follows Turkey retaliatory tariffs on U.S. goods in response to the Section 232 tariffs imposed by the U.S. in March. Earlier this year, Commerce submitted reports to President Trump stating U.S. importers' reliance on foreign-made aluminum and steel posed a national security risk.

In 2017, the top categories of goods imported from Turkey under the program were vehicles and vehicle parts, jewelry and precious metals, and stone articles. The final decision on Turkey's GSP status will be made after a public hearing and comment process.

Steel imports from Turkey have fallen significantly according to data from the U.S. International Trade Commission. Steel imports from Turkey were 1.3% of total U.S. steel imports from January to June of 2018 and dropped over 41% since June 2017. Following on the heels of the USTR's announcement regarding Turkey's GSP eligibility review, on August 10, 2018, President Trump threatened to double the Section 232 tariffs on steel and aluminum imports from Turkey, to 50 percent and 20 percent, respectively claiming that the existing tariffs have less of an impact due to Turkey's currency, the lira, depreciating against the U.S. dollar.

The White House issued the following statement:

"[T]he President has authorized the preparation of documents to raise tariffs on imports of steel and aluminum from Turkey. Section 232 tariffs are imposed on imports from particular countries whose exports threaten to impair national security as defined in Section 232, independent of negotiations on trade or any other matter."

For further information, please contact us.

President Raises Section 232 Tariff on Steel Imported from Turkey to 50%

By **Spencer Toubia**, **Frances Hadfield** & **Edward Goetz** on August 14, 2018
POSTED IN **SECTION 232 TARIFFS, TURKEY**

On August 10, 2018, President Trump issued a **new Proclamation** Adjusting Imports of Steel into the United States from Turkey. Steel articles covered by Section 232 from Turkey are now subject to an *ad valorem* duty rate of 50%.

On August 12, 2018, U.S. Customs and Border Patrol (CBP) issued **Cargo Systems Messaging Service (CSMS) #18-000477**, which stated:

- The increased duty rates began at 12:01 a.m. EDT on August 13, 2018.
- In addition to reporting the regular Chapters 72 & 73 of the Harmonized Tariff Schedule of the United States (HTSUS) classification for the imported merchandise, importers shall report the following HTSUS classification for imported merchandise subject to the additional duty:
 - 9903.80.02 (50% ad valorem duty rate for products of iron and steel that are the product of Turkey).

Commerce Initiates Section 232 Investigation into Imports of Autos and Automotive Parts

By Daniel Cannistra, John Brew & Edward Goetz on May 24, 2018
POSTED IN SECTION 232 (AUTO AND AUTOMOTIVE PARTS), SECTION 232 INVESTIGATIONS

According to a May 23 U.S. Department of Commerce (Commerce) press release, “U.S. Secretary of Commerce Wilbur Ross initiated an investigation under Section 232 of the Trade Expansion Act of 1962, as amended. The investigation will determine whether imports of automobiles, including SUVs, vans and light trucks, and automotive parts into the United States threaten to impair the national security as defined in Section 232.”

The results of the Section 232 national security investigations into imports of aluminum and steel should give the auto and automotive parts industry pause. Steel was assigned a 25 percent tariff and aluminum 10 percent. There are opportunities for country exemptions and product exclusions. Country exemptions are handled by the Trump administration, but product exclusions must be submitted by U.S. companies to Commerce. To date, more than 10,000 comments have been filed with Commerce related to steel product exclusions, as well as 1,500 related to aluminum product exclusions.

Commerce is also considering a Section 232 investigation into uranium, though no decision on that has been made.

Commerce now has 270 days to conduct an investigation and prepare a report on its findings for submission to the President.

The Secretary of Commerce must consult with the Secretary of Defense during the investigation and may request of his counterpart an assessment of the defense requirements for autos and automotive parts. The communications Commerce receives from other U.S. Government agencies, such as the Department of Defense, is not available for public inspection. In the course of its investigation, Commerce may also solicit additional information from other sources through the use of questionnaires or other means.

In the event action against auto and automotive imports is found to be necessary based on Commerce’s report, the President has authority to take action to “adjust imports” of autos and/or automotive parts. The potential remedies available to the President in this context include changing the rate and form of import duties on autos and/or automotive parts without apparent limitation, as well as limiting or restricting autos and/or automotive parts imports, including through the negotiation of an agreement to that effect.

Commerce stated in the press release that a notice will be published shortly in the Federal Register announcing a hearing date and inviting comment from industry and the public to assist in the investigation. This is the only time interested parties will be afforded an opportunity to present information and advice relevant and material to the investigation (e.g., written comments,

opinions, data, information or advice). The public hearing will also allow interested parties the opportunity to submit oral or written information.

Using the Section 232 investigation into imports of steel as a guide, below is an approximate timeline for the auto and automotive parts investigation.

<u>Event</u>	<u>Allotted Time</u>	<u>Approximate Date</u>
Initiation of DOC investigation	–	May 23, 2018
Federal Register Notice announcing public hearing and soliciting comments	approx. 7 days	May 30, 2018
Request to participate in public hearing with summary of oral presentation	approx. 21 days	June 20, 2018
Participation in public hearing	approx. 35-42 days	July 11, 2018
Submission of post-hearing comments	approx. 7 days	July 18, 2018
Overall conduct of DOC investigation	270 days	February 17, 2019
Presidential determination whether to act	90 days	May 18, 2019
Delay within which action must be taken	15 days from President's determination	June 2, 2019
President must inform Congress	30 days from President's determination	July 2, 2019

Commerce Publishes Details for Section 232 Public Hearing on Imports of Autos and Auto Parts

By Daniel Cannistra, John Brew, Spencer Toubia & Cherie Walterman on May 30, 2018
POSTED IN SECTION 232 (AUTO AND AUTOMOTIVE PARTS), SECTION 232 INVESTIGATIONS

On May 23, 2018, the Secretary of Commerce initiated an investigation to determine the effects on the national security of imports of automobiles, including cars, SUVs, vans and light trucks, and automotive parts. This investigation has been initiated under section 232 of the Trade Expansion Act of 1962, as amended.

On May 30, 2018, the Department of Commerce (Commerce) published in the Federal Register details on the public hearing, scheduled for July 19-20, as well as the schedule for commenting and submitting rebuttal comments.

Interested parties are invited to submit written comments, data, analyses, or other information pertinent to the investigation to the Department of Commerce by June 22, 2018. Rebuttals to those comments are due by July 6, 2018.

June 22 is also the deadline for requesting to appear at the public hearing and for submissions of a summary of expected testimony.

Commerce will hold a public hearing on the investigation on July 19 and 20, 2018 in Washington, DC. The notice identifies the issues on which the Department is interested in obtaining the public's views and discusses the procedures for public participation in the hearing.

Per the notice, Commerce is particularly interested in the following criteria as they affect national security:

The quantity and nature of imports of automobiles, including cars, SUVs, vans and light trucks, and automotive parts and other circumstances related to the importation of automobiles and automotive parts;

- Domestic production needed for projected national defense requirements;
- Domestic production and productive capacity needed for automobiles and automotive parts to meet projected national defense requirements;
- The existing and anticipated availability of human resources, products, raw materials, production equipment, and facilities to produce automobiles and automotive parts;
- The growth requirements of the automobiles and automotive parts industry to meet national defense requirements and/or requirements to assure such growth, particularly with respect to investment and research and development;
- The impact of foreign competition on the economic welfare of the U.S. automobiles and automotive parts industry;

- The displacement of any domestic automobiles and automotive parts causing substantial unemployment, decrease in the revenues of government, loss of investment or specialized skills and productive capacity, or other serious effects;
- Relevant factors that are causing or will cause a weakening of our national economy;
- The extent to which innovation in new automotive technologies is necessary to meet projected national defense requirements;
- Whether and how the analysis of the above factors changes when U.S. production by majority U.S.-owned firms is considered separately from U.S. production by majority foreign-owned firms; and
- Any other relevant factors.

**Section 232 Investigation on Imports of Autos and Auto Parts – Comment Period Extended
By Frances Hadfield & Yun Gao on June 22, 2018**

POSTED IN SECTION 232 (AUTO AND AUTOMOTIVE PARTS), SECTION 232 INVESTIGATIONS, SECTION 232 TARIFFS

On June 21, 2018, the U.S. Department of Commerce published in the Federal Register an extended commenting schedule in the Section 232 investigation on U.S. imports of automobiles, including cars, SUVs, vans and light trucks, and automotive parts.

Commerce is now extending that comment period by a week from the initial deadline.

Interested parties are invited to submit comments, data, analyses, or other information pertinent to the investigation by June 29, 2018. Rebuttals to any comments are now due by July 13, 2018.

June 29, 2018 is also the deadline for requesting to appear at the public hearing and for submissions of a summary of expected testimony. The public hearing will continue to be held on July 19 and 20, 2018 in Washington, DC.

Commerce initiated the Section 232 national security investigation on U.S. imports of automobiles and auto parts on May 23, 2018. Similar to the earlier completed 232 investigations on steel and aluminum, the investigation will determine whether imports of automobiles, including SUVs, vans and light trucks, and automotive parts into the United States threaten to impair the national security as defined in Section 232. For details, please [click here](#), and [here](#).

Commerce Changes Public Hearing for Section 232 Investigation on Autos and Automotive Parts to One Day

By Spencer Toubia & Edward Goetz on July 13, 2018

POSTED IN SECTION 232 (AUTO AND AUTOMOTIVE PARTS)

On Monday, July 16, 2018, the Commerce Department will post a notice in the Federal Register cancelling one of the days of the two-day public hearing associated with the investigation the Department is conducting to determine whether imports of automobiles, including cars, SUVs, vans and light trucks, and automotive parts threaten to impair the national security and to recommend remedies if such a threat is found to exist.

The hearing was originally scheduled for July 19 and 20. The Department received 45 requests to testify, which can all be accommodated on a single day. Therefore, the second day of the hearing originally scheduled for July 20 is cancelled.

The hearing will be held on July 19 only and will begin at 8:30 am and will end at 5:30 pm. The location of the hearing remains unchanged.

HQ 115676

May 24, 2002

RES-3-RR:IT:EC 115676 GEV

CATEGORY: Restricted Merchandise

Robert J. Leo, Esq.
Meeks & Sheppard
330 Madison Avenue
39th Floor
New York, N.Y. 10017

RE: Convict Labor; Packaging; 19 U.S.C. § 1307

Dear Mr. Leo:

This is in response to your fax of April 30, 2002, enclosing a copy of your letter to us requesting a ruling regarding the admissibility of merchandise packaged by convict labor. Our ruling on this matter is set forth below.

FACTS:

The consumer product, women's plastic beauty accessories, will be manufactured in a country in Europe in a private, non-penal factory. Clear, rectangular blister packs and printed inserts for the product will be manufactured in a second country in Europe, also in a private, non-penal institution. The finished product, blister packs, and printed inserts will be sent to a prison for white collar criminals in Europe where the prisoners will place the inserts and the product in the blister pack, snap the pack closed, and then staple it. The product will be plainly visible through the packs. No further processing or operations will be done to the product, inserts, or the blister packs. The packaged product will then be placed inside a larger shipping container which will be picked up from the prison by a forwarder for shipment to the United States.

The prisoners will have a choice of whether or not to participate in the packaging operation and will be paid for their labor. This packaging operation will cost only 15% of the cost of the finished, packaged product.

ISSUE:

Whether the packaging of merchandise by convict labor is an operation whereby such merchandise is considered to be “manufactured in part” by such labor so as to be within the purview of the prohibitions contained in 19 U.S.C. § 1307.

LAW AND ANALYSIS:

Title 19, United States Code, § 1307 (19 U.S.C. § 1307), provides, in pertinent part, as follows:

All goods, wares, articles, and merchandise mined, produced, or manufactured wholly or in part in any foreign country by convict labor...shall not be entitled to entry at any of the ports of the United States, and the importation thereof is hereby prohibited...
(Emphasis added)

The Customs Regulations promulgated pursuant to 19 U.S.C. § 1307 are found at title 19, Code of Federal Regulations, §§ 12.42-12-45 (19 CFR §§ 12.42-12.45).

With respect to the issue under consideration, neither the plain language of the statute nor its legislative history provide any degree of guidance upon which Customs may rely, the latter only reflecting the Congressional intent to protect domestic producers and workers from unfair competition that would result from the importation of foreign goods produced by forced labor, only allowing access to such goods when they are in short supply domestically. (See McKinney v. United States Dep’t of Treas., 799 F.2d 1544, 1557 (Fed. Cir. 1986)) Furthermore, neither the courts nor Customs have ever ruled on whether the mere packaging of a product by convict labor falls within the scope of the phrase “manufactured...in part...” set forth in 19 U.S.C. § 1307.

Notwithstanding this dearth of legislative, judicial and administrative authority in this matter, we nonetheless find instructive a 1928 Opinion of the Attorney General (35 Op. Atty. Gen. 500) addressing the issue of whether phosphate rock that was mined by convict labor was considered to be “manufactured wholly or in part” within the meaning of 19 U.S.C. § 1307. Although this decision predates the amendment to this statute which included “mining” by convict labor as a prohibited activity enumerated thereunder, it thus far constitutes the sole

adjudication of this statute that is interpretive of the operative language in this case and therefore merits our review as set forth below.

At the outset, we note that the Attorney General, upon reviewing the entirety of the original statutory text (§ 301 of the Tariff Act of September 21, 1922; 42 Stat. 858), stated that:

A reading of the entire statute does not justify the inference that Congress used the term “manufactured” in any loose, colloquial, or general sense. On the contrary, throughout the Act the discriminating choice of words in describing various industrial processes reveals an intent to use language with accuracy and even nicety. (35 Op. Atty. Gen. 500, 503)

The Attorney General further provided that:

...when Congress in section 307 used the word “manufactured”...we are justified in applying it only where it is plainly appropriate...I do not find that the courts have attempted to frame a completely inclusive and exclusive definition of the word manufactured. It is a term of description rather than definition. Certain principles, however, have been settled. Id. at p. 504

In regard to the above-referenced principles, the Attorney General’s Opinion cited two cases decided by the Supreme Court. In Hartranft v. Wiegmann, 121 U.S. 609 (1887), the Court determined that shells subject to cleaning, grinding and possible etching were not manufactured. The Court opined that, “The application of labor to an article, either by hand or by mechanism, does not make the article necessarily a manufactured article, within the meaning of that term as used in the tariff laws.” (Emphasis added) Id. at p. 615

In Anheuser-Busch Brewing Association v. The United States, 207 U.S. 556 (1908), the other Supreme Court case cited by the Attorney General, the Court held that the mere subjecting of corks to a cleaning and coating process to adapt them to a special use did not amount to a manufacturing for purposes of the drawback statute. The Court stated:

Manufacture implies a change, but every change is not a manufacture, and yet every change in an article is the result of treatment, labor and manipulation. But something more is necessary, as set forth and illustrated in *Hartranft v. Wiegmann*, 121 U.S. 609. There must be transformation; a new and different article must emerge, 'having a distinctive name, character or use.'

In discussing the applicability of the aforementioned principles in cases adjudicated under the customs laws, the Attorney General cited numerous cases of the Court of Customs Appeals. In one of these cases the court stated that:

It may be generally said that it has been uniformly held in customs interpretation that the application of processes necessary to produce an article from its native condition and to bring it into a condition that it may be imported, without affecting its *per se* character, is not regarded either as a manufacturing process or as a process advancing it in value or condition. Hampton, Jr. & Co. v. United States, 6 Ct. Cust. Appls. 392, 395 (1915)

Although not directly addressing the provisions of 19 U.S.C. § 1307, the three cases cited above discuss principles which, collectively, lead us to conclude that the blister packaging described herein, although indisputably a process effected by convict labor, does not rise to the level of "manufacturing" for purposes of that statute. Such labor does not change the name, character or use of the consumer product in question (women's plastic beauty accessories). These products, once subjected to the aforementioned blister packaging, will therefore not be considered as "manufactured...in part...by convict labor" within the meaning of 19 U.S.C. § 1307.

Further support for this conclusion is found in China Diesel Imports, Inc. v. U.S., 855 F.Supp. 380 (CIT 1994). Although this decision did not address the operative language in question, it did provide some guidance as to the protectionist parameters of the statute. In addressing evidentiary standards with respect to actions arising under this statute, the court stated, "Additionally, § 1307 only prohibits the entry of merchandise that '*actually contains* 'wholly or in part' components made with prohibited labor." *Id.* at p. 384, citing *Enforcement of U.S. Prohibitions on the Importation of Goods produced by Convict Labor: Hearing before the Subcommittee on Int'l*

Trade of the Senate Comm. on Finance, 99th Cong., 1st Sess. 53, §II, ¶ C (1985) (emphasis added) (“Evidentiary Standards”) As stated in the FACTS portion of this ruling, the product, the blister pack, and the inserts will be made with non-penal labor, not convict labor which will merely effect the packaging of these components.

HOLDING:

The packaging of merchandise by convict labor is not an operation whereby such merchandise is considered to be “manufactured in part” by such labor so as to be within the purview of the prohibitions contained in 19 U.S.C. § 1307.

Sincerely,

Jeremy Baskin
Acting Chief
Entry Procedures and Carriers Branch

§ 545. Smuggling goods into the United States.

United States Statutes

Title 18. CRIMES AND CRIMINAL PROCEDURE

Part I. CRIMES

Chapter 27. CUSTOMS

Current through P.L. 115-269

§ 545. Smuggling goods into the United States

Whoever knowingly and willfully, with intent to defraud the United States, smuggles, or clandestinely introduces or attempts to smuggle or clandestinely introduce into the United States any merchandise which should have been invoiced, or makes out or passes, or attempts to pass, through the customhouse any false, forged, or fraudulent invoice, or other document or paper; or Whoever fraudulently or knowingly imports or brings into the United States, any merchandise contrary to law, or receives, conceals, buys, sells, or in any manner facilitates the transportation, concealment, or sale of such merchandise after importation, knowing the same to have been imported or brought into the United States contrary to law-

Shall be fined under this title or imprisoned not more than 20 years, or both.

Proof of defendant's possession of such goods, unless explained to the satisfaction of the jury, shall be deemed evidence sufficient to authorize conviction for violation of this section.

Merchandise introduced into the United States in violation of this section, or the value thereof, to be recovered from any person described in the first or second paragraph of this section, shall be forfeited to the United States.

The term "United States", as used in this section, shall not include the Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, Johnston Island, or Guam.

Cite as 18 U.S.C. § 545

Source: June 25, 1948, ch. 645, 62 Stat. 716; Aug. 24, 1954, ch. 890, §1, 68 Stat. 782; Sept. 1, 1954, ch. 1213, title V, §507, 68 Stat. 1141; June 30, 1955, ch. 258, §2(c), 69 Stat. 242; Pub. L. 103-322, title XXXII, §320903(c), title XXXIII, §§330004(18), 330016(1)(L), Sept. 13, 1994, 108 Stat. 2125, 2142, 2147; Pub. L. 104-294, title VI, §604(b)(23), Oct. 11, 1996, 110 Stat. 3508; Pub. L. 109-177, title III, §310, Mar. 9, 2006, 120 Stat. 242.

Notes from the Office of Law Revision Counsel

current through 12/10/2018

HISTORICAL AND REVISION NOTESBased on section 1593 of title 19, U.S.C., 1940 ed., Customs Duties (June 17, 1930, ch. 497, title IV, §593, 46 Stat. 751).Reference in first paragraph to aiders, contained in words "his, her, or their aiders and abettors" was omitted as unnecessary since such persons are made principals by section 2 of this title. For the same reason words "or assists in so doing" in second paragraph were deleted.Words "shall be deemed guilty of a misdemeanor," in first paragraph were omitted in view of definition of misdemeanor in section 1 of this title.Conviction provision in first paragraph reading "and on conviction thereof" was deleted as surplusage since punishment cannot be imposed until a conviction is secured.Minimum punishment provision "nor less than \$50" in second paragraph was deleted.Forfeiture provision was rephrased to make it clear that forfeiture was not dependent upon conviction.The final paragraph was added to conform with section 1709 of title 19, U.S.C., 1940 ed.Changes were made in phraseology.

AMENDMENTS2006- Pub. L. 109-177, which directed amendment of third par. by substituting "20 years" for "5 years", was executed by making the substitution for "five years", to reflect the probable intent of Congress.**1996-** Pub.

L. 104-294 amended Pub. L. 103-322, §330004(18). See 1994 Amendment note below.**1994-** Pub. L. 103-322, §330016(1)(L), substituted "fined under this title" for "fined not more than \$10,000" in third par.Pub. L. 103-322, §330004(18), as amended by Pub. L. 104-294, §604(b)(23), struck out "Philippine Islands," before "Virgin Islands" in last par.Pub. L. 103-322, §320903(c), inserted "or attempts to smuggle or clandestinely introduce" after "clandestinely introduces" in first par.**1955-**Act June 30, 1955, inserted reference to Johnston Island.**1954-**Act Sept. 1, 1954, permitted forfeiture of value of merchandise imported in violation of section.Act Aug. 24, 1954, increased fine from \$5,000 to \$10,000 and imprisonment from two years to five years.

EFFECTIVE DATE OF 1996 AMENDMENTAmendment by Pub. L. 104-294 effective Sept. 13, 1994, see section 604(d) of Pub. L. 104-294, set out as a note under section 13 of this title.

EFFECTIVE DATE OF 1955 AMENDMENTAmendment by act June 30, 1955, effective July 1, 1955, see section 2(d) of act June 30, 1955, set out as a note under section 1401 of Title 19, Customs Duties.

EFFECTIVE DATE OF 1954 AMENDMENTAct Aug. 24, 1954, ch. 890, §2, 68 Stat. 783, provided that: "The amendments made by the first section of this Act [amending this section] shall apply only with respect to offenses committed on and after the date of the enactment of this Act [Aug. 24, 1954]."

§ 1001. Statements or entries generally.

United States Statutes

Title 18. CRIMES AND CRIMINAL PROCEDURE

Part I. CRIMES

Chapter 47. FRAUD AND FALSE STATEMENTS

Current through P.L. 115-269

§ 1001. Statements or entries generally

- (a) Except as otherwise provided in this section, whoever, in any matter within the jurisdiction of the executive, legislative, or judicial branch of the Government of the United States, knowingly and willfully-
- (1) falsifies, conceals, or covers up by any trick, scheme, or device a material fact;
 - (2) makes any materially false, fictitious, or fraudulent statement or representation; or
 - (3) makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry;
- shall be fined under this title, imprisoned not more than 5 years or, if the offense involves international or domestic terrorism (as defined in section 2331), imprisoned not more than 8 years, or both. If the matter relates to an offense under chapter 109A, 109B, 110, or 117, or section 1591, then the term of imprisonment imposed under this section shall be not more than 8 years.
- (b) Subsection (a) does not apply to a party to a judicial proceeding, or that party's counsel, for statements, representations, writings or documents submitted by such party or counsel to a judge or magistrate in that proceeding.
- (c) With respect to any matter within the jurisdiction of the legislative branch, subsection (a) shall apply only to-
- (1) administrative matters, including a claim for payment, a matter related to the procurement of property or services, personnel or employment practices, or support services, or a document required by law, rule, or regulation to be submitted to the Congress or any office or officer within the legislative branch; or
 - (2) any investigation or review, conducted pursuant to the authority of any committee, subcommittee, commission or office of the Congress, consistent with applicable rules of the House or Senate.

Cite as 18 U.S.C. § 1001

Source: June 25, 1948, ch. 645, 62 Stat. 749; Pub. L. 103-322, title XXXIII, §330016(1)(L), Sept. 13, 1994, 108 Stat. 2147; Pub. L. 104-292, §2, Oct. 11, 1996, 110 Stat. 3459; Pub. L. 108-458, title VI, §6703(a), Dec. 17, 2004, 118 Stat. 3766; Pub. L. 109-248, title I, §141(c), July 27, 2006, 120 Stat. 603.

Notes from the Office of Law Revision Counsel

current through 12/10/2018

HISTORICAL AND REVISION NOTESBased on title 18, U.S.C., 1940 ed., §80 (Mar. 4, 1909, ch. 321, §35, 35 Stat. 1095; Oct. 23, 1918, ch. 194, 40 Stat. 1015; June 18, 1934, ch. 587, 48 Stat. 996; Apr. 4, 1938, ch. 69, 52 Stat. 197). Section 80 of title 18, U.S.C., 1940 ed., was divided into two parts. The provision relating to false claims was incorporated in section 287 of this title. Reference to persons causing or procuring was omitted as unnecessary in view of definition of "principal" in section 2 of this title. Words "or any corporation in which the United States of America is a stockholder" in said section 80 were omitted as unnecessary in view of definition of "agency" in section 6 of this title. In addition to minor changes of phraseology, the maximum term of imprisonment was changed from 10 to 5 years to be consistent with comparable sections. (See reviser's note under section 287 of this title.)

AMENDMENTS**2006-**Subsec. (a). Pub. L. 109-248 inserted last sentence in concluding provisions.**2004-**Subsec. (a). Pub. L. 108-458 substituted "be fined under this title, imprisoned not more than 5 years or, if the offense involves international or domestic terrorism (as defined in section 2331), imprisoned not more than 8 years, or both" for "be fined under this title or imprisoned not more than 5 years, or both" in concluding provisions.**1996-** Pub. L. 104-292 reenacted section catchline without change and amended text generally. Prior to amendment, text read as follows: "Whoever, in any matter within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be fined under this title or imprisoned not more than five years, or both."**1994-** Pub. L. 103-322 substituted "fined under this title" for "fined not more than \$10,000".

CHANGE OF NAMEReference to United States magistrate or to magistrate deemed to refer to United States magistrate judge pursuant to section 321 of Pub. L. 101-650, set out as a note under section 631 of Title 28, Judiciary and Judicial Procedure.

SHORT TITLE OF 2004 AMENDMENT Pub. L. 108-275, §1, July 15, 2004, 118 Stat. 831, provided that: "This Act [enacting section 1028A of this title, amending sections 641 and 1028 of this title, and enacting provisions listed in a table relating to sentencing guidelines set out as a note under section 994 of Title 28, Judiciary and Judicial Procedure] may be cited as the 'Identity Theft Penalty Enhancement Act'."

SHORT TITLE OF 2003 AMENDMENT Pub. L. 108-21, title VI, §607(a), Apr. 30, 2003, 117 Stat. 689, provided that: "This section [amending section 1028 of this title] may be cited as the 'Secure Authentication Feature and Enhanced Identification Defense Act of 2003' or 'SAFE ID Act'."

SHORT TITLE OF 2000 AMENDMENT Pub. L. 106-578, §1, Dec. 28, 2000, 114 Stat. 3075, provided that: "This Act [amending section 1028 of this title, repealing section 1738 of this title, and enacting provisions set out as notes under section 1028 of this title] may be cited as the 'Internet False Identification Prevention Act of 2000'."

SHORT TITLE OF 1998 AMENDMENTS Pub. L. 105-318, §1, Oct. 30, 1998, 112 Stat. 3007, provided that: "This Act [amending sections 982, 1028, and 2516 of this title and section 105 of the Ethics in Government Act of 1978, Pub. L. 95-521, set out in the Appendix to Title 5, Government Organization and Employees, and enacting provisions set out as notes under section 1028 of this title and section 994 of Title 28, Judiciary and Judicial Procedure] may be cited as the 'Identity Theft and Assumption Deterrence Act of 1998'." Pub. L. 105-172, §1, Apr. 24, 1998, 112 Stat. 53, provided that: "This Act [amending section 1029 of this title and enacting provisions set out as a note under section 994 of Title 28, Judiciary and Judicial Procedure] may be cited as the 'Wireless Telephone Protection Act'."

SHORT TITLE OF 1996 AMENDMENT Pub. L. 104-292, §1, Oct. 11, 1996, 110 Stat. 3459, provided that: "This Act [amending this section, sections 1515 and 6005 of this title, and section 1365 of Title 28, Judiciary and Judicial Procedure] may be cited as the 'False Statements Accountability Act of 1996'."

SHORT TITLE OF 1994 AMENDMENT Pub. L. 103-322, title XXIX, §290001(a), Sept. 13, 1994, 108 Stat. 2097, as amended by Pub. L. 104-294, title VI, §604(b)(34), Oct. 11, 1996, 110 Stat. 3508, provided that: "This section [amending section 1030 of this title] may be cited as the 'Computer Abuse Amendments Act of 1994'."

SHORT TITLE OF 1990 AMENDMENT Pub. L. 101-647, title XXV, §2500, Nov. 29, 1990, 104 Stat. 4859, provided that: "This title [see Tables for classification] may be cited as the 'Comprehensive Thrift and Bank Fraud Prosecution and Taxpayer Recovery Act of 1990'."

SHORT TITLE OF 1989 AMENDMENT Pub. L. 101-123, §1, Oct. 23, 1989, 103 Stat. 759, provided that: "This Act [amending section 1031 of this title, repealing section 293 of this title, enacting provisions set out as notes under sections 293 and 1031 of this title, and repealing provisions set out as a note under section 293 of this title] may be cited as the 'Major Fraud Act Amendments of 1989'."

SHORT TITLE OF 1988 AMENDMENT Pub. L. 100-700, §1, Nov. 19, 1988, 102 Stat. 4631, provided that: "This Act [enacting sections 293 and 1031 of this title and section 256 of Title 41, Public Contracts, amending section 2324 of Title 10, Armed Forces, and section 3730 of Title 31, Money and Finance, enacting provisions set out as notes under sections 293 and 1031 of this title, section 2324 of Title 10, and section 522 of Title 28, Judiciary and Judicial Procedure, and repealing provisions set out as a note under section 2324 of Title 10] may be cited as the 'Major Fraud Act of 1988'."

SHORT TITLE OF 1986 AMENDMENT Pub. L. 99-474, §1, Oct. 16, 1986, 100 Stat. 1213, provided that: "This Act [amending section 1030 of this title] may be cited as the 'Computer Fraud and Abuse Act of 1986'."

SHORT TITLE OF 1984 AMENDMENT Pub. L. 98-473, title II, §1601, Oct. 12, 1984, 98 Stat. 2183, provided that: "This chapter [chapter XVI (§§1601-1603) of title II of Pub. L. 98-473, enacting section 1029 of this title and provisions set out as a note under section 1029 of this title] may be cited as the 'Credit Card Fraud Act of 1984'." Pub. L. 98-473, title II, §2101, Oct. 12, 1984, 98 Stat. 2190, provided that: "This chapter [chapter XXI (§§2101-2103) of title II of Pub. L. 98-473, enacting section 1030 of this title and provisions set out as a note under section 1030 of this title] may be cited as the 'Counterfeit Access Device and Computer Fraud and Abuse Act of 1984'."

SHORT TITLE OF 1982 AMENDMENT Pub. L. 97-398, §1, Dec. 31, 1982, 96 Stat. 2009, provided: "That this Act [enacting sections 1028 and 1738 of this title and amending section 3001 of Title 39, Postal Service] may be cited as the 'False Identification Crime Control Act of 1982'."

§ 1761. Transportation or importation.

United States Statutes

Title 18. CRIMES AND CRIMINAL PROCEDURE

Part I. CRIMES

Chapter 85. PRISON-MADE GOODS

Current through P.L. 115-269

§ 1761. Transportation or importation

- (a) Whoever knowingly transports in interstate commerce or from any foreign country into the United States any goods, wares, or merchandise manufactured, produced, or mined, wholly or in part by convicts or prisoners, except convicts or prisoners on parole, supervised release, or probation, or in any penal or reformatory institution, shall be fined under this title or imprisoned not more than two years, or both.
- (b) This chapter shall not apply to agricultural commodities or parts for the repair of farm machinery, nor to commodities manufactured in a Federal, District of Columbia, or State institution for use by the Federal Government, or by the District of Columbia, or by any State or Political subdivision of a State or not-for-profit organizations.
- (c) In addition to the exceptions set forth in subsection (b) of this section, this chapter shall not apply to goods, wares, or merchandise manufactured, produced, or mined by convicts or prisoners who-
 - (1) are participating in-one of not more than 50 prison work pilot projects designated by the Director of the Bureau of Justice Assistance;
 - (2) have, in connection with such work, received wages at a rate which is not less than that paid for work of a similar nature in the locality in which the work was performed, except that such wages may be subject to deductions which shall not, in the aggregate, exceed 80 per centum of gross wages, and shall be limited as follows:
 - (A) taxes (Federal, State, local);
 - (B) reasonable charges for room and board, as determined by regulations issued by the chief State correctional officer, in the case of a State prisoner;
 - (C) allocations for support of family pursuant to State statute, court order, or agreement by the offender;
 - (D) contributions to any fund established by law to compensate the victims of crime of not more than 20 per centum but not less than 5 per centum of gross wages;
 - (3) have not solely by their status as offenders, been deprived of the right to participate in benefits made available by the Federal or State Government to other individuals on the basis of their employment, such as workmen's compensation.

However, such convicts or prisoners shall not be qualified to receive any payments for unemployment compensation while incarcerated, notwithstanding any other provision of the law to the contrary; and

- (4) have participated in such employment voluntarily and have agreed in advance to the specific deductions made from gross wages pursuant to this section, and all other financial arrangements as a result of participation in such employment.
- (d) This section shall not apply to goods, wares, or merchandise manufactured, produced, mined or assembled by convicts or prisoners who are participating in any pilot project approved by the FPI Board of Directors, which are currently, or would otherwise be, manufactured, produced, mined, or assembled outside the United States.
- (e) For the purposes of this section, the term "State" means a State of the United States and any commonwealth, territory, or possession of the United States.

Cite as 18 U.S.C. § 1761

Source: June 25, 1948, ch. 645, 62 Stat. 785; Pub. L. 90-351, title I, §819(a), formerly §827(a), as added Pub. L. 96-157, §2, Dec. 27, 1979, 93 Stat. 1215, and renumbered Pub. L. 98-473, title II, §609B(f), Oct. 12, 1984, 98 Stat. 2093; Pub. L. 98-473, title II, §§223(c), 609K, Oct. 12, 1984, 98 Stat. 2028, 2102; Pub. L. 100-17, title I, §112(b)(3), Apr. 2, 1987, 101 Stat. 149; Pub. L. 101-647, title XXIX, §2906, Nov. 29, 1990, 104 Stat. 4914; Pub. L. 102-393, title V, §535(a), Oct. 6, 1992, 106 Stat. 1764; Pub. L. 103-322, title XXXIII, §§330010(11), 330016(1)(H), Sept. 13, 1994, 108 Stat. 2144, 2147; Pub. L. 104-134, title I, §101(b) [title I, §136], Apr. 26, 1996, 110 Stat. 1321-77, 1321-93; renumbered title I, Pub. L. 104-140, §1(a), May 2, 1996, 110 Stat. 1327; Pub. L. 104-294, title VI, §§601(a)(7), 607(h), Oct. 11, 1996, 110 Stat. 3498, 3512; Pub. L. 112-55, div. B, title II, §221, Nov. 18, 2011, 125 Stat. 621.

Notes from the Office of Law Revision Counsel

current through 12/10/2018

HISTORICAL AND REVISION NOTESBased on title 18, U.S.C., 1940 ed., §§396a, 396b (July 24, 1935, ch. 412, §1, 49 Stat. 494; Oct. 14, 1940, ch. 872, 54 Stat. 1134; July 9, 1941, ch. 283, 55 Stat. 581).Section consolidates sections 396a and 396b of title 18, U.S.C., 1940 ed. Each section related to the same subject matter and defined the same offense. Section 396a of title 18, U.S.C., 1940 ed., was enacted later and superseded section 396b of title 18, U.S.C., 1940 ed.Reference to persons aiding, causing or assisting was omitted. Such persons are principals under section 2 of this title.Reference to states, territories, specific places, etc., were omitted. This was made possible by insertion of words "interstate commerce or from any foreign country into the United States," and by definitive section 10 of this title.Subsection (b) was rewritten to eliminate ambiguity and uncertainty by expressly making the exceptive language apply to the entire chapter and by permitting State institutions to manufacture goods for the Federal Government and the District of Columbia and vice versa. In such subsections, the words "penal and correctional" and "penal or correctional," preceding "institutions" and "institution," respectively, were omitted as surplusage.Minor changes in phraseology were made.

AMENDMENTS2011-Subsec. (c)(1). Pub. L. 112-55, §221(1), struck out "non-Federal" after "50".Subsecs. (d), (e). Pub. L. 112-55, §221(2), (3), added subsec. (d) and redesignated former subsec. (d) as (e).**1996**-Subsec. (a). Pub. L. 104-294, §601(a)(7), substituted "fined under this title" for "fined not more than \$50,000".Subsec. (b). Pub. L. 104-134 inserted "or not-for-profit organizations" after "of a State".Subsec. (d). Pub. L. 104-294, §607(h), added subsec. (d).

1994- Pub. L. 103-322, §330016(1)(H), which directed the amendment of this section by substituting "under this title" for "not more than \$1,000", could not be executed because the phrase "not more than \$1,000" did not appear in text subsequent to amendment of subsec. (a) by Pub. L. 102-393. See 1992 Amendment note below. Subsec. (c). Pub. L. 103-322, §330010(11), struck out "and" at end of par. (1), substituted semicolon for period at end of par. (2)(B), and inserted "and" at end of par. (3). **1992-** Subsec. (a). Pub. L. 102-393 substituted "\$50,000" for "\$1,000" and "two years" for "one year". **1990-** Subsec. (c). Pub. L. 101-647, §2906(1), (2), substituted "In addition to the exceptions set forth in subsection (b) of this section, this chapter shall not apply to goods, wares, or merchandise manufactured, produced, or mined by convicts or prisoners who" for "In addition to the exceptions set forth in subsection (b) of this section, this chapter shall also not apply to goods, wares, or merchandise manufactured, produced, or mined by convicts or prisoners participating in a program of not more than twenty pilot projects designated by the Director of the Bureau of Justice Assistance and who" in introductory provisions, added par. (1), and redesignated former pars. (1) to (3) as (2) to (4), respectively. Subsec. (c)(2)(B). Pub. L. 101-647, §2906(3), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: "reasonable charges for room and board as determined by regulations which shall be issued by the Chief State correctional officer;". **1987-** Subsec. (d). Pub. L. 100-17 struck out subsec. (d) which read as follows: "Notwithstanding any law to the contrary, materials produced by convict labor may be used in the construction of any highways or portion of highways located on Federal-aid systems, as described in section 103 of title 23, United States Code." **1984-** Subsec. (a). Pub. L. 98-473, §223(c), inserted ", supervised release," after "parole". Subsec. (c). Pub. L. 98-473, §609K(a), substituted "twenty" for "seven" and "Director of the Bureau of Justice Assistance" for "Administrator of the Law Enforcement Assistance Administration". Subsec. (d). Pub. L. 98-473, §609K(b), added subsec. (d). **1979-** Subsec. (c). Pub. L. 90-351 added subsec. (c).

EFFECTIVE DATE OF 1984 AMENDMENT Amendment by section 223(c) of Pub. L. 98-473 effective Nov. 1, 1987, and applicable only to offenses committed after the taking effect of such amendment, see section 235(a)(1) of Pub. L. 98-473, set out as an Effective Date note under section 3551 of this title.

TRANSFER OF FUNCTIONS Effective Aug. 1, 2000, all functions of Director of Bureau of Justice Assistance, other than those enumerated in section 10142(3) through (6) of Title 34, Crime Control and Law Enforcement, transferred to Assistant Attorney General for Office of Justice Programs, see section 1000(a)(1) [title I, §108(b)] of Pub. L. 106-113, set out as a note under section 10141 of Title 34.

REPORTS BY SECRETARY OF LABOR Pub. L. 101-647, title XXIX, §2908, Nov. 29, 1990, 104 Stat. 4915, which required the Secretary of Labor to submit an annual report to Congress on compliance by State Prison Industry Enhancement Certification programs with requirements set forth in section 1761(c) of this title, terminated, effective May 15, 2000, pursuant to section 3003 of Pub. L. 104-66, as amended, set out as a note under section 1113 of Title 31, Money and Finance. See, also, page 123 of House Document No. 103-7.

EXEMPTIONS TO FEDERAL RESTRICTIONS ON MARKETABILITY OF PRISON-MADE GOODS Pub. L. 90-351, title I, §819(c), formerly §827(c), as added Pub. L. 96-157, §2, Dec. 27, 1979, 93 Stat. 1215, renumbered and amended Pub. L. 98-473, title II, §609B(f), (o), Oct. 12, 1984, 98 Stat. 2093, 2096, provided that: "The provisions of section 1761 of title 18, United States Code, and of the first section of the Act of June 30, 1936 (49 Stat. 2036; [former] 41 U.S.C. 35 [see 41 U.S.C. 6502]), commonly known as the Walsh-Healey Act, creating exemptions to Federal restrictions on marketability of prison-made goods, as amended from time to time, shall not apply unless-"(1) representatives of local union central bodies or similar labor union organizations have been consulted prior to the initiation of any project qualifying of any exemption created by this section; and"(2) such paid inmate employment will not result in the displacement of employed workers, or be applied in skills, crafts, or trades in which there is a surplus

of available gainful labor in the locality, or impair existing contracts for services."

§ 12.42. Findings of Commissioner of CBP.

Code of Federal Regulations

Title 19. Customs Duties

Chapter I. U.S. CUSTOMS AND BORDER PROTECTION, DEPARTMENT OF HOMELAND SECURITY; DEPARTMENT OF THE TREASURY

Part 12. SPECIAL CLASSES OF MERCHANDISE

MERCHANDISE PRODUCED BY CONVICT, FORCED, OR INDENTURED LABOR

Current through December 20, 2018

§ 12.42. Findings of Commissioner of CBP

- (a) If any port director or other principal Customs officer has reason to believe that any class of merchandise that is being, or is likely to be, imported into the United States is being produced, whether by mining, manufacture, or other means, in any foreign locality with the use of convict labor, forced labor, or indentured labor under penal sanctions, including forced child labor or indentured child labor under penal sanctions, so as to come within the purview of section 307, Tariff Act of 1930, he shall communicate his belief to the Commissioner of CBP. Every such communication shall contain or be accompanied by a statement of substantially the same information as is required in paragraph (b) of this section, if in the possession of the port director or other officer or readily available to him.
- (b) Any person outside CBP who has reason to believe that merchandise produced in the circumstances mentioned in paragraph (a) of this section is being, or is likely to be, imported into the United States may communicate his belief to any port director or the Commissioner of CBP. Every such communication shall contain, or be accompanied by:
 - (1) A full statement of the reasons for the belief;
 - (2) A detailed description or sample of the merchandise; and
 - (3) All pertinent facts obtainable as to the production of the merchandise abroad.
- (c) If any information filed with a port director pursuant to paragraph (b) of this section does not conform with the requirements of that paragraph, the communication shall be returned promptly to the person who submitted it with detailed written advice as to the respects in which it does not conform. If such information is found to comply with the requirements, it shall be transmitted by the port director within 10 days to the Commissioner of CBP, together with all pertinent additional information available to the port director.
- (d) Upon receipt by the Commissioner of CBP of any communication submitted pursuant to paragraph (a) or (b) of this section and found to comply with the requirements of the pertinent paragraph, the Commissioner will cause such investigation to be made as appears to be warranted by the circumstances of the case and the Commissioner or his designated representative will consider any representations offered by foreign interests, importers, domestic producers, or other interested persons.
- (e) If the Commissioner of CBP finds at any time that information available reasonably but not

conclusively indicates that merchandise within the purview of section 307 is being, or is likely to be, imported, he will promptly advise all port directors accordingly and the port directors shall thereupon withhold release of any such merchandise pending instructions from the Commissioner as to whether the merchandise may be released otherwise than for exportation.

- (f) If it is determined on the basis of the foregoing that the merchandise is subject to the provisions of the said section 307, the Commissioner of CBP, with the approval of the Secretary of the Treasury, will publish a finding to that effect in a weekly issue of the Customs Bulletin and in the FEDERAL REGISTER.
- (g) Any merchandise of a class specified in a finding made under paragraph (f) of this section, which is imported directly or indirectly from the locality specified in the findings and has not been released from CBP custody before the date of publication of such finding in the FEDERAL REGISTER shall be considered and treated as an importation prohibited by section 307, Tariff Act of 1930, unless the importer establishes by satisfactory evidence that the merchandise was not mined, produced, or manufactured in any part with the use of a class of labor specified in the finding.
- (h) The following findings made under the authority of section 307, Tariff Act of 1930 are currently in effect with respect to the merchandise listed below:

Merchandise	Country	T.D.
Furniture, clothes hampers, and palm leaf bags	Ciudad Victoria,	53408
	Tamaulipas, Mexico	54725

Cite as 19 C.F.R. § 12.42

History. 28 FR 14710, Dec. 31, 1963, as amended by T.D. 89-1, 53 FR 51253, Dec. 21, 1988; T.D. 00-52, 65 FR 45875, July 26, 2000; CBP Dec. 17-04, 82 FR 26584, June 8, 2017