
President Trump Delays Possible Section 232 Auto Tariffs; Announces End to Section 232 Steel and Aluminum Tariffs on Imports From Canada and Mexico

MAY 21, 2019

On May 17, 2019, President Trump announced two significant trade developments. First, the President announced his determination in the national security investigation of imports of autos and auto parts under Section 232 of the Trade Expansion Act of 1962 (19 U.S.C. § 1962). The President directed the United States Trade Representative (USTR) to negotiate agreements with the European Union and Japan to limit imports of autos and auto parts, delaying any potential imposition of tariffs by up to 180 days. Second, President Trump announced that the Administration reached agreements with Canada and Mexico to lift the tariffs imposed in 2018 on imports of steel and aluminum from those countries pursuant to Section 232.

Section 232 Investigation on Autos and Auto Parts

In May 2018, the Administration initiated a Section 232 investigation into imports of autos and auto parts, to determine if those imports threaten to impair the US national security. The investigation covered passenger vehicles (sedans, sport utility vehicles, crossover utility vehicles, minivans, and cargo vans) and light trucks (collectively, “automobiles”) and certain automobile parts (engines and engine parts, transmissions and powertrain parts, and electrical components). The Department of Commerce, which conducts Section 232 investigations, received more than 2,000 public comments and held a public hearing on July 19, 2018.

Secretary of Commerce Wilbur Ross sent the President a report on the investigation’s findings on February 17, 2019. As noted in the President’s announcement, the report found that automobiles and certain automobile parts are being imported into the United States in such quantities and under such circumstances as to threaten to impair the national security of the United States. Specifically, the Secretary of Commerce found that imports are “weakening our internal economy” and that “[t]he contraction of the American-owned automotive industry, if continued, will significantly impede the United States’ ability to develop technologically advanced products that are essential to our ability to maintain technological superiority to meet defense requirements and cost effective global power projection.”

President Trump concurred with the Secretary’s findings and his recommendation to pursue

negotiations to obtain agreements that address the threatened impairment of national security. Negotiation of an agreement to restrict imports is an action expressly contemplated in Section 232(c)(3)(A)(i) (19 U.S.C. § 1862(c)(3)(A)(i)), but the statute requires that other action be taken if an agreement is not reached within 180 days of the President's determination, or if such an agreement is not being observed or is ineffective. The President's announcement also cites the renegotiated United States-Korea Free Trade Agreement and the recently signed United States-Mexico-Canada Agreement (USMCA)¹ as examples of agreements which, if implemented, could help address the threat to national security posed by imports of autos and auto parts.

Accordingly, President Trump directed US Trade Representative Robert Lighthizer to pursue negotiated agreements to address the "threatened impairment of the national security with respect to imported automobiles and certain automobile parts from the European Union, Japan, and any other country" USTR deems appropriate, for a period of 180 days.

This is a relatively restrained outcome for the Section 232 investigation of autos and auto parts, as President Trump had previously indicated an intention to impose duties of up to 25 percent on all imported cars. The President's action suggests that the Administration views the threat of tariffs on autos and auto parts as a valuable source of leverage in the ongoing trade agreement negotiations with Japan and the European Union. However, it is unclear whether the Administration can successfully complete the negotiation of acceptable agreements with those two countries within the next six months. Thus, it remains possible that the President will impose tariffs on imports of Japanese and/or European autos and auto parts in the upcoming months. At the same time, Canada, Mexico, and Korea appear to have successfully avoided the imposition of tariffs on their autos and auto-related products for the time being.

Section 232 Investigations on Steel and Aluminum

The second major announcement on May 17 was the President's decision to lift Section 232 tariffs on imports of steel and aluminum from Canada and Mexico. President Trump announced the tariffs—10 percent on aluminum and 25 percent on steel—on March 8, 2018, and they went into effect for Canada and Mexico on June 1, 2018. While there was some expectation that the Administration would agree to eliminate the tariffs as part of the USMCA negotiations, that did not happen. Consequently, the tariffs have complicated the Administration's efforts to pass the USMCA through Congress, as key policymakers—including Senate Finance Committee Chairman Chuck Grassley (R-IA)—had linked congressional consideration of the agreement to their removal. The May 17 announcement should resolve this issue.

According to the joint statements issued on May 17 (see [here](#) and [here](#)), the United States agreed to remove its Section 232 tariffs on steel and aluminum imports from Canada and Mexico, and the two countries agreed in return to lift their retaliatory tariffs on various US goods (many of them agricultural goods). Canada and Mexico also agreed to terminate their respective legal challenges to the Section 232 tariffs at the World Trade Organization.

The agreements do not involve firm quotas, but they do require Canada and Mexico to monitor for, and prevent, a "surge" in steel or aluminum imports from other countries, similar to the agreement

the United States previously negotiated with Australia. If imports of steel or aluminum were to surge “meaningfully” beyond historical volumes, the agreements provide that the United States can request consultations with the relevant party and ultimately reimpose tariffs, but only on the particular products at issue. The agreements also require Canada and Mexico to implement “effective measures” to prevent transshipment of steel or aluminum made in third countries. The agreements are effective for goods entered for consumption, or withdrawn from warehouse for consumption, on or after May 20, 2019.

We will continue to monitor these and other developments related to US tariffs and trade policy, as well as the responses of US trading partners. Please contact us to learn more about how we might be able to assist your business in this area.

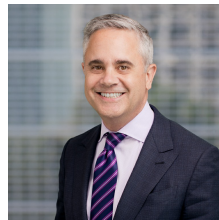
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1. The USMCA includes a side letter on automobiles, in which the United States agreed that, in the event of Section 232 action on autos and auto parts, the United States would exclude 2.6 million passenger vehicles, all light trucks imported from Mexico and up to \$108 billion of auto parts annually.
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