

The New Era of Tariffs

A Section 232 and Section 301 Timeline for 2018

Below is a comprehensive timeline and summary of Section 232 aluminum and steel tariffs and Section 301 tariffs through the end of 2018. We have also provided information on retaliatory tariffs imposed on the U.S. by other countries during this same timeframe.

SECTION 232 TARIFFS ON STEEL AND ALUMINUM

Situation:

On March 8, 2018, President Trump made the official decision to impose a 25% tariff on steel imports and 10% tariff on aluminum imports, “in order to protect our national security.” The list of steel and aluminum products affected by the 232 tariffs was released on March 12, 2018 and took effect on March 23, 2018.

Unlike the Section 301 tariffs that focus solely on Chinese products, the Section 232 tariffs affect all countries that import steel and aluminum products to the U.S., unless they are specifically exempted.

It is unclear when the Section 232 tariffs will end, and there has been no sign of them changing for any other country.

Background and Timeline:

- January 11, 2018
On January 11, 2018, Wilbur Ross, the Secretary of Commerce submitted the findings of the Department of Commerce to the President on whether imports of steel and aluminum impact U.S. national security.
- February 16, 2018
The [findings](#) were publicly released on February 16, 2018. Commerce in its report made a number of [recommendations](#) to the President on the course of action he should take in order to remedy the situation and improve national security. They concluded that the current situation for steel imports are “weakening [the U.S.] internal economy.” Similarly, for aluminum imports it was shown that “recent import trends have left the U.S. almost totally reliant on foreign producers of primary aluminum...that is essentially key for military and commercial systems.”
- March 8, 2018
President Trump officially signed the two proclamations that would impose a 25% tariff on steel and a 10% tariff on aluminum imports. Mexico and Canada were exempt from the 232 tariffs. Additionally, certain countries that have a “security relationship,” with the U.S. may be eligible for an exemption.

- March 19, 2018
Commerce published a [Federal Register Notice](#) that outlined the procedures to request product exclusions from the newly imposed 232 tariffs. In addition to the notice, Commerce also created two web pages for steel and aluminum exclusion request forms and how to file them.
- March 22, 2018
The day before the 232 tariffs took effect, the President issued two new proclamations that temporarily exempted Australia, Argentina, South Korea, Brazil, and the EU from the steel and aluminum tariffs until May 1, 2018. President Trump chose to extend the exemption period until June 1, 2018 for several of the countries. South Korea, however, was the only country that was granted permanent exemption from the Section 232 steel and aluminum tariffs as the U.S. and South Korea squeaked through with an agreement almost the day before its exemption was set to expire.
- May 31, 2018
President Trump signed two proclamations that removed the temporary suspension of the Section 232 tariffs from taking effect on the EU, Canada, and Mexico. Brazil and Argentina were able to negotiate quotas restricting their own steel and aluminum exports to the U.S.
- August 10, 2018
On August 10, 2018, President Trump [announced](#) that steel imports from Turkey covered by the Section 232 tariffs would be subject to a new duty rate of 50%. The U.S. Customs and Border Protection's (CBP) Cargo Systems Messaging Service (CSMS) released a [statement](#), which stated that the "increased rates of duty on steel articles that are the product of Turkey are effective with respect to goods entered, or withdrawn from warehouse for consumption, on or after 12:01 a.m. eastern daylight time on August 13, 2018."
- August 29, 2018
President Trump signed two proclamations pertaining to [steel](#) and [aluminum](#) that allowed the Secretary of Commerce, Wilbur Ross, to impose targeted relief quotas imposed under Section 232 on steel from South Korea, Argentina, and Brazil, and aluminum from Argentina. There were some exceptions to this proclamation in which steel articles that were previously contracted for purchase prior to the imposed quota may be granted an exclusion from the quota, however, the product is still affected by the 25% tariff.
- October 24, 2018
On October 24, 2018, the U.S. Department of Commerce granted South Africa exclusions from the Section 232 tariffs on 161 aluminum and 36 steel products.

SECTION 232 INVESTIGATIONS ON AUTO AND AUTOMOTIVE PARTS

Background and Timeline: In addition to the initial investigation of steel and aluminum imports, the U.S. Department of Commerce initiated and conducted another 232 investigation pertaining to imports of autos and automotive parts on May 23, 2018.

Public hearings were held on July 19 and 20, 2018 in the U.S. Department of Commerce Auditorium. The public hearings featured testimony from 46 individuals who represented domestic and international companies, industry groups, and some foreign countries. In total there were 2,297 comments submitted on the issue.

After the initiation of the investigation, the Department of Commerce has 270 days to prepare a report and submit their findings to the President. The President will then have 90 days to decide whether to impose tariffs and/or quotas on imports of autos and automotive parts. The approximate date for the Presidential determination would be May 18, 2019.

SECTION 301 TARIFFS AGAINST IMPORTS FROM CHINA

Situation:

Thus far, the U.S. government has imposed an additional 25% duty on \$50 billion worth of Chinese-origin goods in two phases, and imposed 10% duties on \$200 billion worth of Chinese-origin goods in a third phase. The U.S. is potentially considering imposing additional duties on more Chinese-origin products under Section 301, but will likely not make any announcements until after the outcome of the ongoing negotiations with China.

These duties have been phased in over the course of the past 6-months. Below is a summary of the current state of the Section 301 Tariffs.

Background and Timeline:

- August 18, 2017
On August 18, 2017, at the direction of President Trump, USTR Robert Lighthizer initiated an [investigation](#) into China's unfair trade practices related to intellectual property concerns. USTR received approximately 70 comments for the investigation. On October 10, 2017, USTR held a public hearing and released their findings on March 18, 2018, concluding that China's policies interfered and affected intellectual property rights.
- March 22, 2018
On Thursday, March 22, 2018, President Trump released a [memorandum](#) and a proposed list of tariffs in response to China's "unfair trade practices." The following week, on March 27, 2018, USTR published its complete findings on the Section 301 [report](#) on China.

- April 6, 2018
On April 6, 2018, USTR announced its [determination](#) that the Government of China's practices were harmful to U.S. commerce.

Following the determination of the 301 Investigation against China were a series of announcements released in phases whereby additional tariffs were initially proposed and finalized over the course of a 6 month period.

Phase 1 (Announced on March 22, 2018 and Instituted on July 6, 2018)

USTR released its first proposed [list](#) of products worth up to \$50 billion in imports from China on April 3, 2018. Included in this 58-page document were products subject to an additional 25% duty.

- May 11, 2018
Over 2,800 comments were filed in the proceeding for USTR's consideration to review pertaining to phase 1 of the Section 301 tariff list. From May 15-17, 2018 the U.S. International Trade Commission held public hearings regarding the proposed list of up to \$50 billion in imports from China.
- June 15, 2018
USTR announced a "Revised Final List" of products for which an additional 25% tariff was to be levied at the time of import and went into effect on July 6, 2018. 818 of the initial 1,333 items and with a value of \$34 Billion remained on this final phase 1 list.
- July 6, 2018
The first [list](#) of items subject to 25% duty rate went into effect.
- October 9, 2018
Specific product exclusions had to be requested by October 9, 2018. If they are approved, the duties will be refunded retroactively to July 6, 2018. As of December 13, 2018 there have been over 10,750 exclusion requests filed for list 1 and they will most likely be decided upon in the near future.

Phase 2 (Announced on June 15, 2018 and Instituted on August 23, 2018)

- June 15, 2018
USTR also [announced](#) that a phase 2 list comprised of 284 individual HTSUS codes of approximately \$16 Billion would be potentially subject to an additional 25% tariff on products imported from China.
- July 17, 2018
Comments for proposed modification of action pursuant to Section 301 were due on July 17, 2018.

- July 23, 2018
All pre-hearing comments and written comments pertinent to the second list of tariff lines were due and approximately 700 comments were filed on the products affected by Phase 2.

- July 24-25, 2018
The U.S. International Trade Commission hosted public hearings regarding the second list on July 24, 2018 and ended on July 25, 2018. In total, there were more than 80 total testimonies from various companies that requested certain HTSUS Subheadings be excluded from this list of tariffs.

- July 31, 2018
All post-hearing comments and any rebuttal comments were due and submitted on July 31, 2018.

The second list contained 284 newly proposed items estimated to be valued around \$16 billion. Upon further revisions and public hearings, the USTR published the official List 2 of \$16 billion worth of products from China on August 7, 2018. In this revised list, five of the items were excluded.

3913.10.00	Alginate acid, and its salts and esters, in primary form
8465.96.00	Splitting, slicing or paring machines for working wood, cork, bone, hard rubber, hard plastics or similar hard materials
8609.00.00	Containers (including containers for transport fluids) specially designed and equipped for carriage by one or more modes of transport
8905.90.10	Floating docks
9027.90.20	Microtomes

After the second official list was released on August 16, USTR published the formal notice in the Federal Register announcing the China Section 301 Tariffs for List 2 would take effect on August 23, 2018.

- August 23, 2018
The second [list](#) of 279 items from the original 284 items subject to 25% duty rate came into effect.
- September 18, 2018
All specific product exclusions requests for list 2 are due by December 18. If approved, duties will be refunded retroactively to the August 23, 2018 effect date.

List 3 (Announced July 10, 2018 and Instituted on September 24, 2018)

On July 10, 2018, USTR Robert Lighthizer [announced](#) that at the President's request, USTR had proposed imposing an additional 10% ad valorem duty on \$200 billion worth of Chinese goods. This was the 3rd list of tariffs imposed by the U.S. on China.

- July 27, 2018
The due date for all of the filing requests, summaries of expected testimony at the public hearing, and for filing pre-hearing submissions for List 3 was July 27, 2018.
- August 20-27, 2018
From August 20th - 27th, USTR held hearings at the U.S. International Trade Commission regarding the proposed \$200 billion worth of Chinese products. Post-hearing rebuttal comments were due and submitted on August 30.
- September 6, 2018
All written comments were due and submitted. Approximately 6,000 comments were filed addressing the products subject to duties in Phase 3.
- September 17, 2018
On September 17, USTR released the finalized tariff [list](#) on \$200 billion of Chinese imports in response to China's unfair trade practices starting at 10% duty, but potentially increasing to 25% on January 1, 2019. That following week, on September 24, 2018, the additional tariffs from the third list went into effect.
- December 1, 2018
On Saturday December 1, 2018 during the G-20 Summit Meeting, President Trump met with President Xi Jinping to discuss trade relations between the two countries. Following their meeting, President Trump stated that he would postpone increasing the tariff of 25% on Chinese goods worth up to \$200 billion covered by List 3. According to a [statement](#) released by the White House, both sides had agreed to a 90-day negotiation period to discuss the restructuring of China's trade policies.

There has yet to be an exclusion process announced or planned for the List 3 products.
- December 11, 2018
Chinese Vice Premier Liu He stated that Beijing would lower their tariffs on U.S. automobiles from 40% to 15%. There has been no official date set for when the new tariff will take effect.
- December 14, 2018
On December 14, 2018, USTR announced they would be postponing the tariff increase originally set for January 1, 2019 to March 2, 2019 as a result of the ongoing trade negotiations with China.

RETALIATORY MEASURES AGAINST THE U.S. PLACING TARIFFS ON ALUMINUM AND STEEL

With the developments of President Trump releasing Section 301 tariffs and 232 tariffs on steel and aluminum, many other countries have begun to form their own responses with retaliatory tariffs. Listed below are the countries that have taken steps to develop their own list of tariffed U.S. products. Aside from the tariffs imposed on China, the retaliatory tariffs from the other countries are in response to President Trump's implementation of the Section 232 tariffs on steel and aluminum.

<i>Country</i>	<i>List of Products</i>	<i>Tariffs in Place</i>	<i>Effective Date</i>
Canada	List of products	Table 1 – 25% Table 2 – 10% Table 3 – 10% Up to \$16.6 billion (Canadian dollars)	7/1/ 2018
<i>Status</i>	The Canadian government received over 1,000 submissions of public feedback during public consultations on its original list. Canada is imposing countermeasures against the U.S. worth up to \$16.6 (Canadian dollars) billion. Items hit particularly hard by these tariffs are steel and aluminum products. This list comes after the U.S. imposed tariffs on Canada on May 31, 2018. Even with the new trilateral trade agreement between Canada, Mexico, and the U.S., the issue of the 25% tariff on steel and aluminum products imported from Canada still remains in effect.		
China	List of products (232 Response)	Annex 1 15% - 25%	4/3/2018
	List 1 of products (301 Response)	List 1 – 25%	7/6/2018
	List 2 of products (301 Response)	List 2 – 25%	8/23/2018
	List 3 of products (301 Response)	Annex 1 and Annex 2 – 10% Annex 3 and Annex 4 – 5%	9/24/2018
<i>Status</i>	China and the U.S. are in the midst of a massive trade war. With multiple lists of tariffed products culminating in billions of dollars being collected, the two sides met during the 2018 G-20 Summit Meeting in Argentina.		

Following that meeting, China and the U.S. are still in the process of negotiating trade relations. The first major exchange between the two nations was China's response to the United States placing Section 232 tariffs on China's steel and aluminum imports. The Ministry of Commerce of the People's Republic of China notified the WTO it would place a tariff on 128 U.S. goods. Products on this list include fruits and vegetables, alcohol, and steel tubes and pipes.

In response to the U.S. releasing its three Section 301 tariff lists, China issued their own lists of tariffed U.S. products.

List 1: 545 tariff lines 7/6/2018

List 2: 333 tariff lines worth \$16 billion 8/23/2018

List 3: 5,207 tariff lines worth \$60 billion 9/24/2018

European Union (EU)	List of products	Annex 1 10% - 25% Annex 2 10% - 50% Up to \$7.2 billion	Annex 1 - 6/22/2018 Annex 2 - 3/23/2018
<i>Status</i>	In response to the placement of tariffs on steel and aluminum, the EU released a statement that they felt was necessary in order to rebalance bilateral trade with the U.S. Specific products affected by the 50% tariff include men and women's clothing.		
India	List of products	Annex 1 5%-100% Up to \$10.6 billion	12/17/ 2018
<i>Status</i>	Since President Trump has taken office, trade relations between the U.S. and India have been quite contentious. Due to the refusal from the U.S. to exempt India from its new steel and aluminum tariffs and declining their request for WTO (World Trade Organization) consultations, the Indian government has quickly responded with tariffs of their own on American produce, focusing in particular on nuts, apples, and cocoa. India also placed high tariffs on automobiles and motorcycles. Despite ongoing negotiations between the two countries, India has decided to implement their retaliatory tariffs on November 2, 2018.		
Japan	Proposed a suspension of concessions	Up to \$1.91 billion	6/21/ 2018
<i>Status</i>	As of December 13, 2018, Japan has placed tariffs on products up to \$1.91 billion from the U.S. President Trump has threatened to impose a 25% tariff on imports of automobiles from Japan. Key products that have been the topic of trade negotiations are agriculture and the auto industry. Japanese Prime Minister Shinzo Abe met with President Trump on Wednesday		

9/26/18 to initiate bilateral trade relations. There has yet to be a concrete deadline set for when the two parties will meet again.

Mexico	List of products	List 1 7% - 25% (pages 1-4)	6/5/2018
		List 2 10% - 15% (page 5)	7/5/2018
		Up to \$3 billion	
<i>Status</i>	Mexico has put into place a two part retaliatory tariff response culminating up to \$3 billion worth of U.S. products. The first list took effect on June 5, 2018 ranging in duties from 7% to 25%, with a secondary list taking effect on July 5, 2018 with duties ranging from 10%-15%. Many of these products pertain to agricultural exports such as pork, alcohol, and dairy products. Mexico has also taken aim at U.S. steel products by placing a higher duty rate percentage on them. Specifically, a 25% rate on 40 steel products. Despite the new trilateral agreement between the U.S., Mexico, and Canada the 25% tariff on steel and 10% tariff on aluminum are still in effect.		
Russia	List of products	Up to \$3.16 billion	8/6/2018
<i>Status</i>	The United States placed tariffs of 25% and 10% on Russian steel and aluminum products. The Russian Federation filed a consultation with the WTO to sit down with the U.S. in order to negotiate a possible solution. With no substantial result from the first round of meetings, Russia introduced tariffs on US goods ranging from 25%-40% duties. Products targeted by these new tariffs include road construction equipment, oil and gas equipment, and metal processing instruments. As of December 13, 2018, the Russian Federation has tariffs on up to \$3.16 billion on US goods.		
Turkey	List of products	Annex 1 5% - 40% Up to \$1.78 billion	6/21/2018
		Increased certain duties from 4% to 140%	8/15/2018
<i>Status</i>	In response to the U.S. doubling the tariffs on steel in relation to Turkey, the Government of Turkey “reserved its right to further suspend substantially equivalent concessions.” In addition to this initial suspension, Turkey requested a second round of WTO consultations with the United States. As of December 14, 2018, Turkey has up to \$1.78 billion worth of tariffed products on a single Annex . The tariff duties range from 5%-40%. Items affected by particularly high duty rates are alcohol, motor vehicles, and iron or steel structures used for buildings.		

OPTIONS FOR AVOIDING SECTION 301 DUTIES

Bonded Warehouses

- Building or other secured area in which imported dutiable merchandise may be stored
- Liabilities for duties are canceled when the merchandise in these warehouses is exported from the U.S.
- Bonded warehouses are viable options for companies who are seeking product exclusions pending a decision by Commerce or USTR
- If the exclusion is granted then the goods can be entered for consumption without payment of duty
- If the exclusion is denied then the goods can be exported to another country without incurring additional duties

Confirm Tariff Classification

- Have legal counsel review product classification
- Study ruling decisions issued by CBP
- If in doubt request a Binding Ruling from CBP
- Changing classifications can trigger historical liability for prior imports if using an incorrect HTS so seeking expert advice is critical to navigating the current tariff road
- If errors occur file a protest.

Changing Country of Origin

- Purely transshipping goods and changing the labels to a new country of origin is likely to be considered a criminal act and exporters and importers may be subject to prosecution
- For companies actually producing products outside China using Chinese inputs, there also are major risks that need to be avoided
- U.S. Customs and Border Protection (CBP) has made clear that it will apply the “substantial transformation” test to goods having Chinese inputs that otherwise would be covered by the section 301 tariffs
- “Substantial transformation” is defined generally as work or production which results in the creation of a new and different article of commerce, with a “name, character and use” different from those of its components.
- The determination of whether a substantial transformation has occurred is specific to the facts of the product, the company, and industry and necessitates reviewing rulings of CBP, court cases, and the specific detailed facts of the individual situation
- The fact that a foreign country (Vietnam, Thailand, etc.) declares a product to be country of origin of their country is irrelevant to CBP. CBP makes its own determination.
- The fact that a product has undergone sufficient changes to meet the country of origin requirements of a free trade agreement (e.g., a product is considered a product of Mexico under the U.S.-Mexico-Canada Agreement) does not mean

that a substantial transformation has occurred. Substantial transformation still must be analyzed separately on a case-by-case basis.

Foreign Trade Zones

- Foreign Trade Zones are secure areas located in or near CBP ports of entry
- Foreign and domestic merchandise may be moved into zones for operations such as storage, exhibition, assembly, manufacturing and processing
- Goods subject to Section 301 Duties admitted into FTZs on or after the date on which the duties were imposed may only be admitted as “privileged foreign status”
- Such products will be subject upon entry for consumption to any ad valorem rates of duties or quantitative limits
- Only way to avoid duties for goods entered into an FTZ is to export the product from the FTZ.
- Companies may wish to establish a new FTZ or use an existing FTZ if they are exporting goods made from Chinese inputs subject to the Section 301 Duties

Temporary Import Under Bond

- TIB is a program administered by CBP
- Under certain conditions merchandise may be temporarily entered into the U.S. free of duties, taxes, and fees.
- Instead of paying duties the importer posts a bond for twice the amount of duty, taxes, and fees
- Under a TIB – the importer must export or destroy the imported goods within a specified period of time.