

Trump Directs Commerce to Open Section 232 Investigation of Auto Imports

May 24, 2018

International Trade

On May 23, 2018, President Trump directed U.S. Secretary of Commerce Wilbur Ross to initiate an investigation of the U.S. automobile, SUV, light truck, van, and auto parts sectors to determine whether imports of those products threaten to impair U.S. national security. This investigation will be conducted under Section 232 of the Trade Expansion Act of 1962, which allows the president to impose tariffs, quotas, or other measures in order to protect U.S. national security.

Last year, at the president's direction, Secretary Ross undertook two investigations under Section 232, one regarding steel and another regarding aluminum. In February 2018, Secretary Ross [released reports](#) concluding that imports in both sectors threatened national security and recommending trade restrictions. In March 2018, [President Trump imposed](#) a 25 percent tariff on a wide range of steel imports and a 10 percent tariff on a wide range of aluminum imports. Procedures were then established to exempt certain countries and to exclude certain products from the tariffs. While certain allies have been granted country exemptions, final determinations have not been made with respect to Canada, Mexico, or the EU. At the same time, thousands of requests for product exclusions filed by users of steel and aluminum in the United States remain pending.

A number of countries have indicated that they are considering retaliatory responses and WTO challenges to these steel and aluminum tariffs on the basis that the tariffs are not justified on national security grounds, but rather are designed to protect U.S. steel and aluminum producers from foreign competition.

Explaining the new investigation, President Trump stated that “[c]ore industries such as automobiles and automotive parts are critical to our strength as a nation.” Moreover, according to a [statement](#) from Secretary Ross, “[t]here is evidence suggesting that, for decades, imports from abroad have eroded our domestic auto industry.”

If the new Section 232 investigation moves toward restrictions on imports in the automobile, SUV, light truck, and auto parts sectors, foreign governments and non-U.S. producers are likely to mount vigorous opposition, including the possibility of new tariffs on U.S. exports.

Section 232 Background

Historically, Section 232 has been invoked only rarely, for example, in connection with imports of items such as machine tools, uranium, and ceramic semiconductor packaging. The Nixon and Ford Administrations took action in connection with Section 232 in response to oil imports, and those actions were [subject to a challenge in federal court](#). The most recent investigation prior to

the Trump Administration [investigation](#) was in 2001 and concerned imports of iron ore and semi-finished steel.

Section 232 is one of several unilateral powers that President Trump may invoke under U.S. law, including Section 338 of the Tariff Act of 1930, as described in [this article](#). Pursuant to Section 232, Section 338, and other statutes, the president has substantial albeit qualified powers to adjust imports by raising tariffs, imposing quotas, or taking other actions.

Under Section 232, Secretary of Commerce Wilbur Ross will have 270 days to determine whether automobiles, SUVs, vans, light trucks, and auto parts are being “imported into the United States in such quantities or under such circumstances as to threaten to impair the national security.” Based on the Commerce Secretary’s findings, the president must issue a report to Congress and may take such actions as he deems necessary to “adjust” imports of those products “so that such imports will not threaten to impair the national security.”

The [Section 232 regulations](#) contemplate opportunities for public hearings and comments. Prior investigations have involved multiple hearings and permitted both written comments and oral testimony from individuals supporting or opposing the allegations made in the investigation.

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A number of Covington trade lawyers have been advising a wide range of clients with regard to the Section 232 actions against steel and aluminum imports. We would be pleased to assist you with regard to the new Section 232 investigation regarding autos, SUVs, light trucks, and auto parts. If you have any questions concerning the information in this client alert, please contact the following members of our International Trade practice:

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