

The Latest on U.S. Tariffs

The world of U.S. tariffs is becoming increasingly complicated. Importers should not only pay attention to the general rate of duty on their foreign goods, but they must also be aware of other types of tariffs such as Antidumping and Countervailing duties and now the Section 301 and 232 tariffs. How and why are these duties put in place? What determines when a tariff is established for a threat to national security versus retaliatory measures? Depending on the situation, tariffs can be initiated by the government, an industry group or an individual company. It's complicated but we can shed some light on the situation. Let's start with the Section 301 tariffs since they seem to be a current hot topic.



SECTION 301 TARIFFS

Cases related to the Section 301 of the U.S. Trade Act of 1974 can be self-initiated by the United States Trade Representative (USTR) or they can be initiated through a petition filed by a company or industry group. The Act also authorizes the President to obtain the removal of any act, policy, or practice of a foreign government that violates an international trade agreement or is unjustified, unreasonable, or discriminatory, and burdens or restricts U.S. commerce. We have just witnessed this in practice with the President slapping 10 to 25% duties on most Chinese imports as a retaliatory measure because of disputes over intellectual property rights. Now the President is threatening to impose 100% tariffs on certain goods made in the EU over a dispute regarding aircraft subsidies to Airbus.

Once a Section 301 case has been initiated, the USTR must seek a settlement with the foreign country. The WTO may also get involved as an arbitrator, but the US can go ahead and take actions without WTO approval. Any merchandise covered by the Section 301 tariff could also be subject to antidumping and countervailing duties. Here are two Section 301 tariff cases you should be familiar with:

- **Proposed Section 301 Tariffs on EU Goods:**

The President is threatening to impose tariffs of up to 100% on goods imported from the EU regarding Airbus aircraft subsidies. [A preliminary list](#) of 317 tariff numbers has been released that covers many product groups when imported from any of the 28 EU member states as well as nine tariff lines covering helicopters, aircraft, and aircraft parts when imported from France, Germany, Spain, or the United Kingdom. As with the Chinese Section 301 tariffs, there will be an opportunity for importers to comment for product exclusions. Comments must be received by May 28th, so time is ticking. The WTO will be determining the amount of duties the US can impose on the E.U. by this summer. Instructions on how to comment are found [here](#).

- **Section 301 Tariffs on Chinese Goods:**

You are probably familiar with the Section 301 tariffs that were imposed by the President on Chinese goods in a dispute over intellectual property and other trade disputes with China. Here is a summary of the rollout of these tariffs:

The first round of Section 301 tariffs, effective July 6, 2018, raised tariffs 25% on \$34 billion worth of goods imported from China. As of last week (April 5th), 49% of the 10K+ exclusions requested per the List 1 list have been denied. Only 10% have been granted so far which can be found [here](#). The second round, effective on August 23, 2018, raised tariffs 25% on an additional \$16 billion worth of goods. No exclusions have been granted yet for the List 2 items however about 40% have moved into Stage 3 of the review process, so hopefully we'll see some decisions soon. The third round, effective on September 24, 2018, raised tariffs 10% on \$200 billion worth of goods. The tariff rate for goods covered by the third list of goods was supposed to increase from 10% to 25% on January 1, 2019 however, the President has postponed the increase for now. Ambassador Lighthizer has maintained that the USTR will not develop exclusion processes unless the tariffs are increased to 25%. More information can be found [here](#).

SECTION 232 TARIFFS

Section 232 of the Trade Expansion Act of 1962 authorizes the President, through tariffs or other means, to impact the imports of goods from other countries if it finds there are quantity issues or a threat to national security. The Commerce



BPE Global
137 Pierce Street
San Francisco, CA 94117
T 1-415-845-8967
E info@bpeglobal.com
bpeglobal.com

Secretary can initiate the investigation, or a company or industry group may initiate an investigation through an application. The Commerce Department is supposed to report its findings to the President within 270 days of initiating any investigation. The President has 90 days to review the report and make changes to tariffs or quotas to the imports in question based on the suggestions by the Commerce Secretary. Similar to the Section 301 tariffs, importers have the opportunity to request a product-specific exclusion. Any merchandise covered by the Section 232 duties can be subject to antidumping and countervailing duties as well. More information can be found [here](#). Here are two Section 232 tariff cases you should be familiar with:

- **Section 232 Tariffs on Steel and Aluminum**

The President issued additional import duties of 10 and 25% under Section 232 for steel mill and aluminum articles from almost all countries, claiming a national security threat. These duties were effective June 1, 2018. South Korea, Argentina, and Brazil have quotas in place with the U.S. and are exempted from the Sec. 232 steel and aluminum tariffs.

- **Section 232 Investigation of Automobiles & Auto Parts**

On May 23, 2018, the Commerce Department announced an investigation under Section 232 to determine whether imports of automobiles (e.g. SUVs, vans, and light trucks) and auto parts are a threat to national security.

The results of the investigation were submitted to the President on February 17, 2019. The president now has up to 90 days (mid-May) to decide whether to take action on the case. Any resulting actions would be imposed within 15 days of the President's decision.

TARIFF ACT OF 1930 (Anti-dumping and Countervailing Duties)

Industries that believe they are under unfair competition through foreign subsidized or undervalued goods can petition the US International Trade Commission (USITC) to review such cases and initiate additional duties on these imports known as anti-dumping and countervailing (anti-subsidy) duties.

Anti-dumping duties are calculated at a company-specific level, where the actual duty amount makes up for the discrepancy between foreign manufacturer pricing and fair market value. Countervailing duties are determined on a country-specific level, and the duty rates make up for the discrepancy between the subsidy and fair market value. As mentioned above, these duties can be in addition to the Section 301 and 232 duties. More information can be found [here](#).

Hopefully we've shed some light on the different types of duties and tariff measures. Let BPE Global know if we can help you with any of your trade compliance needs. BPE Global is a global trade consulting and training firm. Julie Gibbs is a Director of BPE Global. You can reach Julie by email at julie@bpeglobal.com or by phone at 1-415-595-8543.