

US & Multilateral Trade Policy Developments

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US General Trade Policy

Global Responses to U.S. Unilateral Trade Measures

The unilateral trade measures implemented and proposed by the Trump administration in recent weeks have prompted strong reactions from the United States' trading partners. In particular, the administration's imposition of tariffs on steel and aluminum imports, as well as its proposals to raise tariffs on many products from China, have prompted affected countries to take or threaten a range of actions, including the unilateral imposition of retaliatory tariffs on U.S. exports. China also has initiated formal WTO dispute settlement proceedings challenging both of the actions, and several other WTO Members have requested consultations under the WTO Safeguards Agreement to seek trade compensation from the United States in connection with the Section 232 measures. An overview of these actions and their potential implications is provided below.

Section 232 Tariffs on Steel and Aluminum Imports

On March 8, 2018, President Trump signed Proclamations imposing tariffs of 25 percent *ad valorem* on steel imports and 10 percent *ad valorem* on aluminum imports from all countries except Canada and Mexico, based on his determination under Section 232 of the Trade Expansion Act of 1962 that imports of steel and aluminum threaten to impair U.S. national security. The tariffs were scheduled to take effect on March 23, 2018. On March 22, 2018, President Trump signed Proclamations temporarily exempting Australia, Argentina, Brazil, the European Union, and South Korea (as well as Canada and Mexico) from the tariffs until May 1, 2018, and the tariffs went into effect for all other countries on March 23, 2018.

On March 28, 2018, the Office of the US Trade Representative (USTR) announced that it had reached an agreement with South Korea to permanently exempt that country from the Section 232 tariffs on steel imports, and that, as part of the agreement, "Korean imports of steel products into the United States will be subject to a product-specific quota equivalent to 70% of the average annual import volume of such products during the period of 2015-17." As of Friday April 27, 2018, the Trump administration had not announced any other decisions to grant permanent country-wide exemptions or to extend the existing temporary exemptions beyond May 1, 2018.

WTO Dispute Settlement (China)

In response to the U.S. Section 232 actions, China on April 9 initiated a WTO dispute (DS544: *United States — Certain Measures on Steel and Aluminum Products*) challenging the tariffs on steel and aluminum products from China, and the U.S. decision to exempt certain other WTO Members from the measures.¹ China alleges that the measures are inconsistent with the following WTO rules:

- **Safeguards Agreement.** China argues that the measures "constitute safeguard measures in substance," and are therefore inconsistent with the substantive and procedural disciplines set forth in GATT Article XIX and the Safeguards Agreement.
- **GATT Tariff Bindings:** China alleges that the measures are inconsistent with GATT Article II:1(a) and (b) because the additional tariffs breach the United States' tariff bindings for steel and aluminum imports, as set forth in the U.S. Goods Schedule.
- **GATT MFN Obligation:** China alleges that, by exempting only certain WTO Members (and not China), the measures are inconsistent with the Most Favoured Nation principle of GATT Article I:1.
- **GATT Article X:3:** China also alleges that the United States has breached Article X:3(a) by failing to administer its laws, regulations, decisions and rulings in relation to the measure at issue in a "uniform, impartial and reasonable manner".

Pursuant to Article 4.3 of the WTO Dispute Settlement Understanding (DSU), consultations in this dispute will take place between China and the United States within 30 days of receipt of the consultation request. The Trump administration has already stated that it will defend its measures by implicitly invoking the GATT Article XXI national

¹ [WT/DS544/1](#)

security exception, but has agreed to participate in the consultations. The United States stated that “[i]ssues of national security are political matters not susceptible to review or capable of resolution by WTO dispute settlement” and “[e]very Member of the WTO retains the authority to determine for itself those matters that it considers necessary to the protection of its essential security interests.”² Although the United States will engage in consultations with China, it added that this participation is “without prejudice to the US view that the tariffs imposed pursuant to Section 232 are issues of national security not susceptible to review or capable of resolution by WTO dispute settlement.” This is an implicit reference to GATT Article XXI.

The United States recently interpreted the national security exception as a third party in Ukraine’s recent challenge to Russia’s measures on traffic in transit (DS512), in which Russia has invoked a national security defense under Article XXI. The United States argues that a Member’s “essential security interests” are self-judging and non-justiciable under the WTO Dispute Settlement Understanding (DSU).³ If a Panel is established in the new DS544 dispute, WTO panels will have to adjudicate another WTO dispute involving the invocation of a GATT Article XXI defense, this time with the United States as the respondent. India, Thailand, Russia, the European Union, and Hong Kong, China have requested to join the consultations in DS544.

WTO Safeguards Agreement Actions (China, EU, Russia, India, and Turkey)

As noted above, China alleges that the Section 232 tariffs are safeguard measures and are imposed in violation of a number of provisions of the Safeguards Agreement. In the United States’ response to China, it rejects the characterization of the measures as safeguards because “[t]he United States did not take action pursuant Section 201 of the Trade Act of 1974, which is the law under which the United States imposes safeguard measures.”⁴

China has nevertheless notified the WTO of its intention to suspend concessions and apply an increase in tariffs on U.S. goods pursuant to Article 8 of the WTO Agreement on Safeguards.⁵ China’s notification also lists in the Annexes the U.S. goods subject to the proposed tariffs, the tariff rates, and the goods’ approximate 2017 import value (USD 2.7 billion). According to the United States, these tariffs took effect on April 2, 2018.

The EU, Russia, India, and Turkey also have rejected the United States’ characterization of the Section 232 tariffs and have notified the WTO that they consider the U.S. measures to be safeguard measures. These Members each have requested consultations with the United States under Article 12.3 of the Safeguards Agreement to discuss the measures with a view to determining appropriate trade compensation, based on the claim that the Section 232 measures were, in fact, safeguards. Unlike China, these Members did not also notify a proposed list of U.S. imports against which they would retaliate (suspend concessions) under the Safeguards Agreement. However, according to press reports, representatives of the 28 EU member states on April 17 unanimously approved the European Commission’s draft retaliation list, thus allowing the Commission to notify the list to the WTO in the coming days. The European Commission’s draft list covers several hundred U.S. products with an annual import value of approximately 6.4 billion Euros, according to EU officials.⁶

The United States’ responses to all of these requests was to deny that the Section 232 tariffs were safeguard measures and to state that there was, therefore, no Safeguards Agreement case to address. Instead, the United States said that the tariffs were national security measures over which the WTO has no authority to adjudicate, and

² [WT/DS544/2](#)

³ See Executive Summary of the U.S. Third-Party Oral Statement, DS512, available at <https://ustr.gov/sites/default/files/enforcement/DS/US.3d.Pty.Exec.Summ.fin.%28public%29.pdf>

⁴ [G/SG/168](#)

⁵ [G/SG/N/12/CHN/1](#)

⁶ The tariff list is available at http://trade.ec.europa.eu/doclib/docs/2018/march/tradoc_156648.pdf

for which trade compensation is not available. The United States agreed, nonetheless, to go ahead with bilateral consultations with each of these countries, but only on the understanding that the consultations would not take place under the provisions of the Safeguards Agreement.

National-level Actions

Following the imposition of the Section 232 measures, several WTO Members have initiated safeguard investigations concerning steel products. This includes the European Union, which on March 26, 2018 initiated a safeguard investigation covering many imported steel products.⁷ The European Commission's notice of initiation states that recent increases in imports of the covered steel products appear to be "the result of unforeseen developments such as the global overcapacity in steel making and trade measures adopted by a series of third countries during the last years in the context of that global overcapacity."⁸ The notice also states that a further increase in imports "is likely to be imminent given the context of an overall steel overcapacity, the increasing number of trade defence measures taken by third countries on steel products and the recent Section 232 measures by the United States of America." Costa Rica⁹ also initiated a safeguard investigation on March 29, 2018 (concerning bars and rods of steel for concrete reinforcement), and Turkey on April 27, 2018 announced the initiation of a safeguard investigation covering certain steel flat products, tubes and hollow profiles, bars, wires, and profiles, stainless steel, and certain railway and tramway track products. It is widely expected that further WTO and national actions (including additional safeguard, anti-dumping, and/or countervailing duty investigations) will commence on or after May 1, 2018, when the temporary exemptions from the Section 232 tariffs expire.

Proposed Section 301 Tariffs on Products of China

On March 22, 2018, USTR announced its affirmative findings in the investigation of China's "Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation" under Section 301 of the Trade Act of 1974. On the same day, the President signed a Memorandum authorizing USTR to "take all appropriate action under section 301... to address the acts, policies, and practices of China that are unreasonable or discriminatory and that burden or restrict U.S. commerce," and ordered USTR to "consider whether such action should include increased tariffs on goods from China[.]"

On April 3, 2018, USTR published a list of more than 1,300 China-origin goods, classified by 8-digit tariff code under the Harmonized Tariff Schedule of the United States (HTSUS), proposed to be subject to an additional 25 percent *ad valorem* tariff.¹⁰ According to USTR, the value of the list is approximately USD 50 billion in terms of estimated annual trade value for calendar year 2018. The proposed tariffs have not yet taken effect. USTR is currently accepting public comments on the list, and its final determination in the investigation is due by August 18, 2018.¹¹

Proposed Tariff Retaliation by China

⁷ [G/SG/N6/EU/1](#)

⁸ *Notice of initiation of a safeguard investigation concerning imports of steel products*, 2018/C 111/10 (March 26, 2018). Available at http://trade.ec.europa.eu/doclib/docs/2018/march/tradoc_156657.init-safe.en.C111-2018.pdf

⁹ [G/SG/N6/CRI/4](#)

¹⁰ *Notice of Determination and Request for Public Comment Concerning Proposed Determination of Action Pursuant to Section 301: China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation*, 83 Fed. Reg. 14906 (Apr. 6, 2018). Available at <https://www.federalregister.gov/documents/2018/04/06/2018-07119/notice-of-determination-and-request-for-public-comment-concerning-proposed-determination-of-action>

¹¹ USTR is accepting written submissions until May 11, 2018, will hold a hearing on the list on May 15, 2018, and will accept post-hearing rebuttal comments until May 22, 2018.

On April 4, 2018, China's Ministry of Commerce (MOFCOM) responded to USTR's proposed tariffs in a Public Notice on "Imposing Additional Tariffs on Certain Imported Products Originating from the United States".¹² The notice refers to the proposed US tariffs under Section 301 and states that, in response, "the Chinese Government will...impose an additional tariff of 25% on several imported products including soybeans and other agricultural products, automobiles, chemical products and airplanes originating in the U.S., amounting to about USD 50 billion imports from the U.S. to China in 2017." The notice includes a proposed list of 106 products that would be subject to the additional 25% tariff, and states that "[f]inal measures and the implementation date will be announced separately." An English version of the tariff list is provided in **Annex I**. According to press reports, China has not yet implemented these tariffs.

U.S. Response: Potential Additional Tariff List

On April 5, 2018, President Trump issued a statement responding to China's proposed retaliation, stating that "[r]ather than remedy its misconduct, China has chosen to harm our farmers and manufacturers. In light of China's unfair retaliation, I have instructed the USTR to consider whether \$100 billion of additional tariffs would be appropriate under section 301 and, if so, to identify the products upon which to impose such tariffs." White House officials have since confirmed that the new list would propose 25% tariffs on an additional USD 100 billion in annual Chinese imports, with a similar notice and comment process as the original Section 301 list. USTR has yet to release the list of additional proposed tariffs.

WTO Dispute

China on April 4 initiated a WTO dispute (DS543: *United States — Tariff Measures on Certain Goods from China*) challenging the United States' "proposed tariff measures" on products of China under Section 301.¹³ China alleges that the measures are inconsistent with the following WTO rules:

- **GATT MFN Obligation.** China alleges that the measures at issue are inconsistent with the Most Favoured Nation principle of GATT Article I:1, because they apply only to products of China.
- **GATT Tariff Bindings.** China alleges that the measures are inconsistent with GATT Article II:1(a) and (b) because the measures fail to accord to products originating in China treatment no less favourable than that provided for in the U.S. Goods Schedule.
- **Dispute Settlement Understanding (DSU).** China alleges that the measures violate Article 23 of the DSU because the measures "fail to recourse to, and abide by, the rules and procedures of the DSU" when seeking the redress of a violation of obligations or other nullification or impairment of benefits under the covered agreements or an impediment to the attainment of any objective of the covered agreements.

The United States has agreed to participate in the consultations, but has argued that China's request does not conform to the requirements of Article 4 of the DSU because the United States has not yet enacted the proposed tariff measures at issue.¹⁴ The U.S. communication states that "[b]y its own terms, China's letter addresses 'proposed tariff[] measures'. As China acknowledges in its letter, and as China well knows, the United States has adopted no tariff measures with respect to China." Consequently, the United States argues that the issues raised in China's consultations request are not "measures affecting the operation of any covered agreement" within the meaning of Article 4.2 of the DSU, and that China's request does not "identify[] the measures at issue" pursuant to

¹² The English version of Public Notice No. 34 is available at <http://english.mofcom.gov.cn/article/policyrelease/buwei/201804/20180402734699.shtml>

¹³ [WT/DS543/1](#)

¹⁴ [WT/DS543/2](#)

Article 4.4 of the DSU. Nonetheless, the United States has agreed to enter into consultations with China, but only “without prejudice to the US view that China’s letter does not comply with DSU requirements.”

The Trump administration has not indicated how it would respond to a WTO challenge of the Section 301 tariff measures themselves if it ultimately implements the measures. However, there are signs that the Trump administration might seek to justify the Section 301 tariffs on national security grounds. The President’s 2018 Trade Policy Agenda states that one of the administration’s five “major priorities” for 2018 is “adopting trade policies that support our national security policy[.]” The Agenda further states that the new National Security Strategy published by the Trump administration in December 2017 is “particularly relevant” to this objective, and portrays the Section 301 actions as part of USTR’s efforts to ensure that trade policy supports the National Security Strategy, as shown below:

“Recognizing the Importance of Technology. The National Security Strategy states that, ‘The United States must preserve our lead in research and technology and protect our economy from competitors who unfairly acquire our intellectual property.’ Our trade policy will support these efforts. In fact, as discussed in more detail below, we have already launched an investigation pursuant to Section 301 of the Trade Act of 1974 into allegations that China is engaged in unreasonable and discriminatory efforts to obtain U.S. technologies and intellectual property. If necessary, we will take action under Section 301 to prevent China from obtaining the benefit of this type of unfair practice.”

These statements indicate that the United States might defend the Section 301 tariffs, if it imposes them, by invoking the GATT Article XXI national security exception as it has indicated it will do in the dispute concerning the Section 232 measures.

Implications

All of these actions could have serious implications for the global economy and the multilateral trading system:

- In the case of the Section 232 measures, the United States’ invocation of GATT Article XXI to defend the tariffs would place further strain on the WTO dispute settlement system and, if a panel agrees to adjudicate the issue, give the Trump administration another reason to discredit (if not abandon) the WTO. The retaliatory tariffs implemented by China and potentially other WTO Members under the Safeguards Agreement also raise concerns, as they not only could raise questions about whether WTO Members can use allegations of “disguised safeguards” to retaliate quickly and unilaterally against other Members, but also could set off a round of tit-for-tat protectionism that disrupts global supply chains and hurts global economic growth. These actions could intensify (and perhaps multiply) in the coming days if the Trump administration does not extend and expand the Section 232 country exemptions.
- In the case of the potential Section 301 actions, imposition of each country’s proposed tariffs on at least USD 50 billion worth of imports appears likely, and could lead to further retaliatory actions of similar or even larger scale. The commercial implications of a tit-for-tat escalation of trade barriers between the world’s two largest economies would be significant and would very likely extend beyond just the U.S. and Chinese markets. The measures also would represent a further shift towards unilateralism and away from reliance on the WTO dispute settlement system as the main mechanism for resolving trade disputes. Finally, much like the WTO challenge of the Section 232 tariffs, a WTO challenge of any Section 301 tariffs could also prompt the United States to invoke the GATT Article XXI national security exemption, thereby raising similar systemic concerns.

It is therefore unsurprising that supporters of the multilateral trading system have sought to defuse these situations through quiet diplomacy. In the last two weeks, for example, President Trump has been visited by Japanese Prime Minister Shinzo Abe, French President Emmanuel Macron, and German Chancellor Angela Merkel, each of which

has sought exemptions from the U.S. metals tariffs and reinforced the importance of trade agreements and the multilateral trading system more broadly. Meanwhile, WTO officials hope to keep Members from escalating already-high tensions and to find solutions to Members' concerns through means other than direct confrontation. Even the "globalist" members of the Trump administration are working to resolve U.S.-China irritants through upcoming bilateral negotiations in Beijing.

So far, however, diplomatic efforts to contain the Trump administration's unilateralism have had only limited success. Should such inefficacy continue in the future and new U.S. tariffs be imposed, more forceful retaliatory responses by more WTO Members are possible, despite the systemic and commercial problems that would likely accompany them.

US Trade Representative Proposes Tariff Action Against Products of China Under Section 301

On April 3, 2018, the Office of the United States Trade Representative (USTR) published a draft Federal Register notice containing its proposal to impose an additional tariff of 25 percent *ad valorem* on imports of certain products of China, based on the findings of USTR's investigation of China's acts, policies, and practices related to technology transfer, intellectual property, and innovation under Section 301 of the Trade Act of 1974.¹⁵ The draft Federal Register notice consists of the following items:

- **USTR's determination** that the acts, policies, and practices covered in the investigation are unreasonable or discriminatory and burden or restrict U.S. commerce, and are thus actionable under Section 301;
- **USTR's proposal** that the appropriate action to address the alleged acts, policies, and practices "would include" the imposition of an additional tariff of 25 percent *ad valorem* on certain goods of Chinese origin, which are listed in the Annex to the notice; and
- **USTR's request for public comments** on the proposed list of products and tariff increases (with a submission deadline of May 11, 2018), and an announcement that USTR will convene a public hearing on the proposed action on May 15, 2018 (with requests to appear at the hearing due by April 23, 2018).

USTR's determination, proposed tariff action, and request for public input on the proposed action are summarized in greater detail below.

Determination

The notice states that, based on the information obtained during the investigation, and as reflected in USTR's March 22 report on the findings of the investigation, USTR has determined pursuant to sections 301(b) and 304(a) of the Trade Act (19 U.S.C. 2411(b) and 2414(a)) that the acts, policies, and practices covered in the investigation are unreasonable or discriminatory and burden or restrict U.S. commerce, and are thus actionable under section 301(b) of the Trade Act. USTR's description of the alleged acts, policies and practices is listed below:

1. China uses foreign ownership restrictions, such as joint venture requirements and foreign equity limitations, and various administrative review and licensing processes, to require or pressure technology transfer from U.S. companies.
2. China's regime of technology regulations forces U.S. companies seeking to license technologies to Chinese entities to do so on non-market-based terms that favor Chinese recipients.
3. China directs and unfairly facilitates the systematic investment in, and acquisition of, U.S. companies and assets by Chinese companies to obtain cutting-edge technologies and intellectual property and generate the transfer of technology to Chinese companies.

¹⁵ Click [here](#) to view the draft Federal Register notice and the proposed product list.

- China conducts and supports unauthorized intrusions into, and theft from, the computer networks of U.S. companies to access their sensitive commercial information and trade secrets.

Proposal for “Appropriate Action”

USTR proposes that “appropriate action” to address the alleged acts, policies, and practices described above “would include increased tariffs on certain goods of Chinese origin.” In particular, the proposed action is an additional duty of 25 percent on a list of products of Chinese origin identified in the Annex to the notice.¹⁶ The products included in the list are classified under the following chapters of the Harmonized Tariff Schedule of the United States (HTSUS): 28, 29, 30, 38, 40, 72, 73, 76, 83, 84, 85, 86, 87, 88, 89, 90, 91, 93, and 94. Each product is listed in the Annex to the USTR notice, according to its corresponding 8-digit HTSUS subheading.

The notice states that the proposed list of products was developed using the following methodology:

Trade analysts from several U.S. Government agencies identified products that benefit from Chinese industrial policies, including Made in China 2025. The list was refined by removing specific products identified by analysts as likely to cause disruptions to the U.S. economy, and tariff lines that are subject to legal or administrative constraints. The remaining products were ranked according to the likely impact on U.S. consumers, based on available trade data involving alternative country sources for each product. The proposed list was then compiled by selecting products from the ranked list with lowest consumer impact.

According to USTR, the value of the list is approximately USD 50 billion in terms of estimated annual trade value for calendar year 2018. USTR determined that this level is “appropriate both in light of the estimated harm to the U.S. economy, and to obtain elimination of China’s harmful acts, policies, and practices.”

WTO Dispute on Certain Technology Regulations

USTR also has decided that “certain acts, policies, and practices of China considered in the investigation may be appropriately addressed through recourse to WTO dispute settlement.” Accordingly, USTR on March 23, 2018 initiated a WTO dispute by requesting consultations with the Government of China regarding “certain specific aspects of China’s technology regulations considered in the investigation.” The notice states that, because USTR intends to address these issues through recourse to WTO dispute settlement, “the proposed tariff action does not relate to or take into account harm caused by these acts, policies, and practices”.

Request for Public Comments

USTR is requesting comments from interested persons with respect to any aspect of the proposed action, including:

- 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 the increase, if any, in the rate of duty; and
- The appropriate aggregate level of trade to be covered by additional duties.

Written comments on the proposed action must be submitted by May 11, 2018. In commenting on the inclusion or removal of particular products on the list of products subject to the proposed additional duties, USTR requests that commenters address specifically:

¹⁶ The notice indicates that the proposed 25 percent duty would apply in addition to any other duties applicable to the subject product. It also states that any merchandise subject to the increased tariffs admitted into a U.S. foreign trade zone on or after the effective date of the increased tariffs would have to be admitted as “privileged foreign status” as defined in 19 CFR 146.41, and would be subject upon entry for consumption to the additional duty.

- Whether imposing increased duties on a particular product would be practicable or effective to obtain the elimination of China's acts, policies, and practices; and
- Whether maintaining or imposing additional duties on a particular product would cause disproportionate economic harm to U.S. interests, including small- or medium-size businesses and consumers.

Public Hearing

The Section 301 Committee will convene a public hearing regarding the proposed action at 10:00 am on May 15, 2018 in Washington, DC. Requests to appear at the hearing must be submitted by April 23, 2018. The request to appear must include a summary of testimony, and may be accompanied by a pre-hearing submission. Remarks at the hearing will be limited to five minutes to allow for possible questions from the Section 301 Committee. USTR also will accept post-hearing rebuttal comments, which are due by May 22, 2018.

Procedures for Written Submissions: Public Comment Form and Business Confidential Information

To assist in its review of written submissions, the Section 301 Committee has prepared a **public comment form** that will be posted on the USTR website and in a docket on www.regulations.gov (docket USTR-2018-0005). Though USTR "strongly encourages" commenters to use the form for written submissions, use of the form is not required. USTR requests that submissions identify the specific good in question by the applicable HTSUS subheading.

USTR will post submissions in the docket for public inspection, except business confidential information. For any comments submitted electronically containing business confidential information, the file name of the business confidential version and any page containing business confidential information must be clearly marked in accordance with the instructions provided in the Federal Register notice. Parties requesting business confidential treatment must certify in writing that disclosure of the information would endanger trade secrets or profitability, and that the information would not customarily be released to the public. Filers of submissions containing business confidential information also must submit a public version of their comments.

Conclusion

The list of products set forth in the Annex to the draft Federal Register notice is only a proposed list and could be modified in response to input received by USTR during the public comment and hearing process. Moreover, it is possible that USTR will decide not to impose the tariffs based on progress in bilateral negotiations between the United States and China. However, this outcome appears unlikely based on published reports, and it is expected that USTR will impose at least some tariffs as a result of the Section 301 investigation. Given the timelines set forth in the draft Federal Register notice, and assuming a reasonable period of time for USTR to review written submissions, hearing testimony, and rebuttal comments, any tariffs imposed as a result of the investigation could take effect as soon as early- to mid-June of 2018, though further delays are possible.

Petitions and Investigations Highlights

US International Trade Commission Issues Affirmative Final Determinations in Anti-Dumping Duty Investigations of Biodiesel from Argentina and Indonesia

On April 3, 2018, the US International Trade Commission (ITC) determined that a US industry is materially injured by reason of imports of biodiesel from Argentina and Indonesia that the US Department of Commerce (DOC) has determined are sold in the United States at less than fair value.¹⁷ As a result of the ITC's affirmative final determinations, DOC will issue anti-dumping duty orders on imports of the subject merchandise from Argentina and Indonesia.

The ITC also made a negative finding concerning critical circumstances with regard to imports of biodiesel from Argentina. As a result of the negative finding, imports of biodiesel from Argentina will not be subject to retroactive anti-dumping duties.

In its final determination, announced on February 21, 2018, DOC determined that imports of the subject merchandise were sold in the United States at dumping margins ranging from 60.44 to 86.41 percent (for Argentina) and from 92.52 to 276.65 percent (for Indonesia). Imports of the subject merchandise were valued at an estimated USD 1.6 billion in 2016.

The ITC's public report on the investigation will be available by May 7, 2018.

US Department of Commerce Issues Affirmative Final Determinations in Anti-Dumping Investigations of Tool Chests and Cabinets from China and Vietnam

On April 4, 2018, the US Department of Commerce (DOC) announced its affirmative final determinations in the anti-dumping duty (AD) investigations concerning imports of tool chests and cabinets from China and Vietnam.¹⁸ In its investigations, DOC determined that imports of the subject merchandise from China and Vietnam were sold in the United States at the following dumping margins:

Country	Dumping Margin
China	97.11 – 244.29 percent
Vietnam	327.17 percent

The products subject to these investigations are certain metal tool chests and tool cabinets, with drawers, (tool chests and cabinets), from China and Vietnam. Merchandise subject to these investigations is classified under HTSUS categories 9403.20.0021, 9403.20.0026, 9403.20.0030, 9403.20.0080, 9403.20.0090, and 7326.90.8688, but may also be classified under HTSUS category 7326.90.3500.

The US International Trade Commission (ITC) is scheduled to make its final determinations in these investigations on or around May 18, 2018. If the ITC makes affirmative final determinations that imports of tool chests and cabinets from China and/or Vietnam materially injure, or threaten material injury to, the domestic industry, DOC will issue AD orders. If the ITC makes negative determinations of injury, the investigations will be terminated.

According to DOC, imports of tool chests and cabinets from China and Vietnam in 2016 were valued at an estimated USD 230 million and 77 million, respectively.

¹⁷ Click [here](#) to view the ITC's announcement on the investigation.

¹⁸ Click [here](#) to view the DOC fact sheet on the investigations.

US Department of Commerce Issues Affirmative Final Determinations in Antidumping Duty Investigations of Cold-Drawn Mechanical Tubing from China, Germany, India, Italy, Korea, and Switzerland

On April 10, 2018, the US Department of Commerce (DOC) announced its affirmative final determinations in the antidumping duty (AD) investigations concerning imports of cold-drawn mechanical tubing from China, Germany, India, Italy, Korea, and Switzerland.¹⁹ In its investigations, DOC determined that imports of the subject merchandise were sold in the United States at the following dumping margins:

Country	Dumping Margin
China	44.90* – 186.89 percent
Germany	3.11 – 209.06 percent
India	5.87* – 33.80 percent
Italy	47.87 – 68.95 percent
Korea	30.67 – 48.00 percent
Switzerland	12.05 – 30.48 percent

* Rates are adjusted for export subsidies.

The merchandise subject to these investigations is cold-drawn mechanical tubing of carbon and alloy steel (cold-drawn mechanical tubing) of circular cross-section, 304.8 mm or more in length, in actual outside diameters less than 331mm, and regardless of wall thickness, surface finish, end finish or industry specification. The products subject to the investigations are currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under item numbers: 7304.31.3000, 7304.31.6050, 7304.51.1000, 7304.51.5005, 7304.51.5060, 7306.30.5015, 7306.30.5020, 7306.50.5030. Subject merchandise may also enter under numbers 7306.30.1000 and 7306.50.1000.

The US International Trade Commission (ITC) is scheduled to make its final determinations on or around May 24, 2018. If the ITC makes affirmative final determinations that imports of cold-drawn mechanical tubing from China, Germany, India, Italy, Korea, and/or Switzerland materially injure, or threaten material injury to, the domestic industry, DOC will issue AD orders. If the ITC makes negative determinations of injury, the investigations will be terminated.

According to DOC, imports of cold-drawn mechanical tubing from China, Germany, India, Italy, Korea, and Switzerland were valued at an estimated USD 29.4, 38.8, 25.0, 11.9, 21.3, and 26.2 million, respectively, in 2016.

US Department of Commerce Issues Affirmative Final Determination in Countervailing Duty Investigation of Stainless Steel Flanges from China

On April 6, 2018, the US Department of Commerce (DOC) announced its affirmative final determination in the countervailing duty (CVD) investigation concerning imports of stainless steel flanges from China.²⁰ In its investigation, DOC determined based on adverse facts available that imports of the subject merchandise from four Chinese producers received countervailable subsidies of 174.73 percent. DOC determined a countervailable subsidy rate of 174.73 percent for all other Chinese producers and exporters.

The products covered by the investigation are certain forged stainless steel flanges, whether unfinished, semi-finished, or finished (certain forged stainless steel flanges). Certain forged stainless steel flanges are generally

¹⁹ Click [here](#) to view the DOC fact sheet on the investigations.

²⁰ Click [here](#) to view the DOC fact sheet on the investigations.

manufactured to, but not limited to, the material specification of ASTM/ASME A/SA182 or comparable domestic or foreign specifications. Certain forged stainless steel flanges are made in various grades such as, but not limited to, 304, 304L, 316, and 316L (or combinations thereof). The term “stainless steel” as used in the scope refers to an alloy steel containing, by actual weight, 1.2 percent or less of carbon and 10.5 percent or more of chromium, with or without other elements. Merchandise subject to the investigation is typically imported under headings 7307.21.1000 and 7307.21.5000 of the Harmonized Tariff Schedule of the United States (HTSUS).

The US International Trade Commission (ITC) is scheduled to make its final injury determination on or around May 21, 2018. If the ITC makes an affirmative final determination that imports of stainless steel flanges from China materially injure, or threaten material injury to, the domestic industry, DOC will issue a CVD order. If the ITC makes negative determinations of injury, the investigations will be terminated.

According to DOC, imports of stainless steel flanges from China in 2016 were valued at an estimated USD 16.3 million.

Annex I

U.S. Products Proposed to be Subject to 25% Tariff in MOFCOM Public Notice No. 34/2018

NTLC	Description
12019010	Yellow soya beans, not for cultivation
88024010	Aircraft nes. 15,000 kg <=45,000 kg
87032362	Cross-country cars(4WD), 2500ml<cc<=3000ml, spark-igni recip
87032342	Cross-country cars(4WD), 1500ml<cc<=2000ml, spark-igni recip
27111200	Propane, liquefied
87038000	Motor vehicles designed mainly for transport of persons, with only electric motors for propulsion
52010000	Cotton, neither carded nor combed
10079000	Grain sorghum (excl. for sowing)
87032343	Station wagons(with 9 seats or less), 1500ml<cc<=2000ml, spark-igni recip
38249999	Chemical products and preparations of the chemical or allied industries, nes
87084099	Other Gear boxes & parts nes for vehicles of 87.01 to 87.05
87032363	Station wagons(with 9 seats or less), 2500ml<cc<=3000ml, spark-igni recip
38220090	Prepared diagnostic or laboratory reagents, nes
39269090	Other articles of plastics, nes
87032413	Station wagons(with 9 seats or less), 3000ml<cc<=4000ml, spark-igni recip
10011900	Durum wheat, excl. seed
87032353	Station wagons(with 9 seats or less), 2000ml<Cc<=2500ml, spark-igni recip
39199090	Other self-adhesive tape/plate/strip of acrylic resin, in rolls, nes
39074000	Polycarbonates, in primary forms
39209990	Plates/sheets/film/foil/strip of other plastics, non-cellular, nes
87032412	Cross-country cars(4WD), 3000ml<cc<=4000ml, spark-igni recip
38151200	Supported catalysts with precious metal or its compounds
39041090	Other poly, not mixed with any other substances
87043100	Trucks spark-igni, g.v.w.<=5t
39079999	Polyesters, in primary forms, nes
39072090	Other polyethers in primary forms
39011000	Polyethylene having a specific gravity
38151900	Supported catalysts, nes
34039900	Other lubricating prep., nes, no petro./btmns oil
24012010	Plue-cured tobacco, partly or wholly stemmed/stripped
39206200	Plates/sheets/film/foil/strip of polyethylene terephthalate, non-cellular

NTLC	Description
10059000	Maiz (exc. ??las de siembra para siembra)
87034043	Station wagons, seats=9, with both spark-ignition internal combustion piston engine and electric ...
35069190	Adhesives based on rubber or plastic, nes
39119000	Polysulphides, polysulphones & other prdct in Note 3, in primary forms
39100000	Silicones in primary forms
38220010	Diagnostic or laboratory reagents on a backing
39219090	Other plates/sheets/flm/foil/strip of plastics, nes
40023990	Halo-isobutene-isoprene rubber, in plates, sheets or strips
39121100	Non-plasticised cellulose acetates, in primary forms
39069090	Acrylic polymers prepared, in primary forms, nes
39019090	Other ethylene-vinyl copolymers, in primary forms, nes
39081011	Slices/chips of polyamide-6, 6
38159000	Reaction initiators, accelerators & catalytic prep., nes
34031900	Other lubricating prep., with
10019900	Other wheat and maslin, excl. seed
34021300	Non-ionic surface-active agents, (excl. soap)
29349990	Other heterocyclic compounds, nes
39073000	Epoxide resins, in primary forms
29261000	Acrylonitrile
39201090	Plates/sheets/film/foil/strip, of polymers of ethylene, non-cellular, nes
23033000	Brewing or distilling dregs & waste
87032422	Cross-country cars(4WD), cc>4000ml, spark-igni recip
29031500	1,2-Dichloroethane (ISO)
39089020	Semi-aromatic polyamides and copolymers thereof in primary forms
87034053	Station wagons, seats =9, with both spark-ignition internal combustion piston engine and electric ...
39089090	Polymides in primary forms, nes
20089300	Prepared/preserved cranberries
39014090	Other ethylene-alpha-olefin copolymers having a specific gravity
38112900	Additives for lubricating oils (excl. with petroleum oils)
87036000	Motor vehicles designed mainly for transport of persons, with both spark-ignition internal...
87032352	Cross-country cars(4WD), 2000ml<cc<=2500ml, spark-igni recip
14042000	Cotton linters
22083000	Whiskies

NTLC	Description
02023000	Frozen boneless bovine meat
87033312	Cross-country cars(4WD), 2500ml<cc<=3000ml, diesel
02013000	Fresh or chilled boneless bovine meat
87039000	Motor cars with seats<=9, nes
24022000	Cigarettes containing tobacco
12019020	Black soya beans, not for cultivation
20091200	Unfrozen orange juice, Brix value<=20
39089010	Aromatic polyamides and copolymers thereof in primary forms
02022000	Frozen unboned bovine meat (excl. carcasses)
38249100	Mixtures consisting mainly of (5-ethyl-2-methyl-2-oxido-1,3,2-dioxaphosphinan-5-yl)methyl methyl...
02012000	Fresh or chilled unboned bovine meat (excl. carcasses)
87034033	Station wagons, seats=9, with both spark-ignition internal combustion piston engine and electric...
87034032	Cross-country cars(4WD) with both spark-ignition internal combustion piston engine and electric...
24031900	Other smoking tobacco, whether or not containing tobacco substitute
11022000	Maize (corn) flour
87034042	Cross-country cars(4WD) with both spark-ignition internal combustion piston engine and electric...
02062900	Frozen edible bovine offal (excl. tongues & livers)
24021000	Cigars, cheroots & cigarillos containing tobacco
20091100	Frozen orange juice
02011000	Carcases or half-carcases of bovine animals, fresh or chilled
02021000	Frozen bovine carcasses & half carcasses
24011010	Flue-cured tobacco, not stemmed/stripped
24011090	Tobacco, other than flue-cured, not stemmed/stripped
24012090	Tobacco, not flue-cured, partly or wholly stemmed/stripped
24013000	Tobacco refuse
24029000	Cigars, cheroots, cigarillos & cigarettes, of tobacco substitutes
24031100	Water pipe tobacco specified in Subheading Note to this Chapter
24039100	Homogenized or reconstituted tobacco
24039900	Other manufactured tobacco, nes
87034052	Cross-country cars(4WD) with both spark-ignition internal combustion piston engine and electric...
87034063	Station wagons, seats=9, with both spark-ignition internal combustion piston engine and

NTLC	Description
	electric...
87034062	Off-road car (4-wheel-driven) with 3000ml
87035052	Cross-country cars(4WD) with both compression-ignition internal combustion piston engine and...
87034072	Off-road vehicles(4WD) of cylinder capacity exceeding 4L, with spark-ignition internal combustion engine
87034090	Passenger vehicles of other cylinder capacity exceeding 4L, with spark-ignition internal combustion engine
87035090	Passenger vehicles of other cylinder capacity cylinder exceeding 3L but not exceeding 4L, with compression
87037000	Motor cars and other motor vehicles principally designed for the transport of <10 persons, incl. station
38248700	Mixtures and preparations containing perfluorooctane sulphonic acid, its salts, perfluorooctane sulphur
38248800	Mixtures and preparations containing tetra-, penta-, hexa-, hepta- or octabromodiphenyl ethers
38248500	Mixtures and preparations containing 1,2,3,4,5,6-hexachlorocyclohexane "HCH "ISO"", including lindane
38248600	Mixtures containing pentachlorobenzene (ISO) or hexachlorobenzene (ISO)
38248400	Mixtures containing aldrin(ISO)/dieldrin(ISO)/chlordane(ISO)/chlordecone(ISO)/DDT(ISO) etc.