

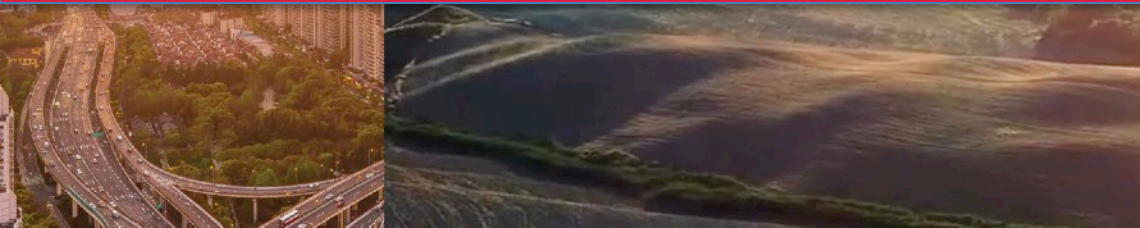


Updated Case Study on Tariffs & Mitigation

Madison International Trade Association

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About Modine



- Modine specializes in thermal management systems and components:
 - Bringing highly engineered heating and cooling components, original equipment products, and systems to diversified global markets.
- Three business segments:
 - Vehicular Thermal Solutions (VTS),
 - Commercial & Industrial Solutions (CIS), and
 - Building HVAC Systems (BHVAC).
- Headquartered in Racine.
- Operations in North America, South America, Europe and Asia.
- Fiscal 2019 revenues of \$2.2 billion.

301 Tariffs



- Reason = Intellectual property concerns.
- Only affects Chinese-origin products.
- Multiple lists:
 - List 1 started July 6, 2018 (25%).
 - List 2 started August 23, 2018 (25%).
 - List 3 started September 24, 2018 (10%, increased to 25%).
 - List 4a started September 25, 2019 (15%, decreased to 7.5%).
 - List 4b deferred.
- Affects a wide range of HTS (import classification codes)
 - Some raw materials and some finished goods.
- China imposed tariffs in response to US tariffs.

232 Tariffs



- Reason = National security concerns.
- Affects most countries
 - Some exclusions/quotas for certain countries.
 - Country of origin, not country of export.
- Aluminum duties are 10%; steel duties are 25%.



Mitigation Options



Change Suppliers



- Factors to consider:
 - Time – quotes, validation process, etc.
 - May need customer approval.
 - Upfront investment – increased cost in the short-term (ex: tooling).
 - Lack of capacity in the US and non-targeted countries.
- Conducted comprehensive review of options
 - Have made some supplier changes because of tariffs
- Some suppliers are changing their countries of manufacture
 - Need to verify origin to avoid transshipment issues

Exclusion Requests - 301



- Main agency = USTR
- Main Factors:
 - product only available in China;
 - additional duties would cause severe economic harm to the requester or other U.S. interests; and
 - product not strategically important or related to “Made in China 2025” or other Chinese industrial programs.
- Submission deadline has passed for lists 1, 2, 3, and 4a
 - No process yet for list 4b
- Retroactive back to the date of the tariff implementation
- Anyone can take advantage of granted exclusions

Exclusion Requests 301



Section 301 China Tariff Overview (as of January 15, 2020)

Tariff Action	Approx. Import Value	Duty Rate & Effective Date	Exclusion Process
List 1	\$34 Billion	25% (from July 6, 2018)	<p>Process Closed Oct. 9, 2018; ~11K applications filed;</p> <p>33.8% granted, 66.2% denied across nine batches from 12/18-10/19</p> <p>Renewal possible on rolling basis, ~1 year after each batch granted</p>
List 2	\$16 Billion	25% (from August 23, 2018)	<p>Process Closed Dec. 18, 2018; ~3K applications filed</p> <p>34.4% granted, 62.5% denied across three batches from 07/19-10/19</p> <p>Renewal process expected, ~1 year after initial batch granted</p>
List 3	\$200 Billion	<p>10% (from Sep. 24 2018)</p> <p>25% (from June 15, 2019)</p>	<p>Process Closed Sep. 30, 2019; ~30K applications filed</p> <p>1.1% granted, 40% denied, 58.9% pending in batches, ongoing basis</p> <p>Renewal process expected</p>
List 4A	\$120 Billion	15% (from Sep. 1, 2019)	Process open through January 31, 2020
	\$156 Billion*	7.5% (planned for Feb. 14, 2020)	
List 4B		Deferred	

* USTR has referred to combined List 4 value as "\$300 billion," and List 4A value as "\$120 billion," U.S. Census data and press reports value annual imports from List 4B at \$156 billion.

Source: Baker McKenzie International Trade Compliance Update February 2020



China Section 301-Tariff Actions and Exclusion Process

\$34 Billion Trade Action (List 1)

\$16 Billion Trade Action (List 2)

\$200 Billion Trade Action (List 3)

\$300 Billion Trade Action (List 4)

- <https://ustr.gov/issue-areas/enforcement/section-301-investigations/tariff-actions>
- Searchable lists within in each section

Exclusion Requests - 232



- Main agency = Commerce
- Main Factors:
 - Availability in the US
 - National security requirements
- No deadline for submission
- Time period
 - If successful, retroactive to date of submissions
 - Valid for one year from the date letter signed
 - Issue: Volume request is per year, but exclusion period is longer than a year
- Only applicable to submitting company

Commerce 232 Website



232 Exclusions Portal

BIS 232

Regulations.gov dockets

Commerce 232

232 Exclusions Portal

Steel Page

Steel Docket

Steel Page

**232 Exclusions
Portal Interim Final
Rule (June 10, 2019)**

**Aluminum
Page**

**Aluminum
Docket**

**Aluminum
Page**

**232 Exclusions Portal
User Guide**

**Steel Forms &
Supporting
Guides**

**232 Exclusions
Process FAQs**

**Aluminum
Forms &
Supporting
Guides**

- <https://www.commerce.gov/page/section-232-investigations>

Exclusion Requests – Our Process



- Many departments involved to prioritize products and compile information
- Checked for comments
 - Short timeframe to respond
- Long process for decisions
- Work with suppliers on using granted exclusions
- Developed a process to track competitors' submissions
 - Comment/oppose those filings

Exclusion Process Challenges



- Change in process at various stages:
 - Different portals, different forms, different requirements.
- Criticisms not just from submitting companies:
 - 232 – Inspector general report (October 2019) noted lack of transparency in the process and other issues
 - 301 – Law-makers have publicly called for improvements to the process

Other Mitigation Options



- Drawback
 - Only applicable for 301 duties, not 232.
 - Need to track imports and exports; requires communication between all involved parties.
- Foreign Trade Zones
 - Consider your level of exports versus imports of the finished goods into the US.
- Reclassification
 - Consider the impact of any owed duties and interest for the misclassification over the last 5 years.
 - In certain cases, could also be penalties.



Other Aspects



Uncertainty



- Derivative articles:
 - Exact scope not known for several days
- Brazil:
 - President Trump tweeted that 232 quota would be removed; later changed course
- List 4a reduced from 15% to 7.5%:
 - Timing of implementation not known for some time
- Causes difficulty advising the business and difficulty in business planning

The Difference a Year Makes



- Phase One agreement with China
 - Reduction in List 4a tariffs
 - China has reduced some tariffs and made other concessions
 - Other tariffs and issues still outstanding
- Uncertainty remains
 - Tariffs being added/evolving
 - Pending decisions on exclusion requests
 - Impact of coronavirus
- Some stabilizing
 - Have come to agreements with many customers/suppliers
 - New contracts more likely to take these tariffs into consideration
 - Less prominence in earnings calls



Resources



Resources



- Ex/Im Daily Update - trade developments, including tariffs
Jim Bartlett, Full Circle Compliance ("FCC") <jebartlett@fullcirclecompliance.eu>
20-0302 Monday "Daily Bugle"
- Bloomberg Terms of Trade – daily newsletter
- Sandler, Travis & Rosenberg Trade Report – periodic email updates
- Mike Dankler 232 Updates
Dankler, Mike <Mike.Dankler@mail.house.gov>
232 Update - 2/28/2020
- Baker McKenzie
 - Monthly International Trade Report
 - Periodic email on 301 from John Foote

Resources (cont.)



- Trade associations
 - NAM has been very helpful
- Outside lawyers
 - Good sources of developments
 - Advice on substantive questions, exclusions requests



Questions?

