

Case Study on Tariffs & Mitigation



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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 2018 revenues of \$2.1 billion.

232 Tariffs



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

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%, move to 25% postponed several times).
- Affects a wide range of HTS (import classification codes)
 - Some raw materials and some finished goods.

Other Tariffs



- US
 - “Regular” tariffs/duties
 - 232
 - Autos and auto parts
 - Others
 - ADD/CVD
 - Aluminum extrusions from China
 - Recent petition on fabricated steel
 - Many others
 - These are cumulative – can be hit with more than one if more than one is applicable
- Other Country’s Retaliatory Tariffs
 - Ex: China, EU



Mitigation Options



Exclusion Requests - 232



- Main agency = Commerce
- Main Factors:
 - Availability in the US
 - National security requirements
- No deadline for submission
- If successful, retroactive to date of submissions
- Valid for one year from the date letter signed
- Only applicable to submitting company

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.
- Deadline has passed for lists 1 and 2
 - No process yet for list 3
- Retroactive back to the date of the tariff implementation
- Anyone can take advantage of granted exclusions
- <https://ustr.gov/issue-areas/enforcement/section-301-investigations/record-section-301-investigation>

Exclusion Requests – Our Process



- Worked with many departments to prioritize products and compile information
- Checked for comments
 - Short timeframe to respond
- Developed a process to track competitors' submissions
 - Comment/oppose those filings
- Long process for decisions
 - Complicated by the shut-down - some agencies not at full staff, and the part of Customs that assists with the exclusion process was furloughed.

Change Suppliers



- Takes time – quotes, validation process, etc.
- Takes upfront investment – increased cost in the short-term (ex: tooling).
- Cost-benefit analysis uncertain.
 - Uncertain if exclusions will be granted or how long tariffs will be in effect.
- May need customer approval.
- Lack of US capacity.
- Lack of non-US capacity (non-targeted countries).

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.

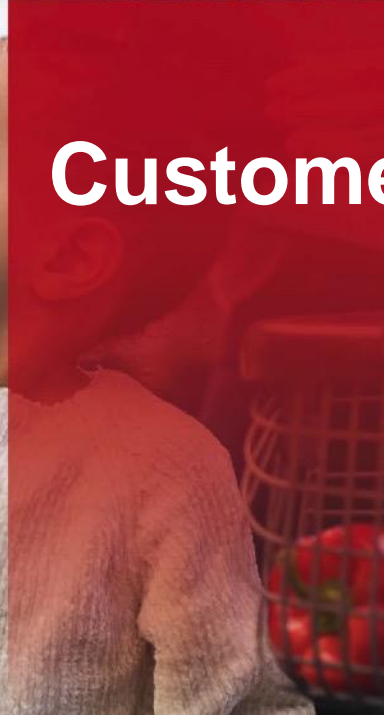
Not an option - Transshipment



- Merely moving the items, unchanged, through a non-targeted country into the US.
- Ex: Moving items subject to 301 duties from China into Mexico, and the importing them into the US, claiming that they are of Mexican origin and not subject to 301 tariffs.



Customer Relationships



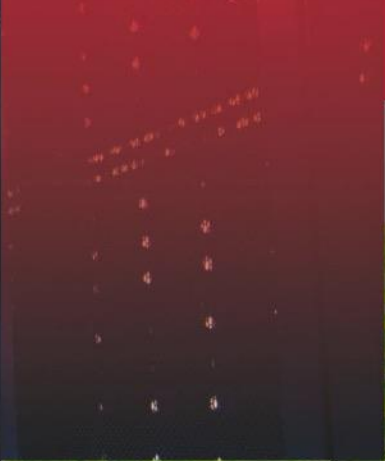
Customer Considerations



- Review contracts
 - Tariff provisions
 - Force majeure
 - Other provisions
- Negotiate with customers on a case-by-case basis
- Proof of payment
 - Customers may want to see the Customs entries and payments



Other Impacts & Resources



Other Impacts



- Publicly traded company
- Ongoing education is needed
 - Make sure the business doesn't transfer "lessons" from one tariff situation to another – every tariff and situation is different
- Ongoing communication and coordination required between many departments through the various processes
- Significantly increased visibility in the company and externally

Resources



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

- Mike Dankler 232 Updates

[Dankler, Mike <Mike.Dankler@mail.house.gov>](mailto:Mike.Dankler@mail.house.gov)

232 Update - 2/28/2019

- Ex/Im Daily Update (trade developments, including tariffs)

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19-0304 Monday "Daily Bugle"



Questions?

