

USTR Initiates WTO Disputes in Response to Section 232 Retaliatory Tariffs

July 16, 2018

Today, the Office of the United States Trade Representative (USTR) filed separate requests for consultation at the World Trade Organization (WTO) against China, the European Union (EU), Canada, Mexico, and Turkey, challenging their imposition of tariffs in direct response to President Trump's recent imposition of tariffs on aluminum and steel pursuant to Section 232 of the Trade Expansion Act of 1962. In its requests for consultation, USTR noted that the retaliatory tariffs imposed by each of these WTO members "does not impose the increased duties on like products originating in the territory of any other WTO Member, and thus appears inconsistent with the most-favored-nation obligation in Article I of the GATT 1994." USTR's requests state that the unilateral acts of retaliation by China, the EU, Canada, Mexico, and Turkey are outside WTO rules.

As discussed in Wiley Rein's recent *Law360* article on *US Trading Partners Defy The Rules They Claim To Support*, the Section 232 investigations on steel and aluminum were initiated by President Trump, the investigations were conducted, findings were made, relief recommendations were proposed, and ultimately imports were adjusted under the statutory authority granted to the president to protect the national security of the United States. Article XXI of the General Agreement on Tariffs and Trade, or GATT, expressly allows members to suspend concessions for national security reasons, as the United States has done here. By moving straight to retaliation without properly navigating the WTO dispute settlement process and first obtaining a WTO finding permitting such retaliation, our trading partners have undermined the continued existence of the dispute settlement system that they claim to champion.

Authors

Alan H. Price
Partner
202.719.3375
aprice@wiley.law
Christopher B. Weld
Partner
202.719.4651
cweld@wiley.law
Tessa Capeloto
Partner
202.719.7586
tcapeloto@wiley.law

Practice Areas

International Trade
World Trade Organization (WTO)

Pursuant to the WTO's rules, China, the EU, Canada, Mexico, and Turkey now have 10 days from receipt of the requests to respond to the United States and 30 days to enter consultations. If the parties fail to resolve their dispute within these timeframes, the United States can request the establishment of dispute settlement panels against one or more countries.