

PUBLICATION

New Section 232 Investigations Target Pharmaceutical, Semiconductor, and Critical Mineral Industries: What Impacted Businesses Need to Know

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The Department of Commerce (Commerce) has launched three Section 232 investigations covering pharmaceuticals, pharmaceutical ingredients, and their derivative products; semiconductors and semiconductor manufacturing equipment (SME), and their derivative products; and processed critical minerals and their derivative products. President Trump will likely impose tariffs on articles covered by the investigation after Commerce completes each investigation. Investigations must be completed within 270 days, but they can be shorter.

What Should Respective Industries Consider Doing: Industries should participate in these investigations, as Commerce is seeking public comments under each investigation. Businesses and interested parties should take advantage of these comment periods to communicate and protect their interests and reduce trade-related risks. They can do so by working with counsel to prepare and file comments that provide relevant information to Commerce.

The three recent announcements were another step by the Trump administration in implementing its America First Trade Policy. President Trump's Executive Order (EO) imposing reciprocal tariffs and subsequent revisions signaled these recently announced Section 232 investigations. Specifically, the EO designated pharmaceuticals, semiconductors, and certain critical minerals, among others, as exempt from the reciprocal tariffs because of potential national security implications.

Overview of Section 232 Investigations

During a Section 232 investigation, Commerce determines whether imports of the investigated products are entering the U.S. in such quantities and under such circumstances as to threaten or impair U.S. national security, which includes the general security and welfare of certain industries beyond what is necessary to satisfy national defense requirements. Commerce conducts a thorough investigation of the product, industry, uses, imports, and implications for national security. Commerce gathers information for its investigation through public comments, surveys, Congressional input, and information from other agencies. As demonstrated below, the factors are generally common between the investigations, with unique deviations based on the subject matter.

Commerce then prepares a report containing recommendations. These recommendations have historically included tariffs, quotas, stockpile expansion, domestic initiatives, requirements for Congressional action, the establishment of a working group, and multilateral negotiations. Investigations must be completed within 270 days, but can be shorter. Additionally, there are no statutory or regulatory limits as to when the President must implement measures under the investigation.

Pharmaceuticals

The pharmaceuticals investigation covers pharmaceuticals, pharmaceutical ingredients, and their derivative products. This includes both finished generic and non-generic drug products, medical countermeasures, critical inputs such as active pharmaceutical ingredients and key starting materials, and derivative products of those items.

Commerce has requested public comments due by May 7, 2025. The comments should relate to the ten factors designated by Commerce. They can relate to current U.S. demand and the ability to meet that demand domestically. They are also concerned with how prepared the U.S. may be to increase production capacity. Looking outside the U.S., Commerce is concerned with foreign supply chain resiliency and whether U.S. demand is over-reliant on a small number of suppliers. Commerce is also concerned as to whether foreign governments are engaging in unfair trade practices that adversely affect U.S. imports, and whether they could impose export restrictions, leaving U.S. citizens without necessary pharmaceuticals. Finally, Commerce is seeking information related to the impact of current trade policies on domestic production of pharmaceuticals and pharmaceutical ingredients, and whether tariffs or similar measures are necessary to further address and risks.

Semiconductors

The semiconductor investigation covers imports of semiconductors, semiconductor manufacturing equipment, and their derivative products. This generally includes semiconductor substrates and bare wafers, legacy chips, leading-edge chips, microelectronics, and SME components. Derivative products include downstream products that contain semiconductors, such as those that make up the electronics supply chain.

Commerce has requested public comments due by May 7, 2025. The comments should relate to the 13 factors designated by Commerce. The factors relate to U.S. demand, the ability to meet that demand, and the reliance on other countries to do so. Commerce specifically asked commenters to designate whether imports come from a small number of foreign and domestic fabrication facilities. Other factors related to trade practices by other countries and whether they adversely affect the U.S. industry and national security. Commerce is also seeking information related to production infrastructure issues, such as how prepared the U.S. workforce may be to begin producing semiconductors and SME.

Critical Minerals

The critical minerals investigation covers processed critical minerals and their derivative products. For the purposes of the investigation, critical minerals are those minerals included in the "Critical Minerals List" published by the United States Geological Survey (USGS), and uranium. The United States Geological Survey has published a list of 50 critical materials, which include lithium, cobalt, and nickel for batteries, silicon, gallium, and germanium for semiconductors, and many more rare earth elements that are the 17 elements identified by the Department of Energy (DOE) in their April 2020 publication titled "Critical Materials Rare Earths Supply Chain." Processed critical minerals and derivative products are also covered.

Commerce designated seven specific factors under this investigation. They are seeking information related to the critical minerals and the processing industry. The factors relate to the imports of all processed critical minerals and derivative products, and the foreign sources of processed critical mineral imports and derivative product imports. They are also seeking information related to the risks posed by imports and the effects of the strategies and practices used by countries that process subject goods exported to the U.S. Commerce is also concerned with the general economic data and how prepared the U.S. is to meet current domestic demand.

Additionally, the EO mandates that Commerce complete its investigation on an abbreviated timeline of 180 days.

Our International Trade and National Security team will continue to monitor developments and provide updates as warranted. If you have any questions or would like to discuss this in further detail, please reach out to [P. Lee Smith](#), [Samuel Cottle](#), [Matthew McGee](#), or any member of Baker Donelson's [International Trade and National Security team](#).