

THE GLOBAL TRADE LAW JOURNAL

Volume 2, Number 4

July–August 2025

Editor's Note: The Global Trade War Gets Hotter and Hotter

Victoria Prussen Spears

Commerce in the Crossfire: Legal Defences Against Trade Volatility

José María Viñals, Wolfgang A. Maschek, Diego Sevilla Pascual, Guillermo Giralda Fustes, and Tigran Piruzyan

America First Investment Policy: Presidential Memorandum Spells Out the Administration's Priorities for Inbound and Outbound Foreign Investments

Robert A. Friedman, Antonia I. Tzinova, Andrew K. McAllister, Libby Bloxom, Marina Veljanovska O'Brien, and Cynthia Liu

Overview of the Trump Administration's Memorandum on Reciprocal Trade and Tariffs

Peter Tabor, Molly B. O'Casey, Micah J. Burbanks-Ivey, Robert A. Friedman, Andrew K. McAllister, and Antonia I. Tzinova

White House Increases Scrutiny on Foreign Investors: Why FOCI Is a Concern for International Businesses

Artie McConnell, Carlos F. Ortiz, and Lana Muranovic

Why Your Company Still Needs to Care About the Foreign Corrupt Practices Act (and the Foreign Extortion Protection Act)

Artie McConnell, Carlos F. Ortiz, Jonathan R. Barr, Jonathan B. New, and Rachel H. Ofori

Navigating the Risks of Cartel Terrorist Designation for Companies Operating in Mexico and Latin America

Bradley L. Henry

The Battle of the Shipyards: Office of the U.S. Trade Representative Proposals Would Require U.S.-Flagged and U.S.-Built Vessels, Impose Fees on Operators of Chinese Vessels

David McCullough, Benjamin J. Cote, Sahar J. Hafeez, and Julian M. Beach

U.S. Court of Appeals for the Federal Circuit Significantly Broadens Qualifying Expenses for Economic Domestic Industry Requirement at the International Trade Commission

Mary Prendergast, Maryrose Fahy McLaughlin, and Jenna Hope Seleznick

Copper Under Fire: New Tariffs Spark Metal Mayhem

Mollie D. Sitkowski, Carrie Bethea Connolly, and Morgan Alexis Howard

BIS Issues Significant New Round of Semiconductor Export Controls: Six Notable Changes

Anthony Rapa, Alan G. Kashdan, and Brendan S. Saslow

What Should Be Done If an Application for UK Electronic Travel Authorisation Is Refused?

Abilio Jaribu and Claire D Nilson

THE GLOBAL TRADE LAW JOURNAL

Volume 2, No. 4

July–August 2025

- 217 Editor's Note: The Global Trade War Gets Hotter and Hotter**
Victoria Prussen Spears
- 221 Commerce in the Crossfire: Legal Defences Against Trade Volatility**
José María Viñals, Wolfgang A. Maschek, Diego Sevilla Pascual,
Guillermo Giralda Fustes, and Tigran Piruzyan
- 227 America First Investment Policy: Presidential Memorandum Spells
Out the Administration's Priorities for Inbound and Outbound
Foreign Investments**
Robert A. Friedman, Antonia I. Tzinova, Andrew K. McAllister,
Libby Bloxom, Marina Veljanovska O'Brien, and Cynthia Liu
- 233 Overview of the Trump Administration's Memorandum on
Reciprocal Trade and Tariffs**
Peter Tabor, Molly B. O'Casey, Micah J. Burbanks-Ivey, Robert A. Friedman,
Andrew K. McAllister, and Antonia I. Tzinova
- 237 White House Increases Scrutiny on Foreign Investors: Why FOCI Is
a Concern for International Businesses**
Artie McConnell, Carlos F. Ortiz, and Lana Muranovic
- 243 Why Your Company Still Needs to Care About the Foreign Corrupt
Practices Act (and the Foreign Extortion Protection Act)**
Artie McConnell, Carlos F. Ortiz, Jonathan R. Barr, Jonathan B. New, and
Rachel H. Ofori
- 247 Navigating the Risks of Cartel Terrorist Designation for Companies
Operating in Mexico and Latin America**
Bradley L. Henry
- 253 The Battle of the Shipyards: Office of the U.S. Trade Representative
Proposals Would Require U.S.-Flagged and U.S.-Built Vessels,
Impose Fees on Operators of Chinese Vessels**
David McCullough, Benjamin J. Cote, Sahar J. Hafeez, and Julian M. Beach
- 259 U.S. Court of Appeals for the Federal Circuit Significantly Broadens
Qualifying Expenses for Economic Domestic Industry Requirement
at the International Trade Commission**
Mary Prendergast, Maryrose Fahy McLaughlin, and Jenna Hope Seleznick

- 265 Copper Under Fire: New Tariffs Spark Metal Mayhem**
Mollie D. Sitkowski, Carrie Bethea Connolly, and Morgan Alexis Howard
- 269 BIS Issues Significant New Round of Semiconductor Export Controls: Six Notable Changes**
Anthony Rapa, Alan G. Kashdan, and Brendan S. Saslow
- 275 What Should Be Done If an Application for UK Electronic Travel Authorisation Is Refused?**
Abilio Jaribu and Claire D Nilson

EDITOR-IN-CHIEF

Steven A. Meyerowitz

President, Meyerowitz Communications Inc.

EDITOR

Victoria Prussen Spears

Senior Vice President, Meyerowitz Communications Inc.

BOARD OF EDITORS

Jen Fernandez

Partner

Sidley Austin LLP

Robert A. Friedman

Partner

Holland & Knight LLP

Geoffrey M. Goodale

Partner

Duane Morris LLP

Renée Latour

Partner

Clifford Chance

Britt Mosman

Partner

Willkie Farr & Gallagher LLP

Anthony Rapa

Partner

Blank Rome LLP

Brooke M. Ringel

Partner

Kelley Drye & Warren LLP

Samir D. Varma

Partner

Thompson Hine LLP

Timothy C. Welch

Partner

Weil, Gotshal & Manges LLP

THE GLOBAL TRADE LAW JOURNAL (ISSN 2995-1089) at \$495.00 annually is published six times per year by Full Court Press, a Fastcase, Inc., imprint. Copyright 2025 Fastcase, Inc. No part of this journal may be reproduced in any form—by microfilm, xerography, or otherwise—or incorporated into any information retrieval system without the written permission of the copyright owner.

For customer support, please contact Fastcase, Inc., 729 15th Street, NW, Suite 500, Washington, D.C. 20005, 202.999.4777 (phone), or email customer service at support@fastcase.com.

Publishing Staff

Publisher: Leanne Battle

Production Editor: Sharon D. Ray

Cover Art Design: Morgan Morrisette Wright and Sharon D. Ray

This journal's cover features a 1855 depiction of the American clipper ship *Red Jacket* on her journey from Melbourne, Australia, to Liverpool, England. The artwork was originally created by Charles Parsons and Joseph B. Smith, and later lithographed and published by Nathaniel Currier. It is reproduced courtesy of The Met Museum's public domain library.

Cite this publication as:

The Global Trade Law Journal (Fastcase)

This publication is sold with the understanding that the publisher is not engaged in rendering legal, accounting, or other professional services. If legal advice or other expert assistance is required, the services of a competent professional should be sought.

Copyright © 2025 Full Court Press, an imprint of Fastcase, Inc.

All Rights Reserved.

A Full Court Press, Fastcase, Inc., Publication

Editorial Office

729 15th Street, NW, Suite 500, Washington, D.C. 20005

<https://www.fastcase.com/>

POSTMASTER: Send address changes to THE GLOBAL TRADE LAW JOURNAL, 729 15th Street, NW, Suite 500, Washington, D.C. 20005.

Articles and Submissions

Direct editorial inquiries and send material for publication to:

Steven A. Meyerowitz, Editor-in-Chief, Meyerowitz Communications Inc.,
26910 Grand Central Parkway, #18R, Floral Park, NY 11005, smeyerowitz@
meyerowitzcommunications.com, 631.291.5541.

Material for publication is welcomed—articles, decisions, or other items of interest to international attorneys and law firms, in-house counsel, corporate compliance officers, government agencies and their counsel, senior business executives, and others interested in global trade law.

This publication is designed to be accurate and authoritative, but neither the publisher nor the authors are rendering legal, accounting, or other professional services in this publication. If legal or other expert advice is desired, retain the services of an appropriate professional. The articles and columns reflect only the present considerations and views of the authors and do not necessarily reflect those of the firms or organizations with which they are affiliated, any of the former or present clients of the authors or their firms or organizations, or the editors or publisher.

QUESTIONS ABOUT THIS PUBLICATION?

For questions about the Editorial Content appearing in these volumes or reprint permission, please contact:

Leanne Battle, Publisher, Full Court Press at leanne.battle@vlex.com or at
202.999.4777

For questions or Sales and Customer Service:

Customer Service
Available 8 a.m.–8 p.m. Eastern Time
866.773.2782 (phone)
support@fastcase.com (email)

Sales
202.999.4777 (phone)
sales@fastcase.com (email)

ISSN 2995-1089

Copper Under Fire: New Tariffs Spark Metal Mayhem

Mollie D. Sitkowski, Carrie Bethea Connolly, and
Morgan Alexis Howard*

In this article, the authors discuss a White House proclamation directing the U.S. Department of Commerce to initiate a Section 232 investigation on copper imports.

The White House proclamation¹ directing the U.S. Department of Commerce to initiate a Section 232 investigation on copper imports is now live. As always, the stakes are high, and the outcome could leave industries feeling a bit short-circuited.

The Investigation and What Is Covered

This investigation aims to assess the impact of copper imports on the U.S.' national security and determine whether trade remedies are necessary to safeguard domestic industries. The investigation will cover all forms of copper, including raw mined copper, copper concentrates, refined copper, copper alloys, scrap copper, and derivative products. The White House has broadly defined “derivative products” in the Section 232 actions for steel and aluminum, so it is likely that there will be broad application here as well.

We likely will not have a list of tariff classifications until the investigation is complete, but reviewing the tariff schedule just for the listed articles in the 232 notice, as well as considering the listed aluminum and steel tariff classifications (i.e., without considering the potential derivative copper articles), we think it may include the following:

- Heading 2603,
- Headings 7401-7409, and
- Headings 7410-7415.

Rationale and Objectives

President Donald Trump has deemed copper as a critical mineral vital in defense applications, infrastructure, and emerging technologies. While the United States has significant copper reserves, the investigation is aimed at the lack of smelting and refining capacity in the United States. Trump found that the dominance of a single foreign producer, which controls over 50 percent of global smelting capacity, poses a direct threat to U.S. national security and economic stability.

Process

The Department of Commerce will assess factors such as current and projected demand for copper in defense, energy, and critical infrastructure sectors, the extent to which domestic production can meet this demand, and the role of foreign supply chains in fulfilling U.S. needs among others. The Secretary of Commerce must consult with the heads of relevant executive agencies to evaluate the national security risks associated with copper import dependency.

While the Department of Commerce has historically requested public comments and offered a public hearing concerning Section 232 investigations, we note that the governing regulations make clear that to do so is permissive and there is no underlying statutory requirement for comments:

If the Department determines that it is appropriate to afford interested parties an opportunity to present information and advice relevant and material to an investigation, a public notice shall be published in the Federal Register soliciting from any interested party written comments, opinions, data, information or advice relative to the investigation.²

Timeline

The Department of Commerce has 270 days to investigate and issue a report, but that is a deadline for submission, that is, reports can be issued sooner than 270 days. The president then has 90 days to determine trade restrictions based on the report and must act 15 days thereafter, but, just like the 270 day deadline, the president

can act sooner than these dates. No later than 30 days after making a decision to implement trade restrictions, the president must submit his reasoning to Congress. We anticipate that the timeline will likely be escalated to have reports and actions determined sooner than the deadlines as former officials in the Trump administration have previously indicated as such.

Specifically, Nazak Nikahtar, the Assistant Secretary at the U.S. Department of Commerce during the president's first term, stated as follows in his role:

A new [Section 232] investigation is not a heavy lift and can rely on well-documented evidence of unjustified Chinese export practices ... so you can complete one pretty quickly. It doesn't have to take a year.

When Section 232 was first utilized by President Trump in his first term, the processes and procedures that exist today were not in place to allow the report to be issued and actions taken more quickly than the statutory deadlines.

Outcome

As mentioned, tariffs are a likely outcome of this investigation. A White House official said any potential tariff rate would be determined by the investigation, adding that Trump preferred tariffs over quotas. We have not heard particularities regarding a specific rate, but 25 percent seems likely given the current ubiquitous use of that measure.

In Summary

- A Section 232 investigation aims to assess the impact of copper imports on the U.S.' national security.
- While the United States has significant copper reserves, the investigation is aimed at the lack of domestic smelting and refining capacity.
- A White House official said any potential tariff rate would be determined by the investigation.

Notes

* The authors, attorneys with Faegre Drinker Biddle & Reath LLP, may be contacted at mollie.sitkowski@faegredrinker.com, carrie.connolly@faegredrinker.com, and morgan.howard@faegredrinker.com, respectively.

1. <https://www.whitehouse.gov/presidential-actions/2025/02/addressing-the-threat-to-nationalsecurity-from-imports-of-copper/>.

2. 19 C.F.R. § 705.7(a).