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WHITE HOUSE ISSUES PROCLAMATION DELAYING SECTION 232 AUTO TARIFFS UP TO 180 DAYS; PRESIDENT AGREES WITH DEPARTMENT OF COMMERCE CONCLUSION THAT AUTOMOBILE IMPORTS POSE A “THREAT TO NATIONAL SECURITY”

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After weeks of speculation and conflicting statements from Administration officials, the White House issued a Proclamation today delaying implementation of Section 232 tariffs on automobiles and automobile components for “up to” 6 months while the U.S. Trade Representative pursues further trade negotiations with the EU, Japan and possibly other nations. Sarah Sanders, White House Press Secretary, announced the delay on the eve of the deadline for action on a Commerce Department study ordered by President Trump in May 2018.

While the White House still did not make the Commerce Report, which was provided to the President in February of this year, available to the public, the Proclamation made it clear that President Trump agrees with its conclusions that automobile imports pose a threat to national security, the basis necessary for the President to impose 232 tariffs:

“The report found that automotive research and development (R&D) is critical to national security. The rapid application of commercial breakthroughs in automobile technology is necessary for the United States to retain competitive military advantage and meet new defense requirements. Important innovations are occurring in the areas of engine and powertrain technology, electrification, lightweighting, advanced connectivity, and autonomous driving. The United States defense industrial base depends on the American-owned automotive sector for the development of technologies that are essential to maintaining our military superiority.”

Citing the long-term reduction in “American-owned” [automobile] producers’ market share both domestically and globally, the Proclamation further states that:

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*The United States defense industrial base depends on the American-owned automotive sector for the development of technologies that are essential to maintaining our military superiority. *** Thus, the Secretary found that American-owned automotive R&D and manufacturing are vital to national security. Yet, increases in imports of automobiles and automobile parts, combined with other circumstances, have over the past three decades given foreign-owned producers a competitive advantage over American-owned producers.”*

The Administration’s position is unsupported by the US Auto industry. Participants at hearings held on the proposed tariffs last summer were all opposed to such an action with the exception of the UAW, which expressed support instead for “targeted” tariffs. The Automotive Policy Council, representing the Big Three American automakers, said Friday that tariffs “would weaken global competitiveness and invite retaliation from our trading partners, which could harm jobs and investment in the U.S.” John Bozzella, president of Global Automakers, representing foreign carmakers operating in the U.S., added: “No automaker or auto parts supplier asked for this ‘protection.’ We are headed down a dangerous and destructive course.”

Reinforcing remarks made by Secretary Ross earlier week on Fox Business, the Proclamation clearly identifies the Administration philosophy that the trade deficit is itself a national security issue. The Proclamation noted:

*The Secretary found and advised me of his opinion that automobiles and certain automobile parts are being imported into the United States in such quantities and under such circumstances as to threaten to impair the national security of the United States. The Secretary found that these imports are “weakening our internal economy” and that “[t]he contraction of the American-owned automotive industry, if continued, will significantly impede the United States’ ability to develop technologically advanced products that are essential to our ability to maintain technological superiority to meet defense requirements and cost effective global power projection.” *** The Secretary therefore concluded that the present quantities and circumstances of automobile and certain automobile parts imports threaten to impair the national security as defined in section 232 of the Trade Expansion Act of 1962, as amended.*

(Ross told Maria Bartilomo earlier this week that 50% of the current US trade deficit was “geographic”; i.e., related directly to China; while the other 50% was “product”; i.e., related directly to automobiles.)

Other references to the Commerce Report make clear that the Administration is focused on using the threat of Section 232 tariffs on the automobile industry as an instrument to return jobs in that sector to the US:

Because “[d]efense purchases alone are not sufficient to support . . . R&D in key automotive technologies,” the Secretary found that “American-owned automobile and automobile parts manufacturers must have a robust presence in the U.S. commercial market” and that American innovation capacity “is now at serious risk as imports continue to displace American-owned production.” Sales revenue enables R&D expenditures that are necessary for long-term automotive technological superiority, and automotive technological superiority is essential for

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*the national defense. The lag in R&D expenditures by American-owned producers is weakening innovation and, accordingly, threatening to impair our national security. *** In light of all of these factors, domestic conditions of competition must be improved by reducing imports. American-owned producers must be able to increase R&D expenditures to ensure technological leadership that can meet national defense requirements.*

The Administration's protectionist action toward the American automotive sector does not enjoy support from the industry itself. At hearings about the prospective tariffs held last summer, all participants except for the UAW were opposed to the proposed tariffs. (The UAW expressed support for more limited ("targeted") tariffs instead.) The Automotive Policy Council, representing the Big Three American automakers, said Friday that tariffs "would weaken global competitiveness and invite retaliation from our trading partners, which could harm jobs and investment in the U.S." John Bozzella, president of Global Automakers, representing foreign carmakers operating in the U.S., added: "No automaker or auto parts supplier asked for this 'protection.' We are headed down a dangerous and destructive course."

The proclamation suggests that the President wants to pursue further negotiations with our trading partners in the next six months. As in other instances, this puts pressure on the other parties to reach an agreement. The ultimate goal of the White House may be to obtain a "voluntary" quota agreement from other countries, as was done in the case of three of the countries exempted from the Steel and Aluminum 232 cases. Thus, the delay may only be a temporary respite from protectionist action.

As always, Butzel Long will be tracking these developments closely, so please contact us with any inquiries you may have.

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