

CLIENT ALERT

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INTERNATIONAL TRADE

Tariff Watch Updates (11th Edition)

关税观察更新 - 第十一期

As the Trump administration continues to threaten wide ranging tariffs on foreign automobiles and automotive parts based on concerns over “national security,” various congressional leaders are taking steps to stall the President by introducing bills in Congress to limit the President’s authority to impose tariffs on national security grounds under section 232 of the Trade Expansion Act of 1962, and by putting conditions on the U.S. Trade Representative’s authority to impose duties or other import restrictions under Section 301 of the Trade Act of 1974.

由于特朗普政府继续以“国家安全”为由，威胁将对外国汽车和汽车零部件加征额外关税，众多美国国会领导人正采取措施，通过在国会提出法案，一来限制总统在《1962年贸易扩展法案》第232条下以国家安全为由征收关税的权力；同时对美国贸易代表在《1974年贸易法》第301条下加征关税和其他进口限制的权力提出了附加条件。

Under the current regulatory regime practiced under Section 232, the U.S. Department of Commerce is tasked with investigating whether and to what extent a given set of imports is threatening national security. After the investigation is completed, it must send a report and recommendations to the President, who is free to accept or ignore those recommendations. President Trump has repeatedly relied on national security justifications to levy tariffs under Sections 232 and 301 on steel and aluminum imports and Chinese goods without involving Congress.

根据目前第232条所实施的监管制度，美国商务部负责就进口产品是否以及在多大程度上对国家安全造成威胁进行调查。在调查结束以后，商务部必须将调查报告和建议提交给总统，总统有权接受和忽略这些建议。特朗普总统已经多次以威胁国家安全为由，绕开国会，根据232条款和301条款对钢铁和铝以及中国商品征收关税。

Lawmakers are attempting to reclaim Congressional power over the regulation of international trade. On March 26, 2019, Senate Finance Committee Chairman Chuck Grassley (R) announced that he will introduce bills “in the coming weeks” which “would strengthen checks-and-balances between Congress and the executive branch by imposing new consultation and reporting requirements throughout the section 232 process to keep Congress fully informed.” Specifically, Grassley’s bill will place a time limit on any restrictions imposed under Section 232, which could only be extended by an act of Congress. The bill would also require the White House to regularly consult with Congress and provide reports on the achievement of any national security objectives as well as the economic impact of the President’s action. Finally, it would impose consultation requirements throughout the Section 232 investigation process and require the executive branch to set up a process for importers to petition for certain products to be excluded from the additional tariffs.

立法者们正在试图重新获得国会对国际贸易监管的权力。在2019年3月26日，参议院财政委员会主席查克·格拉斯利（R）宣布他将“在未来几周内”提出法案，该法案“将增

加新的咨询与汇报的要求来加强232条款执行下国会和行政部门间的相互制衡，从而使国会充分了解整个232条款的执行过程。具体而言，格拉斯利的法案将对根据232条款施加的任何进口限制规定时限，且该时限只能通过国会的行动予以延长。该法案还要求白宫定期与国会协商，并提供就国家安全目标的进展及总统行动对经济的影响的报告。最后，该法案在整个232条款调查过程中增加了咨询要求且要求行政部门为进口商设立一个将某些产品排除在额外关税之外的豁免程序。

Meanwhile, on March 27, 2019, Senator Tim Kaine (D), a member of the Senate Budget Committee, and Senator Tom Carper (D), a member of the Senate Finance Committee, introduced the [Reclaiming Congressional Trade Authorities Act](#) of 2019, which they claim would restore the role of Congress in overseeing international trade matters. This bill would mandate expanded Congressional involvement in international trade decisions by requiring the Trump Administration as well as future Administrations to further analyze, communicate, and justify tariff actions to Congress. Congress would then review new tariffs and, if the Administration used national security to justify new tariffs, the new tariffs would be subject to Congressional approval. In addition, this bill would require the US Trade Representative to provide Congress with clear goals and strategy behind any new tariff actions under Section 301 of the Trade Act of 1974. It also requires International Trade Commission to provide Congress with analyses of proposed trade actions for consideration in these trade decisions.

与此同时，在2019年3月27日，参议院预算委员会成员参议员蒂姆凯恩（D）和参议院财政委员会成员参议员汤姆卡珀（D）提出了《2019年恢复国会贸易权力法》，该法案声称将恢复国会在监督国际贸易事物上的角色。该法案将要求特朗普政府和未来政府就拟定采取的关税行动与国会进行进一步的分析，沟通，并作出合理解释，从而扩大国会对国际贸易决策的参与。之后国会将审核新的关税。如果行政当局利用国家安全作为新关税的依据，该新关税将需要由国会批准。除此之外，此法案还要求美国贸易代表就任何301条款下的新关税向国会提供明确的目标和战略。它同时要求国际贸易委员会向国会提供对拟议贸易行动的分析，供其参考。

After this bill was introduced, the Trump Administration indicated that it would veto any bill attempting to diminish the President’s tariff power. White House economic adviser Larry Kudlow said the Trump Administration will “fight any effort by Congress to rein in its tariff powers.” Assuming President Trump were to veto such a bill, a two-thirds majority vote in both chambers of Congress would be required to override a presidential veto.

在该法案出台后，特朗普政府表示其将否决任何试图削弱总统关税权力的法案。白宫经济顾问拉里·库德洛表示，特朗普政府将“反对国会遏制其关税权力的所做的任何努力。”假设特朗普总统将否决这样一项法案，那么则需要国会两院三分之二多数票以取代总统的否决权。

While the situation remains constantly developing, Grassley’s announcement together with various legislative efforts over the past several months demonstrate that Congress is evaluating Trump’s aggressive trade policy as well as its own role in regulating international trade.

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Our China Group is committed to keeping our friends and clients informed of these trade developments. We also continue to track and assist clients with the current Section 301 tariffs. We will always be available to help your company navigate these tariffs and answer questions regarding trade between China and the U.S. Please contact us if you have any questions.

虽然情况仍在不断发展，格拉斯利和其他立法者在近几个月来做出的努力表明国会正在评估特朗普总统激进的贸易政策以及国会自身在规范国际贸易中所扮演的角色。我们的中国团队致力于让我们的朋友和客户了解这些发展。我们也将持续关注并协助客户应对当前的301条款关税。我们将随时帮助您的公司了解这些关税并回答有关中国和美国之间贸易的问题。如果您有任何疑问，请联系我们。

Thank you.
谢谢您

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