

CLIENT ALERT

The Month in International Trade – November 2019

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This news bulletin is provided by the International Trade Group of Crowell & Moring. If you have questions or need assistance on trade law matters, please contact [Jeff Snyder](#) or any member of the [International Trade Group](#).

[Top Trade Developments](#)

Latest U.S. Trade Actions/Tariffs and Other Countries Retaliatory Measures

Finding it hard to stay on top of the latest in tariff increases?

[Please click here anytime](#) for the latest actions, covered products rate increases, and effective dates.

For more information, contact: [Dan Cannistra](#), [Robert Holleyman](#), [Bob LaFrankie](#), [Spencer Toubia](#), [Ru Xiao-Graham](#), [Cherie Walterman](#)

U.S. Prepares Tariffs on \$2.4 Billion in French Goods in Retaliation for Digital Services Tax

On December 2, 2019, the United States Trade Representative (USTR) announced the timeline for a proposal to impose up to 100% tariffs on up to \$2.4 billion in French goods. The details for this proposal were published in a [Federal Register notice](#).

According to the notice, USTR determined that “France’s Digital Services Tax [DST] is unreasonable or discriminatory and burdens or restricts U.S. commerce.” The French measure, approved this past summer, charges a 3% tax on companies earning more than 25 million euros in France and would affect prominent U.S. tech companies.

In the wake of the French Government’s first proposal for the DST in March 2019, USTR initiated an investigation this July pursuant to section 302(b)(1)(A) of the Trade Act of 1974, which grants the President authorization to take retaliatory measures to remove unfair foreign trade practices. The proposed retaliatory tariffs cover 63 unique products and include popular consumer items such as French champagne, cheese, and handbags. The French Finance Minister Bruno Le Maire has called the U.S. tariffs “unacceptable” and assured that “the European Union would be ready to retaliate.”

The USTR will hold public hearings and accept written comments from interested parties. To be assured of consideration, USTR requests that parties adhere to the following schedule:

- December 30, 2019: Due date for submission of a request to appear at the public hearing and a summary of testimony.
- January 6, 2020: Due date for written comments.
- January 7, 2020: The Section 301 Committee will convene a public hearing in the main hearing room of the U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436 beginning at 9:30 am.
- January 14, 2020: Due date for submission of post-hearing rebuttal comments.

For more information, contact: Walter (Sam) Boone, Edward Goetz

Trump Reinstates Steel and Aluminum Tariffs on Brazil and Argentina in Response to Alleged Currency Manipulation

The Trump Administration’s trade policy took another unexpected turn following the President’s Monday morning tweets on December 2, 2019. President Trump announced his intention to re-impose steel and aluminum tariffs on Argentina and Brazil due to “massive devaluation of their currencies.” In March 2018, President Trump imposed 25% duties on all foreign steel imports and 10% duties on all aluminum imports, but spared key U.S. allies such as Brazil and Argentina by implementing an absolute quota on imports of steel and aluminum products from these two countries. Trump explained in his tweets “the Federal Reserve should likewise act so that countries, of which there are many, no longer take advantage of our strong dollar by further devaluing their currencies. This makes it very hard for our manufacture[r]s & farmers to fairly export their goods.”

The move to restore steel and aluminum tariffs is likely to cause major tension between the trading partners. Census Bureau data indicates that Brazil accounts for nearly 11% of all steel imports to the U.S., which is the second most behind Canada. After hearing news of the tariffs, Brazilian President Bolsonaro stated in an interview that Trump will listen to his concerns because “our economy basically comes from commodities.”

For more information, contact: Spencer Toubia, Walter (Sam) Boone

Commerce to Publish Proposed Regulations to Implement EO on "Securing the Information and Communications Technology and Services Supply Chain"

The Commerce Department will publish, in proposed form, long-awaited regulations to implement the sweeping language of the May 2019 Executive Order entitled "Securing the Information and Communications Technology and Services Supply Chain."

The proposed regulations, to be promulgated under the authority of the International Emergency Economic Powers Act (IEEPA) and the EO, would establish a case-by-case process, by which the Secretary of Commerce could initiate (at its discretion, or at the request of another agency, or even a private party, via a dedicated web portal for "credible" tips) a review of any specific transaction (meaning "any acquisition, importation, transfer, installation, dealing in, or use of any information and communications technology or service") that is: (1) initiated, pending, or to be completed after May 15, 2019; (2) involves persons or property subject to US jurisdiction; (3) involves any property in which a foreign country or national has an interest; (4) "involves information and communications technology or services designed, developed, manufactured, or supplied by persons owned by, controlled by, or subject to the jurisdiction or direction of a foreign adversary" (with the definition of "foreign adversary" adopted from the EO, not narrowed to identify any specific foreign governments or persons); and (5) that poses either:

1. Undue risk of sabotage to or subversion of the design, integrity, manufacturing, production, distribution, installation, operation, or maintenance of information and communications technology or services in the United States;
2. Undue risk of catastrophic effects on the security or resiliency of United States critical infrastructure or the digital economy of the United States; or
3. Otherwise poses an unacceptable risk to the national security of the United States or the security and safety of United States persons.

The parties to a transaction under review would receive a preliminary determination of the Secretary's findings and would then have 30 days to present "an opposition," or proposed measures for mitigation in lieu of an outright prohibition of the transaction. Commerce will accept public comments on all aspects of the proposed regulations for 30 days (until December 27, 2019).

For more information, contact: Jeff Snyder, Addie Cliffe, Jana del-Cerro, Paul Freeman

Customs Rulings of the Week

- November 12: [Charging Mousepads from China](#)
- November 18: [Misty II Programmable Robot](#)
- November 25: [Ice Cream Bars](#)
- December 3: [Feel Emotion Sensor](#)

For more information, contact: Frances Hadfield, Rebecca Toro Condori

Crowell & Moring Speaks

Jana del-Cerro and Jeff Snyder presented on US Export Controls and Sanctions – Compliance and Enforcement Trends to the In House Counsel Forum in Seoul, South Korea, on Wednesday, November 6th, in collaboration with Lee & Ko, a leading law firm in South Korea.

For more information, please contact the professional(s) listed below, or your regular Crowell & Moring contact.

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