Tariffs Update

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Agenda

- Executive Authority Over Tariffs
- CAPE, IEEPA refunds, Legal Matters
- Current Trade Landscape
- Customs Valuation Fundamentals: Price Paid or Payable, Methodologies
- Customs Valuation Planning
- Intersections: TP & Customs Value, 1059A limitation
- Accounting & Disclosure
- Questions?

America First Trade Policy

Below is an overview of the reviews and investigations included in the “America First Trade Policy” memorandum issued at the beginning of the current administration.

Proposed Trade Action	Key Points
Addressing Unfair and Unbalanced Trade	The Secretary of Commerce, in consultation with other key departments, shall investigate the causes of persistent trade deficits and recommend measures such as tariffs to address them.
Trade Practices Review	The United States Trade Representative (USTR) shall review unfair trade practices by other countries and recommend actions to remedy these practices.
USMCA Review	The USTR shall commence a public consultation process for the United States-Mexico-Canada Agreement (USMCA) in preparation for its 2026 review, assessing its impact on American workers and businesses.
Currency Manipulation	The Secretary of the Treasury shall review the exchange rate policies of major trading partners and recommend measures to counter any manipulation.
Trade Agreements	The USTR shall review existing trade agreements and identify potential new agreements to enhance market access for American businesses.
Antidumping and Countervailing Duties	The Secretary of Commerce shall review policies related to antidumping and countervailing duties to ensure compliance and protect American industries.
***De Minimis* exemption**	Various departments shall assess the loss of tariff revenues and risks (e.g., counterfeit products and contraband) associated with the imports under the current de minimis exemption.
Economic and Trade Regulations with China	The USTR shall review the Economic and Trade Agreement with China and recommend actions based on compliance, including the potential for additional Section 301 tariffs and revocation of permanent normal trade relations (PNTR) status.
Additional Economic Security Matters	Various departments shall review and recommend actions on issues such as national security, export controls, and the impact of foreign subsidies on U.S. procurement.

Executive Authority Over Tariffs

Presidential Authorities		Timeline
Section 301, Trade Act of 1974 (19 USC § 2411)	**Purpose:** Address unfair foreign trade practices **Trump’s History:** Initial 25% tariffs affecting $400 billion of Chinese goods and 10% on aircraft and 25% on other EU goods.	**Implementation:** After issuance of USTR* investigation report **Duration:** Undefined
Section 232, Trade Expansion Act of 1962 (19 USC § 1862)	**Purpose:** Restricts imports that threaten national defense or economic security **Trump’s History:** Imposed 25% tariffs on steel and 10% of tariffs on aluminum	**Implementation:** Within 90 days of issuance of Dept. of Commerce investigation report **Duration:** Undefined
Section 201, Trade Act of 1974 (19 USC § 2251)	**Purpose:** Safeguard for US industries injured by a surge of imports **Trump’s History:** Imposed 20% starting tariffs on first 1.2 million units of washing machines and 30% starting tariffs on solar panels	**Implementation:** Within 60 days of issuance of USITC* investigation report **Duration:** Up to 4 years *(renewable up to 8 years)*
Section 338, Tariff Act of 1930 (19 USC § 1338)	**Purpose:** Allows imposition of additional duties and/or import restrictions against products of foreign countries that discriminate against U.S. commerce **Trump’s History:** Implemented August 2026	**Implementation:** President’s discretion upon determination of discrimination **Duration:** Undefined Status: Likely to be challenged in court
Section 122, Trade Act of 1974 (19 USC § 2132)	**Purpose:** Allows temporary quotas or import surcharges up to 15% to address balance-of-payment deficits or protection of dollar stability **Trump’s History:** Implemented February 2026 to replace IEEPA tariffs	**Implementation:** President's discretion **Duration:** Up to 150 days (unless extended by Congress) Status: Overturned by CIT; pending appeal

United States Trade Representative (USTR)
United States International Trade Commission (USITC)

Tariffs No Longer in Effect: IEEPA Tariffs

On February 20, 2026, the Supreme Court ruled that the International Emergency Economic Powers Act ("IEEPA") cannot be used to impose tariffs.

Overturned	All Countries Reciprocal "Liberation Day" Tariffs	Various	Overturned	China Trafficking IEEPA	10%
Overturned	Canada Trafficking IEEPA	35%	Overturned	Brazil Reciprocal/ Political IEEPA	50%
Overturned	Mexico Trafficking IEEPA	25%	Overturned	Countries that Import Venezuelan Oil IEEPA	25%

CBP Guidance on Refund Claims: Phase 1

The CAPE (Consolidated Administration and Processing of Entries) system is CBP's electronic portal used to identify eligible entries and process IEEPA-related duty refunds. Phase 1 CAPE guidance was released on March 31st and outlines key Phase 1 considerations and updated CAPE guidance.

Phase 1

- Phase 1 of CAPE will process only unliquidated entries and entries within the 90-day voluntary reliquidation period
- CBP estimates Phase 1 will cover approximately 63% of IEEPA-affected entries, meaning many older entries will not be eligible in this phase

Entries Eligible in Phase 1

- Unliquidated entries
- Liquidated entries within the 80-day reliquidation period
- Warehouse and warehouse withdrawal entries (refunds issued upon liquidation)
- AD/CVD entries, with refunds issued only after DOC liquidation instructions

Entries Excluded from Phase 1

- Finally liquidated entries
- Entries flagged for reconciliation (Type 09)
- Entries designated for drawback
- Entries with open protests
- Entries not filed in ACE or lacking ACE liquidation status

How to Prepare

- Immediately identify IEEPA-affected entries eligible for CAPE Phase 1
- Confirm ACH enrollment for electronic refunds
- Develop alternative recovery strategies (e.g., protests) for finally liquidated entries

CAPE Phases 2 and 3

Phase 2: Reconciliation Entries

- Expands CAPE to entry types 01, 02, and 06 flagged for reconciliation, even if the related type 09 reconciliation has not yet been filed, so long as the entries are unliquidated within 80 days of liquidation.
- Same basic process as Phase 1: importers submit entry numbers; CBP makes adjustments.
- Expected to make ~83% of all IEEPA duties eligible for processing through CAPE.

Effective: June 29, 2026

Phase 3 : Finally Liquidated Entries

- Targets entries that are finally liquidated (beyond 80 days).
- On July 17th, the U.S. Court of International Trade authorized CBP to reliquidate eligible finally liquidated IEEPA entries and issue refunds.
- The order applies to more than 3,700 importers that have filed cases at CIT seeking refunds of IEEPA duties.
- Refunds will be processed through CBP's CAPE program, subject to required declarations and CBP implementation procedures.
- Expected to represent 6-7% of IEEPA duties ($11B in potential refunds).

Effective: October 6, 2026

CAPE Refund Process: Current Operating Framework

CAPE is functionality within the ACE Secure Data Portal used to submit and process eligible IEEPA duty refund requests.

1. **Identify eligible entries**
2. **Submit CAPE Declaration**
3. **CBP validates and adjusts**
4. **Liquidation or reliquidation**
5. **ACH refund**

Current Scope

- Phase 1: certain unliquidated entries and entries within 80 days after liquidation
- Phase 2: reconciliation-flagged entries when the Type 09 is not yet filed
- Suspended, extended and under-review entries may be submitted; refunds follow liquidation

Filing Process

- IOR or filing customs broker submits through the ACE portal
- CSV file contains eligible entry numbers
- Up to 9,999 entries per declaration; multiple declarations permitted
- Declarations cannot be submitted through ABI

Refund Process

- ACE removes applicable IEEPA Chapter 99 provisions and recalculates the entry
- CBP liquidates or reliquidates after review
- Refunds are consolidated and issued electronically with applicable interest
- Generally 60 to 90 days after acceptance, absent additional review

Practical point: Confirm ACE access, ACH refund enrollment and filing authority before submitting CAPE Declarations.

CAPE Eligibility and Filing Considerations

Currently Accepted

- Most unliquidated entries
- Most entries up to 80 days after liquidation
- Entry types 01, 02 and 06 flagged for reconciliation when the Type 09 has not been filed
- Warehouse withdrawal entry types 31, 32, 34 and 38
- Suspended, extended or under-review entries, with refund after liquidation

Not Currently Accepted (May be Covered in Later Phase)

- Type 09 reconciliation summaries
- Reconciliation-flagged entries when the Type 09 is already on file
- Entries on a drawback claim or covered by an open protest
- Warehouse entry types 21 and 22
- Entries not filed in ACE, without ACE liquidation status, or finally liquidated
- Certain AD/CVD entries pending liquidation after Commerce instructions

Execution Considerations

Confirm eligibility • Coordinate across teams and brokers • Avoid duplicate submissions • Review entry-level netting • Monitor ACE reports • Maintain ACH information • Watch for fraud solicitations

Key takeaway: Eligibility depends on entry type, liquidation status and involvement in other customs proceedings.

The Current Trade Landscape

Expired	Global Tariff Sec. 122	10%	In Effect	China 301 Sec. 301	7.5-100%
In Effect	Aluminum Sec. 232	15% - 50%	In Effect	Lumber Sec. 232	10%
In Effect	Steel Sec. 232	15% - 50%	In Effect	Cabinetry Sec. 232	25 % - 50%
In Effect	Autos Sec. 232 *Except USMCA US Content	25%	In Effect	Upholstered Furniture Sec. 232	25%-30%
In Effect	Auto Parts Sec. 232 *Except USMCA US Content	25%	In Effect	Medium- and Heavy-Duty Vehicles Sec. 232	10%-25%
In Effect	Copper Sec. 232	15% - 50%	In Effect	Certain Brazilian Goods Sec. 301	25%
In Effect	Patented Pharmaceuticals Sec. 232 *Except UKproducts	100%	Partially In Effect	Semiconductor Articles Sec. 232	25%
In Effect	Forced Labor Sec. 301	10-12.5%	In Effect	Certain Canadian Goods Sec. 338	50%
September 3rd	Drones Sec. 232	25% - 100%	December 4	Polysilicon Sec. 232	15% +MIP*

Section 338 Actions on Certain Canadian Products

On July 20, President Trump issued three presidential proclamations imposing new 50% *ad valorem* tariffs on certain Canadian products pursuant to Section 338 of the Tariff Act of 1930. These tariffs became effective August 22, 2026, and the measures were later expanded through September 8 proclamations that revised tariff coverage and imposed blanket import restrictions on various Canadian products.



Statutory Authority

- Section 338 authorizes the president to impose duties of up to 50% on imports from countries determined to discriminate against U.S. commerce.
- The Administration invoked Section 338 to impose new tariffs on specified Canadian-origin products.
- The tariffs may remain in effect unless otherwise terminated or modified by the president.



50% Tariff Measures

- Certain Canadian-origin products are subject to 50% ad valorem duties effective August 22, 2026.
- Effective September 15, 2026, the Administration revised the list of products subject to the tariffs, adding certain products and removing others.
- Energy products, potash, fish, critical minerals, and products already subject to Section 232 duties remain excluded.



Import Prohibitions on Canadian Products

- Certain Canadian alcoholic beverage, dairy, and motor vehicle products identified in the proclamations become prohibited from importation effective September 29, 2026.
- Products imported before September 29, 2026, but not yet entered for consumption remain subject to the 50% Section 338 duties rather than the import prohibitions.

Section 122 Global Tariff: Ongoing Litigation

Despite its expiration, the Section 122 global tariff is being challenged by a group of states and importers. The Court of International Trade (CIT) initially enjoined the tariff and ordered refunds for those plaintiffs, but the federal government appealed and the U.S. Court of Appeals for the Federal Circuit (CAFC) has administratively stayed the order while the appeal proceeds.

May 8, 2026 - CIT Injunction on Section 122 Tariff

- The CIT issued judgments and permanent injunctions enjoining application of the 10% Section 122 global tariff to a limited group of states and importer plaintiffs.
- This prohibited CBP from collecting the Section 122 global tariff on covered entries for these plaintiffs.
- The CIT ordered refunds (with interest) of the Section 122 tariff previously paid, but relief was limited to the plaintiffs before the court, not to all importers.
- The federal government then appealed the CIT's judgments, triggering review by the CAFC.

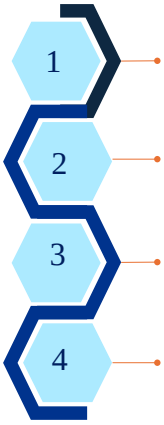
May 12, 2026 - CAFC Administrative Stay & Consolidated Appeals

- In response to the federal government's appeal, the CAFC issued an administrative stay of the CIT's judgments and permanent injunctions in response to the government's appeal.
- The CAFC also consolidated related appeals brought by the state and importer plaintiffs into a single proceeding with one set of briefs.
- As a result, the Section 122 tariff remains in force, even for plaintiffs that had obtained relief at the CIT.
- Any lasting relief from the Section 122 tariff will depend on future CAFC rulings.

Section 301 Forced Labor Tariffs

With the expiration of the Section 122 global tariff, the USTR initiated new Section 301 investigations into forced labor compliance concerns in 60 economies. While the Section 122 tariff applied broadly at a uniform 10% rate, the Section 301 action established a country-specific tariff framework, with rates ranging from 10% to 12.5%, subject to exemptions, USMCA carveouts, and special treatment rules.

Key features of the new Section 301 tariffs include:



Scope and Tariff Rates: The Section 301 action applies to imports from 60 investigated economies. Additional duties range from 10% to 12.5%, with countries subject to "net of MFN rate" calculations.

Product Exemptions and Stacking: USTR excluded certain products from the tariffs, including raw materials that potentially face domestic supply shortages, products unavailable in sufficient quantities in the U.S., and goods for which tariffs are unlikely to meaningfully address the identified concerns. Additionally, the Section 301 forced labor tariffs do not stack with Section 232 tariffs but will stack with certain Canadian Section 338 tariffs.

Textile TRQ Program: USTR announced plans to establish textile tariff-rate quotas (TRQs) where feasible, for Bangladesh, Cambodia, Indonesia, and Malaysia. The TRQs are intended to encourage sourcing from lower-risk inputs while supporting U.S. textile supply chains.

FTZ and USMCA Treatment: Products admitted into a U.S. Foreign Trade Zone generally must be entered under privileged foreign status. USMCA-qualifying goods from Canada and Mexico remain exempt from the new tariffs, subject to specified conditions.

The Current Trade Landscape: Section 301 Investigations

The United States Trade Representative (USTR) has launched and advanced multiple Section 301 since March 2026 that have resulted in proposed additional tariff actions on a broad range of countries.

Structural Excess and Capacity

- **March 12:** USTR launched a global investigation into structural excess capacity and production in key manufacturing sectors.
- The investigations assess whether the acts, policies and practices at issue are unreasonable or discriminatory and burden or restrict U.S. commerce

Vietnam Section 301 Investigation

- **May 29:** USTR initiated a separate Section 301 investigation of Vietnam focused on IP-related acts, policies, and practices, including online piracy and counterfeiting, weak enforcement against unlicensed software, and inadequate criminal and border enforcement
- USTR accepted public written comments through July 2, 2026, after which it will determine what responsive action, if any, should be taken

Customs basics: methods of valuation

Imported merchandise is valued according to a series ("hierarchy") of five methods that are to be applied sequentially and CBP is legally bound to follow this order:

Transaction Value	TV of Identical or Similar Goods	Deductive	Computed	Fallback	Importer's Election
Generally, the invoice price plus statutory additions and/or deductions	Transaction value of identical or similar goods	Sales price in the Country of Import, minus statutory deductions	Cost to manufacture, plus statutory additions	Value when other values cannot be determined, based on one of the previous methods	Deductive and Computed value may be switched at the importer's election

While Transaction Value is the preferred method of appraisement, there may be situations where Transaction Value does not apply.

Customs Valuation Planning in a High-Tariff Environment

The appropriate customs value is not necessarily the invoice price. Importers should determine the lowest legally supportable value under the statutory hierarchy.

Confirm the Valuation Method

- Determine whether Transaction Value applies.
- Confirm a *bona fide* sale for exportation to the United States.
- For related parties, evaluate whether the relationship influenced the price.
- If unavailable, proceed sequentially through the alternative methods.

Analyze the Dutiable Value

- Identify required additions, including assists, royalties, packing and selling commissions.
- Separate qualifying freight, insurance and other nondutiable charges.
- Determine whether transfer-pricing adjustments affect declared value, is applicable.
- Confirm reliable cost or resale data for computed or deductive value.

Evaluate Planning Opportunities

- Identify charges that may be legitimately excluded.
- Evaluate the election to reverse deductive and computed value.
- Consider whether a properly supported first-sale structure is available.
- Quantify the duty impact before changing pricing or supply-chain models.

Key takeaway: As tariff rates increase, relatively small changes in customs value can produce significant duty consequences. Documentation and consistency are critical.

Intersection between Tariffs and TP

The pricing of intragroup transactions can directly impact both a business' corporate tax liabilities (i.e., transfer pricing) and its indirect tax liabilities (through tariffs and customs duty).

Stylized example ALP = $90m – $95m*

Foreign Co (Country X)		US Co (US)	
CT rate	= 15%	CT rate	= 21%
COGS	= $50m	US sales	= $100m
		Tariff (a)	= 0%
		Tariff (b)	= 10%

* Assuming valuation for tariffs and TP is the same, noting this is not always the case

		Low price	High price
Pre-tariffs ($m)	US CT (21%)	2.1	1.1
	US Duty (0%)	0	0
	Foreign CT (15%)	6	6.8
	Total	8.1	7.9
Post-tariffs ($m)	US CT (21%)	2.1	1.1
	US Duty (10%)	9	9.5
	Foreign CT (15%)	6	6.7
	Total	17.1	17.3

* Numbers above have beenrounded

Intersections: 1059A limitation

Section 1059A provides that the maximum amount a U.S. taxpayer may claim as basis in inventory goods imported from a related party is the amount that was determined for customs purposes when the goods were imported.

This regulation effectively binds the taxpayer to the "finally-determined customs value" as determined under the customs laws. Under customs law, the customs value becomes final upon liquidation, which generally occurs 314 days after entry.

A trap for the unwary can occur when intercompany prices are changed after goods are imported. Key areas where the 1059A can give rise to risks:

- Royalty and license fee payments
- Assists
- Exchange rate swings
- Transfer pricing adjustments

Exhibit: Potential adverse tax consequences of Sec. 1059A

Final liquidated value (ceiling on inventory tax basis)	$	100M
Retroactive price increase (or other undeclared customs value)	$	10M
True inventory cost basis/COGS	$	110M
Tax rate		35%
Tax cost of underdeclaring customs value	**$**	**3.5M**

- The taxpayer cannot by operation of Sec. 1059A take a full offset for its cost of goods sold ($110 million).
- The taxpayer may deduct only the $100 million final customs value.
- The result is an additional tax cost or tax adjustment exposure of $3.5 million.

Accounting & Disclosure

Current guidance - AICPA Q&A Sec 7700 (non-authoritative)

Recognition models	• Loss recovery model – ASC 410-30 • Gain contingency model – ASC 450-30
Presentation of IEEPA tariff refunds	• Asset offset if goods are still in inventory • Income statement offset if goods have been sold through (COS vs Other Income)
Contracts with customers	• Determination of obligation to customer exists to return refund • Revenue recognition impact under ASC 606-10
Disclosure	• Choice of recognition model • Risks and uncertainties – ASC 275 • Revenue recognition impact – ASC 606 • Subsequent events – ASC 855

Key Takeaways

- Tariffs impact tax compliance and inventory valuation
- Coordination between customs, tax, and accounting is critical
- Awareness is the goal—planning opportunities exist but require careful analysis