

DOC-ITA-2021-000598 Request Details



Submitted



Evaluation



Assignment



Processing



Closed

Contact Information

Full Name	Mr. Jason Leopold
Organization	Investigative Reporter
Email Address	jasonleopold@gmail.com
Phone Number	2132704334
Fax Number	
Mailing Address Location	United States/US Territories
Address Line 1	1669
Address Line 2	Benedict Canyon Drive
City	Beverly Hills
State/Province	CA
Zip Code/Postal Code	90210

Request Information

Agency	International Trade Administration
Will Pay Up To	\$25.00
Date Submitted	12/30/2020
Estimated Date of Completion	02/01/2021
Fee Category	Media
Request Track	Simple
Request Phase	Assignment
Final Disposition	Undetermined

Description

Description	I request disclosure from the Department of Commerce the following records: 1. A copy of the February 17, 2019 report Section 232 Auto Investigation. According to a January 31, 2020 Congressional Research Service Report, "The Trump Administration initiated its investigation on auto imports on May 23, 2018 (83 FR 24735). The Department of Commerce (Commerce), which has statutory responsibility for such investigations, submitted its report to the President on February 17, 2019, but it has not been made public. According to the President, the report concluded that U.S. auto imports pose a national security threat because they affect "American-owned" producers' global competitiveness and research and
--------------------	---

Exhibit A

development on which U.S. military superiority depends."

<https://fas.org/sgp/crs/misc/IF10971.pdf> Reasonably Foreseeable Harm. The FOIA Improvement Act of 2016 amended the FOIA as follows (5 USC 552(a)(8)): (A) An agency shall— (i) withhold information under this section only if— (I) the agency reasonably foresees that disclosure would harm an interest protected by an exemption described in subsection (b); or (II) disclosure is prohibited by law; and (ii) (I) consider whether partial disclosure of information is possible whenever the agency determines that a full disclosure of a requested record is not possible; and (II) take reasonable steps necessary to segregate and release nonexempt information. . . . Commerce should not fail to comply with this mandatory part of the FOIA as recently amended by Congress. The Agency is required to identify what reasonably foreseeable harm would flow from release of the information withheld, nor did it consider a partial disclosure of the information, taking reasonable steps to segregate and release nonexempt information.

Request Expedited Processing

Made Request? No

Request a Fee Waiver

Made Request? Yes

Expedited Justification I am the senior investigative reporter for BuzzFeed News and formerly senior investigative reporter and on-air correspondent for VICE News. Additionally, my reporting has been published in The Guardian, The Wall Street Journal, The Financial Times, Salon, CBS Marketwatch, The Los Angeles Times, The Nation, Truthout, Al Jazeera English and Al Jazeera America. I request a complete waiver of all search and duplication fees. If my request for a waiver is denied, I request that I be considered a member of the news media for fee purposes. Under 5 U.S.C. §552(a)(4)(A)(iii), "Documents shall be furnished without any charge ... if disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester." Disclosure in this case meets the statutory criteria, as the records sought detail the operations and activities of government. This request is also not primarily in my commercial request, as I am seeking the records as a journalist to analyze and freely release to members of the public. If I am not granted a complete fee waiver, I request to be considered a member of the news media for fee purposes. I am willing to pay all reasonable duplication expenses incurred in processing this FOIA request. I will appeal any denial of my request for a waiver administratively and to the courts if necessary. Please do not hesitate to contact me if you have any questions concerning this request. Thank you. I appreciate your time and attention to this matter.

Supporting Files

Download	Attached File Name	Size (MB)	File Type
No attachments have been added.			



Section 232 Auto Investigation

Background

On May 17, 2019, President Trump announced his Administration’s determination that U.S. imports of automobiles and certain automotive parts threaten to impair U.S. national security. Under Section 232 of the Trade Expansion Act of 1962 (19 U.S.C. §1862, as amended), this determination gives the President broad authority to respond to the threat, including potentially imposing unilateral import restrictions. Some analysts debate, however, whether the Administration’s authority under this investigation has now expired, given statutory timelines for action. The President has instructed the U.S. Trade Representative (USTR) to negotiate agreements with Japan, the European Union (EU), and others, as needed, to address U.S. concerns.

The Trump Administration initiated its investigation on auto imports on May 23, 2018 (83 FR 24735). The Department of Commerce (Commerce), which has statutory responsibility for such investigations, submitted its report to the President on February 17, 2019, but it has not been made public. According to the President, the report concluded that U.S. auto imports pose a national security threat because they affect “American-owned” producers’ global competitiveness and research and development on which U.S. military superiority depends. The President’s emphasis on U.S. ownership implies the Administration sees foreign-owned automakers operating in the United States as having fewer benefits to U.S. national security. Toyota and other Japanese-owned auto manufacturers objected to this view, noting significant U.S. investments. According to data from the Bureau of Economic Analysis, foreign firms have invested over \$114 billion in the U.S. auto sector, directly employing 435,000 workers.

The Section 232 investigation is a component of a broader Administration agenda related to U.S. trade and the auto industry, including: (1) expanding domestic auto manufacturing; (2) addressing bilateral trade deficits; and (3) reducing disparities in U.S. and trading partner tariff rates. At 2.5%, U.S. passenger auto tariffs are lower than some trading partners, including the EU, with auto tariffs of 10%. U.S. tariffs on light trucks, including pick-ups and sport utility vehicles, are much higher at 25%.

Commerce received public comments and held a public hearing as it assessed the security threat raised by imported autos and parts. Labor union groups generally supported the investigation. The U.S. motor vehicle industry has voiced strong and united opposition to potential tariffs, and several Members of Congress have voiced concerns.

The U.S. Automotive Industry

Integrated Global Supply Chain

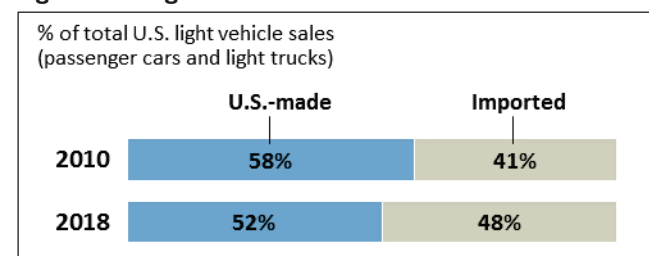
Over the past 25 years, the global auto industry has almost doubled in size, driven by China’s growth as a major auto

producing and consuming nation, making and selling 25 million vehicles in 2019. General Motors sells more vehicles in China than in the United States. China’s rise in vehicle and parts manufacturing has added a new, often inexpensive, source of parts that may compete with manufacturers in other countries. In 2018, more than 35 countries sold nearly \$160 billion in auto parts in the United States.

Since the North American Free Trade Agreement (NAFTA) went into force, U.S. production growth has been relatively steady, except during recessions, rising from 9.7 million vehicles in 1992 to 11.3 million in 2018. At the same time, production in South Korea and Mexico also increased, while decreasing in two other major auto-producing countries, Japan and Germany. Major distinguishing factors in the U.S. market during this time include:

- an increase in the number of foreign-owned auto manufacturing plants in the United States from seven in 1992 to 18 in 2019;
- the growth of Mexico as a source of vehicles for U.S. sales from 1 million per year when the NAFTA entered into force in 1994 to 4 million in 2018;
- the doubling of U.S. vehicle exports in recent years to nearly 2 million units in 2018; and,
- a change in the U.S. fleet composition with a growing U.S. consumer preference for light trucks over passenger cars: 69% of U.S. sales were light trucks in 2018, compared to 50% in 2012. (Some automakers are now discontinuing production of passenger cars.)

Figure 1. Origin of Vehicles sold in U.S.



Source: CRS analysis based on Ward’s Automotive Database, and U.S. International Trade Administration import data.

U.S. vehicle sales are increasingly composed of imports (**Figure 1**), although more than half of imported vehicles were manufactured in Canada or Mexico with significant U.S. content, including engines, transmissions, and other components. Some assemblies, such as steering and braking systems, cross the border up to six times as plants throughout North America add components. More than half of U.S. imports from Canada and Mexico are produced by General Motors, Ford, and Fiat-Chrysler.

Motor Vehicle Industry Employment and R&D

Motor vehicle assembly and parts manufacturing generate significant employment opportunities in almost every U.S. state. Preliminary data from 2018 suggest employment has largely recovered from the 2008-2009 recession. U.S. vehicle assembly and parts manufacturing employed 991,400 workers in 2019, compared with 994,200 in 2007, according to the Bureau of Labor Statistics. About 60% is in the manufacture of parts and components.

Motor vehicle industry research and development (R&D) has grown and new technologies and robotics allow manufacturers to raise productivity and build more vehicles with fewer workers. The vehicle and parts industry spent \$17 billion on R&D in 2015, compared to \$12 billion in 2011, according to National Science Foundation surveys.

Potential Economic Impact

Auto tariffs could have significant effects on the U.S. economy, depending on their breadth and duration. U.S. motor vehicle and parts imports from the EU, the Administration's current focus, totaled more than \$63 billion in 2018 and was the second largest source of such imports after Mexico (**Figure 2**). Economic studies generally estimate auto tariffs would lower overall U.S. GDP relative to a baseline without the tariffs, though the magnitude depends on modeling and assumptions.

Economists generally argue that using tariffs to encourage domestic production can lead to an inefficient and less productive allocation of resources. The uncertainty created by the current and potential tariffs on autos and auto parts may also reduce investment. Ultimately, the tariffs could increase the price of motor vehicles sold in the United States, prompting some consumers to delay purchases or purchase used cars instead of new vehicles, and generating inflationary pressures. The Center for Automotive Research estimated that a 25% tariff applied to all vehicles sold domestically could raise the price of an average car sold in the United States by \$4,400. The Peterson Institute for International Economics estimated similar price increases. The economic effects could be less significant if potential tariffs are used largely as short-term negotiating leverage.

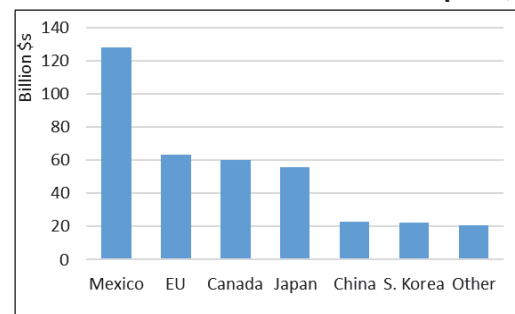
Estimating the effect of Section 232 auto tariffs on U.S. auto production is complicated by the globally integrated nature of auto supply chains and the spillover effects from other recent tariff actions. Tariffs on assembled autos could make imported vehicles more expensive in the U.S. market, potentially increasing demand for and production of U.S.-made vehicles. Tariffs on auto parts, however, could counteract this effect by increasing the cost of imported inputs, leading to higher prices of U.S.-produced vehicles. U.S. producers already face cost increases resulting from Section 232 U.S. steel and aluminum tariffs and Section 301 duties on imports from China. Retaliatory tariffs could also make U.S.-produced autos less competitive in foreign markets, leading to a reduction in U.S. exports.

Relationship to Trade Negotiations

The Administration has stated it is using the threat of tariffs to create U.S. leverage for broader trade negotiations, such as with the EU, and that tariffs would not be imposed while negotiations continue. Due to the conclusion of negotiations with Mexico, Canada, Japan, and South Korea, the

Administration appears to be excluding these countries from future Section 232 auto restrictions, explicitly in the case of Canada and Mexico. Alongside the new U.S.-Mexico-Canada Agreement (USMCA) that replaces NAFTA, the United States released side letters with Mexico and Canada that would exempt specified volumes of vehicle, light truck, and auto part imports from any potential Section 232 tariffs. The U.S.-South Korea FTA modifications included a delayed reduction of U.S. light truck tariffs and broader exemptions from South Korean safety certifications for U.S. auto exports. The "stage one" agreement with Japan did not cover autos, but the Administration has stated it has no intent at this time to move forward with additional auto tariffs on Japan.

Figure 2. U.S. Motor Vehicle and Parts Imports, 2018



Source: Bureau of Economic Analysis, International Transactions.

Issues for Congress

Several Members have raised concerns about the Section 232 auto investigation. Potential issues to consider include:

- **Transparency.** The Administration has not complied with congressional requests and statutory requirements to release the auto investigation report, citing executive privilege due to ongoing negotiations, presumably with the EU. What impact does the lack of transparency have on congressional oversight?
- **Trade authority.** Proposed legislation would curtail the President's authority under Section 232. What are the tradeoffs between restricting the President's authority and expeditiously addressing national security concerns? Do existing statutory time limits on Section 232 authority require modification or clarification?
- **National security definition.** Many observers question the linkage between U.S. auto production and national security. Should statutory criteria be clarified to ensure investigations adhere to congressional intent?
- **Economic impact.** Tariffs could significantly increase costs for consumers and firms and retaliation could lead to export declines. Do potential benefits justify costs?
- **International trading system.** How do unilateral U.S. actions affect other countries' adherence to World Trade Organization commitments or their willingness to enter trade negotiations with the United States?

For more information, see CRS Report R45249, *Section 232 Investigations: Overview and Issues for Congress*.

Rachel F. Fefer, Coordinator, Analyst in International Trade and Finance

Bill Canis, Specialist in Industrial Organization and Business

Brock R. Williams, Analyst in International Trade and Finance

IF10971

Disclaimer

This document was prepared by the Congressional Research Service (CRS). CRS serves as nonpartisan shared staff to congressional committees and Members of Congress. It operates solely at the behest of and under the direction of Congress. Information in a CRS Report should not be relied upon for purposes other than public understanding of information that has been provided by CRS to Members of Congress in connection with CRS's institutional role. CRS Reports, as a work of the United States Government, are not subject to copyright protection in the United States. Any CRS Report may be reproduced and distributed in its entirety without permission from CRS. However, as a CRS Report may include copyrighted images or material from a third party, you may need to obtain the permission of the copyright holder if you wish to copy or otherwise use copyrighted material.



UNITED STATES DEPARTMENT OF COMMERCE
International Trade Administration
Washington, DC 20230

December 31, 2020

Mr. Jason Leopold
Investigative Reporter
1669 Benedict Canyon Drive
Beverly Hills, CA 90210

jasonleopold@gmail.com

Dear Mr. Leopold:

This letter serves as acknowledgment of your Freedom of Information Act (FOIA) request received by the Department of Commerce (Department), International Trade Administration (ITA). Your FOIA request has been assigned FOIA tracking number DOC-ITA-2021-000598. Please reference the tracking number on all communications regarding this request. You requested:

A copy of the February 17, 2019 report Section 232 Auto Investigation. According to a January 31, 2020 Congressional Research Service Report, "The Trump Administration initiated its investigation on auto imports on May 23, 2018 (83 FR 24735). The Department of Commerce (Commerce), which has statutory responsibility for such investigations, submitted its report to the President on February 17, 2019, but it has not been made public. According to the President, the report concluded that U.S. auto imports pose a national security threat because they affect "American-owned" producers' global competitiveness and research and development on which U.S. military superiority depends."

For the purpose of assessing fees on this FOIA request, you are being considered an "media" requestor. Requesters in this category are charged for duplication only.

In your request, you are also seeking a fee waiver under 15 CFR § 4.11(l). The FOIA directs agencies to furnish records without any charge or at a reduced charge if disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester (5 U.S.C. § 552(a)(4)(A)(iii)).

Requests for fee waivers must be considered on a case-by-case basis and address the requirements for a fee waiver in sufficient detail for the agencies to make an informed decision. In determining whether the statutory requirements are met, agencies must consider six factors in sequence. These factors are summarized below:

1. The subject matter of the requested records must specifically concern identifiable operations or activities of the government. A request for access to records for their informational content alone does not satisfy this factor.



2. For the disclosure to be "likely to contribute" to an understanding of specific government operations or activities, the releasable material must be meaningfully informative in relation to the subject matter of the request.
3. The disclosure must contribute to the understanding of the public at large, as opposed to the understanding of the requester or a narrow segment of interested persons. One's status as a representative of the news media alone is not enough.
4. The disclosure must contribute "significantly" to public understanding of government operations or activities.
5. The extent to which disclosure will serve the requester's commercial interest, if any.
6. The extent to which the identified public interest in the disclosure outweighs the requester's commercial interest.

The statement provided in your request for a fee waiver pursuant to 15 CFR § 4.11(l) contains sufficient evidence to support a finding that such factors exists. Therefore, your fee waiver is granted.

If you have any questions or concerns or would like to discuss any aspect of your request, you may contact, Bhavesh Patel, FOIA Analyst, at 202-482-5130 or Bhavesh.Patel@trade.gov.

You may also contact ITA's FOIA Public Liaison, using the following information:

Victor E. Powers
Director, Management Operations Division
Office of the Chief Financial and Administrative Officer
International Trade Administration
1401 Constitution Avenue, N.W., Room 40003
Washington, D.C. 20230
(202) 482-5435, foia@trade.gov

In addition, you may seek FOIA mediation services offered by the National Archives and Records Administration, Office of Government Information Services (OGIS). You may contact OGIS using the following information:

Office of Government Information Services
National Archives and Records Administration
8601 Adelphi Road-OGIS
College Park, MD 20740-6001
+1.202.741.5770 or toll free, +1.877.684.6448
facsimile: +1.202.741.5769; email: ogis@nara.gov

Sincerely,

Bhavesh Patel

Bhavesh Patel, Esq.
FOIA Analyst
International Trade Administration



Fwd: ITA FOIA Request DOC-ITA-2021-00598 - Acknowledgment Letter

1 message

----- Forwarded message -----

From: **Jason Leopold** <jasonleopold@gmail.com>

Date: Tue, May 11, 2021, 3:05 PM

Subject: Re: ITA FOIA Request DOC-ITA-2021-00598 - Acknowledgment Letter

To: Bhavesh Patel <Bhavesh.Patel@trade.gov>

Hi Bhavesh,
May I have an estimated date of completion for this request?

Best,
Jason

On Thu, Dec 31, 2020 at 10:34 AM Bhavesh Patel <Bhavesh.Patel@trade.gov> wrote:

Dear Mr. Leopold,

Attached please find the Acknowledgment Letter for ITA FOIA Request DOC-ITA-2021-000598.

Regards,

Bhavesh Patel, Esq.

FOIA Analyst

Panum Group LLC, Contractor

U.S. Department of Commerce

International Trade Administration

[1401 Constitution Avenue, N.W.](#)

Exhibit D

Washington, D.C. 20230

(202) 482-5130

BuzzFeed.News

Jason Leopold | **BuzzFeed News** | Senior Investigative Reporter | (213) 270-4334 | @jasonleopold
6824 Lexington Avenue, Los Angeles, CA 90038

Signal: (213) 270-4334 and (646) 379-1975

Send me documents and tips, anonymously and securely: tips.buzzfeed.com

[My personal PGP](#)

My BuzzFeed PGP fingerprint: 46DB 0712 284B 8C6E 40FF 7A1B D3CD 5720 694B 16F0