

ALERT

Commerce Seeks Comment in New National Security Investigations Covering Pharmaceutical and Semiconductor Imports

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On April 14, 2025, the U.S. Department of Commerce (Commerce) released draft *Federal Register* notices soliciting public comments in two previously unannounced investigations into the national security impacts of imported pharmaceuticals and pharmaceutical ingredients and semiconductors, semiconductor manufacturing equipment, and derivative articles. The notices are scheduled for publication on April 16, and comments are due within 21 days of publication – that is, by, May 7, 2025.

Background

As reported in the notices, Commerce self-initiated the investigations on April 1, 2025, pursuant to Section 232 of the Trade Expansion Act of 1962 (Section 232), a statute that authorizes Commerce to investigate the national security implications of imported products. Within 270 days of launching an investigation, Commerce must issue a report to the President on its findings and provide recommendations for measures to address the national security threats. The President must then determine whether he concurs with Commerce's findings, and determine whether to take action, potentially including the imposition of tariffs, to adjust relevant imports in order to mitigate their impact on national security.

According to sources, these investigations were launched as a result of the United States' overwhelming import dependence on foreign products which are the subject of these investigations, including from the People's Republic of China. While, at present, the United States has in place tariffs on the importation of certain pharmaceutical and

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Practice Areas

International Trade
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semiconductor products, these new 232 investigations may result in higher tariffs on the imported products, as well as “derivatives,” which are downstream products containing pharmaceuticals and semiconductors. Ultimately, the scope of these investigations, which Commerce has not yet determined, will be crucial to determining the types of products that are included or excluded in the investigation and potential remedies, and the countries impacted.

Trade Policy and Trade Negotiations

The new investigations come in the wake of Section 232 investigations launched earlier this year regarding the national security effects of imports of copper and lumber/timber products. They also follow several investigations conducted during the first Trump Administration regarding aluminum and steel products, and passenger vehicles, light trucks and certain automotive parts, which resulted in tariffs.

As noted above, the statute provides Commerce with 270 days to issue its final report in the investigations. Based on the April 1, 2025 initiation date, the reports are due no later than December 27, 2025. However, given the relatively short time provided for comments, the reports may be issued, and subsequent presidential determinations and measures taken, on an accelerated basis.

Scope of the New Investigations

Pharmaceutical 232 Investigation

The products subject to the new pharmaceuticals investigation are:

- Pharmaceuticals, including finished generic and non-generic drug products and medical countermeasures;
- Pharmaceutical ingredients, including active pharmaceutical ingredients and key starting materials; and
- Derivative products of the above items.

Semiconductor Investigation

The products subject to the new semiconductors investigation are:

- Semiconductors, including semiconductor substrates and bare wafers, legacy chips, leading-edge chips, and microelectronics;

- Semiconductor manufacturing equipment, including components for such equipment; and
- Derivative products of the above items, including downstream products containing semiconductors and making up the electronics supply chain.

Commerce's Comment Requests

In its requests for comments, Commerce states that it is particularly interested in information regarding the criteria listed in 15 C.F.R. § 705.4, including:

Pharmaceuticals

- Current and projected U.S. demand for pharmaceuticals and pharmaceutical ingredients;
- The degree to which domestic production can meet demand for these products;
- The role of foreign supply chains, particularly of major exporters, in meeting U.S. demand for pharmaceuticals and pharmaceutical ingredients;
- The concentration of U.S. supply of pharmaceuticals and pharmaceutical ingredients among a small number of suppliers and the risks associated with a concentrated supply base;
- The impact of foreign subsidies and predatory trade practices on the competitiveness of the U.S. pharmaceuticals industry;
- The economic impact of any price suppression arising from foreign unfair trade practices and state-sponsored overproduction of covered goods;
- The potential for foreign countries to weaponize their control over the production and supply of pharmaceuticals through export restrictions;
- The feasibility of increasing domestic production capacity for pharmaceuticals and pharmaceutical ingredients to reduce import reliance; and
- The impact of current trade policies on U.S. production of pharmaceuticals and pharmaceutical ingredients, and whether additional measures, such as tariffs or quotas, are necessary to protect national security.

Semiconductors

- The current and projected demand for semiconductors (including as embedded in downstream products) and SME in the United States, differentiated by product type and node size;
- The extent to which domestic production of semiconductors can or is expected to be able to meet domestic demand at each node size for each product type, and similarly the extent to which domestic production of SME can or is expected to be able to meet domestic demand;
- The role of foreign fabrication and assembly, test and packaging facilities in meeting United States semiconductors demand, and similarly the role of foreign supply of SME in meeting domestic demand;

- The concentration of United States semiconductors imports (including as embedded in downstream products) from a small number of fabrication facilities and the associated risks, and similarly the concentration of United States SME imports from a small number of foreign sources;
- The impact of foreign government subsidies and predatory trade practices on United States semiconductor and SME industry competitiveness;
- The economic or financial impact of artificially suppressed semiconductor and SME prices due to foreign unfair trade practices and state-sponsored overcapacity;
- The potential for export restrictions by foreign nations, including the ability of foreign nations to weaponize their control over semiconductors and SME supply chains;
- The feasibility of increasing domestic semiconductors capacity (in different product types and node sizes) to reduce import reliance, and similarly the feasibility of increasing domestic SME capacity to reduce import reliance;
- The impact of current trade and other policies on domestic semiconductor and SME production and capacity, and whether additional measures, including tariffs or quotas, are necessary to protect national security;
- What product types and node sizes could be built only using SME from U.S. companies;
- What SME is manufactured abroad and faces limited competition from U.S.-made products;
- What SME parts or components are only available outside the United States; and
- Where the U.S. workforce faces a talent gap in production of semiconductors, SME, or SME components.

Interested parties that desire to file comments must do so on the dockets relevant to each investigation. While business confidential information may be submitted, it must be properly designated in accordance with agency regulations.

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