

Publications

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Trump Administration Adopts a Dual-Track Approach to Restore U.S. Semiconductor Manufacturing Leadership

Key Takeaways

- **President Trump moved to restore U.S. semiconductor manufacturing leadership through a dual-track Section 232 strategy**, imposing an immediate 25% ad valorem duty on a narrow set of advanced semiconductors and derivative products, while directing the U.S. Department of Commerce and the Office of the U.S. Trade Representative (USTR) to pursue negotiations with foreign jurisdictions. The tariff is subject to multiple end-use and other exclusions.
- **The strategy signals the potential for significantly broader tariffs after negotiations, coupled with a tariff offset program tied to U.S. investment and production.** Commerce has already announced a U.S.–Taiwan trade and investment agreement including \$250 billion in Taiwanese new direct U.S. investments, at least \$250 billion in Taiwanese credit guarantees and a framework for preferential Section 232 treatment tied to verified U.S. capacity expansion.
- **Companies should assess whether imports qualify for available end-use carve-outs, and account for limits on duty drawback and tighter FTZ treatment requiring privileged foreign status.** Businesses considering U.S. manufacturing investments should evaluate how production commitments may affect future tariff exposure and eligibility for relief.

President Trump issued a proclamation under Section 232 of the Trade Expansion Act of 1962 adjusting imports of semiconductors, semiconductor manufacturing equipment, and derivative products on Jan. 14, 2026. Illustrating the Administration’s investment-linked negotiation track, the U.S. Department of Commerce announced a U.S.-Taiwan trade and investment agreement the following day. Described as a “tariffs-for-investment” framework, it would pair substantial Taiwanese investment and credit support for U.S. advanced semiconductor manufacturing with the prospect of preferential Section 232 treatment calibrated to planned and completed U.S. production capacity.

Section 232 Findings and Policy Direction

Commerce had transmitted a report to the President on Dec. 22, 2025, reflecting its finding that imports of semiconductors, semiconductor manufacturing equipment and

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derivative products threaten to impair U.S. national security and economy, citing reliance on foreign sources to supply these products in each of the critical infrastructure sectors (e.g., communications, energy and medical) as well as in the nation's defense systems. Commerce has not publicly released its report.

Immediate Tariff on a Narrow Group of Semiconductors

To address the findings, effective Jan. 15, 2026, the President imposed a 25% ad valorem duty on imports of certain semiconductors identified in the Annex to the Proclamation (Covered Products). The President emphasized that the duty is intended to apply when importation does not contribute to the buildout of the U.S. technology supply chain and related domestic manufacturing capacity goals.

Companies importing advanced AI accelerators (including NVIDIA H200, AMD MI325X, and similar chips) into the United States for subsequent re-export to China should account for a dual compliance and cost impact:

- If the items are “Covered Products” under the Section 232 semiconductor proclamation, the 25% duty attaches at entry for consumption. The proclamation expressly provides no duty drawback — limiting the ability to recover Section 232 duties upon re-export — and it also imposes FTZ “privileged foreign status” requirements for covered merchandise admitted on/after the effective date.
- Separate from tariffs, BIS issued a Jan. 15, 2026 final rule revising license review policy for exports of certain advanced computing commodities (including H200/MI325X equivalents) to China/Macau from a presumption of denial to case-by-case review if specified supply, security, certification and third-party testing conditions are met. However, the rule maintains a presumption of denial for reexports (exports from abroad) and in-country transfers of covered AI commodities when destined to Macau or Country Group D:5, and for certain transactions involving entities headquartered in those destinations.

The President, however, specifically excluded from this tariff imports of Covered Products that are used in:

- U.S. data centers;
- Repairs or replacements performed in the U.S.;
- Research and development in the U.S. involving the chips;
- Use by U.S. startups;
- Non-data-center consumer applications;
- Non-data-center civil industrial applications;
- U.S. public sector applications; and
- Other uses Commerce determines contribute to strengthening the U.S. technology supply chain / domestic manufacturing capacity.

Finally, the administration adopted a no-stacking rule. If a Covered Product is subject to tariffs under this proclamation and other Section 232 proclamations, the product is subject to this proclamation's terms and duties. Moreover, an importer subject to the new 25% tariff will not have to pay the EO 14257 reciprocal duty or the EO 14193/14194 fentanyl duties on the Covered Product.

Negotiations and a 90-Day Update

In addition to imposing an immediate tariff on Covered Products, the President directed Commerce and USTR to jointly pursue or continue negotiations with foreign nations to address the threatened impairment of national security with respect to semiconductor products and to provide an update within 90 days of the proclamation.

This negotiating directive aligns with the proclamation's stated intent to use Section 232 duties as leverage to drive onshoring and allied investment in U.S.-based semiconductor and related technology production. Based on the status of such negotiations, the President may consider imposition of tariffs on additional semiconductor products not already covered by the Annex to incentivize domestic manufacturing.

Taiwan Trade and Investment Agreement: Preferential Tariffs-for-Investment

The day after President Trump issued his proclamation addressing semiconductor products, Commerce announced a trade and investment agreement with Taiwan to accelerate reshoring and expansion of advanced semiconductor, energy, and artificial intelligence capacity in the United States in exchange for preferential tariff treatment through a predictable tariff framework:

1. **Investment and credit support commitments.** Commerce described commitments for at least \$250 billion in new, direct investments by Taiwanese semiconductor and technology enterprises to build and expand advanced semiconductor, energy, and artificial intelligence production and innovation capacity in the United States, plus Taiwan will provide at least \$250 billion in credit guarantees to facilitate additional investment across the semiconductor supply chain and ecosystem.
2. **Tariff framework and Section 232 linkage.** Commerce outlined a predictable tariff framework, including a cap of 15% on U.S. reciprocal tariffs applied to Taiwanese goods; a similar cap of 15% Section 232 duties on Taiwanese auto parts, timber, lumber and wood derivatives; and a 0% reciprocal tariff for generic pharmaceuticals, their generic ingredients, aircraft components and unavailable natural resources. For semiconductors specifically, Commerce indicated that future Section 232 duties would reward Taiwanese producers that build new U.S. capacity — including duty-free import allowances tied to planned capacity during approved construction (up to 2.5x planned capacity) and tied to completed U.S. production capacity (up to 1.5x completed capacity), with preferential (reduced) rates contemplated above the duty-free thresholds.

If your business needs strategic legal guidance or anticipates potential impacts resulting from these announcements, contact Deanna Okun, Lydia Pardini, Dominic Bianchi, Polsinelli's Executive Action Working Group or your Polsinelli contact.