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INSIGHT

The President Acts to Impose Tariffs on Steel and Aluminum Imports

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On March 8, 2018, President Trump issued proclamations imposing duties on U.S. imports of steel and aluminum, based on the Secretary of Commerce's finding that these articles are being imported into the United States in such quantities and under such circumstances as to threaten to impair the national security of the United States. The President acted under Section 232 of the Trade Expansion Act of 1962 (19 U.S.C. §1862, as amended). The proclamations outline the President's decisions to impose tariffs of 25% on steel and 10% on aluminum imports effective March 23, 2018. The President temporarily excluded imports from Mexico and Canada and may make further exemptions, stating that other countries with whom the United States has a "security relationship" may discuss "alternative ways" to address the national security threat. In addition, parties located in the United States directly affected by the tariffs will be able request specific product exclusions based on national security considerations or insufficient domestic production.

Background

In April 2017, two presidential memoranda instructed the U.S. Department of Commerce (Commerce) to prioritize the steel and aluminum investigations. The final reports, submitted to the President on January 11 and January 22, 2018, respectively, concluded imports of steel mill products and of wrought and unwrought aluminum "threaten to impair the national security" of the United States. For more information on the Section 232 process, see CRS analysis in CRS In Focus IF10667, *Section 232 of the Trade Expansion Act of 1962* and CRS Legal Sidebar LSB10085, *Pedal to the Metal: Commerce Recommends Revving Up Trade Measures on Steel and Aluminum*.

The Commerce investigations analyzed the importance of steel and aluminum products to national security, using a relatively broad definition. Commerce defined national security to include "the general security and welfare of certain industries, beyond those necessary to satisfy national defense requirements, which are critical for minimum operations of the economy and government." The broad scope of the investigations extended to current and future requirements for national defense and 16 specific critical infrastructure sectors, such as electric transmission, transportation systems, food and agriculture, and critical manufacturing. The reports also examined domestic production capacity and

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utilization, industry requirements, current quantities and circumstances of imports, international markets, and global overcapacity.

Past Section 232 investigations generally considered national defense factors, although a 2001 Section 232 report on iron ore and semi-finished steel also looked at broader domestic industry trends but did not lead to an affirmative conclusion. Of the previous 26 Section 232 investigations, a president last acted in 1982 when President Reagan imposed a petroleum embargo on Libya.

Commerce Department Recommendations

In the recent steel investigation, the Secretary of Commerce concluded that "the present quantities and circumstance of steel imports are 'weakening our internal economy' and threaten to impair the national security as defined in Section 232." He further asserted that "the only effective means of removing the threat of impairment is to reduce imports to a level that should ... enable U.S. steel mills to operate at 80 percent or more of their rated production capacity" (the minimum rate the report found necessary for the long-term viability of the U.S steel industry). This would be well above the 2016 capacity utilization rate of 70.5% reported by the American Iron and Steel Institute, an industry trade group.

The Secretary further recommended the President "take immediate action to adjust the level of these imports through quotas or tariffs" and proposed a range of specific tariff and quota options for the President to consider. The President's final determination imposes a higher tariff rate than the recommended global tariff but, unlike the recommendation, exempts Mexico and Canada and, more recently, Australia. The President followed the Secretary's guidance that a process be established whereby countries and/or products may be excluded. Tariffs implemented as a result of the Section 232 investigations will be in addition to any tariffs or duties already in place. For more information on the Commerce reports, see CRS Insight IN10865, *Commerce Determines Steel and Aluminum Imports Threaten to Impair National Security*.

Potential Implications and Next Steps

Stakeholders on all sides of the issue have been vocal in their views since the investigations commenced. Domestic manufacturers of both steel and aluminum support relief through measures intended to limit imports. U.S. steel manufacturers and the United Steelworkers (USW) support broad new restrictions on steel imports with only limited exceptions. Some Members, including the Congressional Steel Caucus, also support the new tariffs.

In contrast, users of steel and aluminum as inputs are concerned that the remedies may increase their production costs and raise prices for consumers, and downstream manufacturing costs, potentially leading to job losses. As a result, U.S industries that use steel in manufacturing downstream products, including companies in the automotive and energy sectors, generally oppose such measures. A new Alliance for Competitive Steel and Aluminum Trade representing a variety of business and agricultural groups was formed in opposition to the tariffs. Some analysts have begun to predict job losses including up to 40,000 in the auto sector and 84,000 in specific industries that handle and transport imported products. In addition, 107 House Republicans signed a letter to the President asking for tailored tariffs that target China's unfair trade practices and minimize any impact on U.S. businesses and consumers.

To limit negative domestic impacts of the tariffs, within 10 days of the presidential proclamation, Commerce is to publish procedures for how U.S. parties may request exclusion for items that are not "produced in the United States in a sufficient and reasonably available amount or of a satisfactory quality." Exclusion determinations are to be based upon national security considerations.

While the Secretary of Defense concurred with Commerce's overall findings, he expressed concern about the potential effect of the proposed actions on key U.S. allies, endorsing strategic action through targeted and phased implementation of any restrictions. The Secretary's memorandum estimated that the Department of Defense's needs for steel only represent about 3% of U.S. production.

The action has raised concern from many U.S. trading partners who deem the new tariffs as protectionist. The European Union (EU) indicated it is planning potential countermeasures and reportedly has identified a list of U.S. exports worth $3.5 billion to target with its own tariffs. Exporting countries may challenge U.S. actions through dispute settlement at the World Trade Organization (WTO). Some analysts have voiced the potential risk of retaliation resulting in a possible trade war. International trade obligations at the bilateral, regional, and multilateral levels generally include broad exceptions for national security reasons, as in Article XXI of the General Agreements on Tariffs and Trade (GATT 1947), limiting the ability of countries to challenge such actions by trade partners. However, more frequent utilization of these exceptions could lessen the effectiveness of existing international trade commitments and could lead to their greater use by other countries and increased trade restrictions against the United States.

The U.S. Trade Representative (USTR) met with his European and Japanese counterparts to discuss potential exemptions. The three agreed to concrete steps to address the underlying issue of global overcapacity, most of which is driven by China. In addition to the Section 232 actions, the U.S. government may continue to focus on global overcapacity of steel and aluminum concerns and unfair trading practices (e.g., dumping and subsidization) in other bilateral and multilateral forums, including through the WTO or Organization for Economic Co-operation and Development (OECD) Global Forum on Steel Excess Capacity.

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