Congressional Research Service
Informing the legislative debate since 1914

# Section 232 Investigations: Overview and Issues for Congress

Updated April 2, 2019

**Congressional Research Service**
https://crsreports.congress.gov
R45249

**CRS REPORT**
Prepared for Members and
Committees of Congress

# Summary

President Trump has used Section 232 authority to apply new tariffs to steel and aluminum imports and potentially on automobile and automobile parts and other sectors currently under investigation. These actions have raised a number of policy issues and some Members of Congress have introduced legislation to revise various Section 232 authorities. Section 232 of the Trade Expansion Act of 1962 (19 U.S.C. §1862) provides the President with the ability to impose restrictions on certain imports based on an affirmative determination by the Department of Commerce (Commerce) that the product under investigation "is being imported into the United States in such quantities or under such circumstances as to threaten to impair the national security." Section 232 actions are of interest to Congress because they are a delegation of Congress's constitutional authority "To lay and collect … Duties" and "To regulate Commerce with foreign Nations."

Global overcapacity in steel and aluminum production, mainly driven by China, has been an ongoing concern of Congress. The George W. Bush, Obama, and Trump Administrations each engaged in multilateral discussions to address global steel capacity reduction through the Organisation for Economic Co-operation and Development (OECD). While the United States has extensive antidumping and countervailing duties on Chinese steel imports to counter China's unfair trade practices, steel industry and other experts argue that the magnitude of Chinese production acts to depress prices globally.

Effective March 23, 2018, President Trump applied 25% and 10% tariffs, respectively, on certain steel and aluminum imports. The President temporarily exempted several countries from the tariffs pending negotiations on potential alternative measures. Permanent tariff exemptions in exchange for quantitative limitations on U.S. imports were eventually announced covering steel for Brazil and South Korea, and both steel and aluminum for Argentina. Australia was permanently exempted from both tariffs with no quantitative restrictions. In August 2018, President Trump raised the tariff to 50% on steel imports from Turkey. The proposed United States-Mexico-Canada Agreement (USMCA) would not resolve or address the Section 232 tariffs on imported steel and aluminum from Canada and Mexico.

Commerce is managing a process for potential product exclusions in order to limit potential negative domestic effects of the tariffs on U.S. businesses and consumers. Of the nearly 70,000 steel exclusion requests, over 16,000 have been granted, and about 46,000 have been denied to date. Commerce also received about 10,000 aluminum exclusion requests, with 3,000 exclusions granted and 500 denied. Several Members have raised issues and concerns about the exclusionary process.

U.S. trading partners are challenging the tariffs under World Trade Organization (WTO) dispute settlement rules and have threatened or enacted retaliatory measures. Some analysts view the U.S. unilateral actions as potentially undermining WTO rules, which generally prohibit parties from acting unilaterally, but provide exceptions, including when parties act to protect "essential security interests."

Congress enacted Section 232 during the Cold War when national security issues were at the forefront of national debate. The Trade Expansion Act of 1962 sets clear steps and timelines for Section 232 investigations and actions, but allows the President to make a final determination over the appropriate action to take following an affirmative finding by Commerce that the relevant imports threaten to impair national security. Prior to the Trump Administration, there were 26 Section 232 investigations, resulting in nine affirmative findings by Commerce. In six of those cases the President imposed a trade action.

The Trump Administration has launched three additional Section 232 investigations. On May 23, 2018, Commerce initiated an investigation on U.S. automobile and automobile part imports; on July 18, 2018, Commerce launched a Section 232 investigation into uranium ore and product imports; and on March 4, 2019, Commerce began an investigation into titanium sponge imports. The latter two investigations were in response to petitions by U.S. firms. These investigations, as well as the Administration's decision to apply the steel and aluminum tariffs on imports from Canada, Mexico, and the EU—all major suppliers of the affected imports—have prompted further questions by some Members of Congress and trade policy analysts on the appropriate use of the trade statute and the proper interpretation of threats to national security on which Section 232 investigations are based. These actions have also intensified debate over potential legislation to constrain the President's authority with respect to Section 232.

The steel and aluminum tariffs are affecting various stakeholders in the U.S. economy, prompting reactions from several Members of Congress, some in support of the measures and others voicing concerns. In general, the tariffs are expected to benefit some domestic steel and aluminum manufacturers, leading to potentially higher domestic steel and aluminum prices and expansion in production in those sectors, while potentially negatively affecting consumers and many end users (e.g., auto manufacturing and construction) through higher costs. To date, Congress has held hearings on the potential economic and broader policy effects of the tariffs, and legislation has been introduced to override the tariffs that have already been imposed, or to revise or potentially limit the authority previously delegated to the President in future investigations.

# Contents

Introduction ..... 1
Overview of Section 232 ..... 1
Key Provisions and Process ..... 2
Section 232 Investigations to Date ..... 3
Relationship to WTO ..... 5
Recent Section 232 Actions on Steel and Aluminum ..... 5
Commerce Findings and Recommendations ..... 6
Presidential Actions ..... 7
Country Exemptions ..... 7
Product Exclusions ..... 9
Tariffs Collected to Date ..... 12
U.S. Steel and Aluminum Industries and International Trade ..... 13
Global Production Trends ..... 15
International Efforts to Address Overcapacity ..... 16
Policy and Economic Issues ..... 17
Retaliation ..... 18
Domestic Court Challenges ..... 20
WTO Cases ..... 21
Additional Section 232 Investigations ..... 25
Automobiles and Parts ..... 25
Uranium ..... 26
Titanium Sponge ..... 27
Potential Economic Impact ..... 28
Economic Dynamics of the Tariff Increase ..... 28
Assessing the Overall Economic Impact ..... 31
Issues for Congress ..... 32
Appropriate Delegation of Constitutional Authority ..... 32
Legislative Responses to Retaliatory Tariffs ..... 33
Establishing Threshold ..... 33
Interpreting National Security ..... 33
Establishing New International Rules ..... 34
Impact on the Multilateral Trading System ..... 34
Impact on Broader International Relationships ..... 35

## Figures

Figure 1. Section 232 Investigation Process ..... 3
Figure 2. Section 232 Investigations ..... 5
Figure 3. U.S. Steel and Aluminum Imports Subject to Section 232 Tariffs ..... 13
Figure 4. Steel and Aluminum Manufacturing Employment ..... 14
Figure 5. Retaliatory Actions by U.S. Trading Partners ..... 19
Figure 6. WTO Cases Regarding Section 232 Actions ..... 23
Figure 7. U.S. Exports to EU, Canada, and Mexico subject to Section 232 Retaliation ..... 31

## Tables

Table B-1. Section 232 Investigations and Presidential Actions, 1962-2018 ..... 38
Table C-1. Select Proposals to Amend Section 232: 116th Congress..... 42
Table C-2. Select Proposals Concerning Section 232: 115th Congress..... 42
Table D-1. Top U.S. Import Suppliers of Products Covered under Section 232 Proclamations ..... 45

## Appendixes

Appendix A. Amendments to and Past Uses of Section 232 (19 U.S.C. §1862)..... 36
Appendix B. Section 232 Investigations ..... 38
Appendix C. Proposals Concerning Section 232..... 42
Appendix D. 2018 U.S. Steel and Aluminum Imports ..... 45

## Contacts

Author Information..... 46

# Introduction

On March 8, 2018, President Trump issued two proclamations imposing tariffs on U.S. imports of certain steel and aluminum products, respectively, using presidential powers granted under Section 232 of the Trade Expansion Act of 1962.[1] Section 232 authorizes the President to impose restrictions on certain imports based on an affirmative determination by the Department of Commerce (Commerce) that the targeted products are being imported into the United States "in such quantities or under such circumstances as to threaten to impair the national security." Section 232 investigations and actions are important for Congress, as the Constitution gives it primary authority over international trade matters. In the case of Section 232, Congress has delegated to the President broad authority to impose limits on imports in the interest of U.S. national security. The statute does not require congressional approval of any presidential actions that fall within its scope. In the Crude Oil Windfall Profit Tax Act of 1980, however, Congress amended Section 232 by creating a joint disapproval resolution provision under which Congress can override presidential actions in the case of adjustments to petroleum or petroleum product imports.[2]

Section 232 is one of several tools the United States has at its disposal to address trade barriers and other foreign trade practices. These include investigations and actions to address import surges that are a "substantial cause of serious injury" or threat thereof to a U.S. industry (Section 201 of the Trade Act of 1974), those that address violations or denial of U.S. benefits under trade agreements (Section 301 of the Trade Act of 1974), and antidumping and countervailing duty laws (Title VII of the Tariff Act of 1930).

Trade is an important component of the U.S. economy, and Members often hear from constituents when factories and other businesses are hurt by competing imports, or if exporters face trade restrictions and other market access barriers overseas. Section 232 actions may affect industries, workers, and consumers in congressional districts and states (both positively and negatively). Following the steel and aluminum Section 232 actions, Commerce initiated Section 232 investigations into imports of automobiles and automobile parts in May 2018, uranium ore and product imports in July 2018, and titanium sponges in March 2019. Commerce submitted the auto investigation report to the President on February 17, 2019, but the report has not been made public or shared with Congress; the uranium report is expected by mid-April 2019, and the titanium sponges report is due in late November 2019. The current investigations have raised a number of economic and broader policy issues for Congress.

This report provides an overview of Section 232, analyzes the Trump Administration's Section 232 investigations and actions, and considers potential policy and economic implications and issues for Congress. To provide context for the current debate, the report also includes a discussion of previous Section 232 investigations and a brief legislative history of the statute.

# Overview of Section 232

The Trade Act of 1962, including Section 232, was enacted during the Cold War when national security issues were at the forefront. Section 232 has been used periodically in response to industry petitions, as well as through self-initiation by the executive branch. The Trade Expansion Act establishes a clear process and timelines for a Section 232 investigation, but the executive

[1] P.L. 87-794; 19 U.S.C. §1862.

[2] P.L. 96-223, Section 402. For more information, see **Appendix A**.

branch's interpretation of "national security" and the potential scope of any investigation can be expansive.

## Key Provisions and Process

Upon request by the head of any U.S. department or agency, by application by an interested party, or by self-initiation, the Secretary of Commerce must commence a Section 232 investigation. The Secretary of Commerce conducts the investigation in consultation with the Secretary of Defense and other U.S. officials, as appropriate, to determine the effects of the specified imports on national security. Public hearings and consultations may also be held in the course of the investigation. Commerce has 270 days from the initiation date to prepare a report advising the President whether or not the targeted product is being imported "in such quantities or under such circumstances as to threaten to impair" U.S. national security, and to provide recommendations for action or inaction based on the findings. Any portion of the report that does not contain classified or proprietary information must be published in the *Federal Register*. See **Figure 1** for the Section 232 process and timeline.

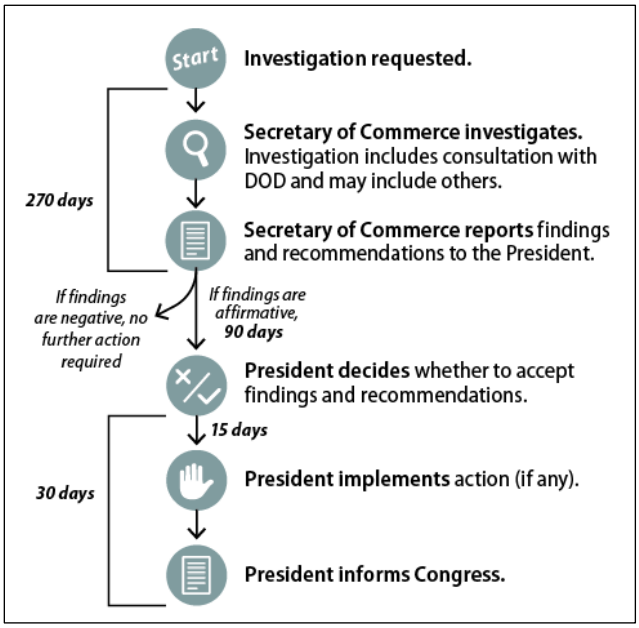
While there is no specific definition of national security in the statute, it states that the investigation must consider certain factors, such as domestic production needed for projected national defense requirements; domestic capacity; the availability of human resources and supplies essential to the national defense; and potential unemployment, loss of skills or investment, or decline in government revenues resulting from displacement of any domestic products by excessive imports.[3]

Once the President receives the report, he has 90 days to decide whether or not he concurs with the Commerce Department's findings and recommendations, and to determine the nature and duration of the action he views as necessary to adjust the imports so they no longer threaten to impair the national security (generally, imposition of some trade-restrictive measure). The President may implement the recommendations suggested in the Commerce report, take other actions, or decide to take no action. After making a decision, the President has 15 days to implement the action and 30 days to submit a written statement to Congress explaining the action or inaction; he must also publish his findings in the *Federal Register*. Presidential actions may stay in place "for such time, as he deems necessary to adjust the imports of such article and its derivatives so that such imports will not so threaten to impair the national security."[4]

[3] 19 U.S.C. §1862 (d). The Bureau of Industry and Security (BIS) at Commerce conducts the investigation in accordance with federal regulations codified in 15 C.F.R. part 705 (Effect of Imported Articles on the National Security).

[4] Section 232 (b).

**Figure 1. Section 232 Investigation Process**




**Source:** CRS graphic based on 19 U.S.C. §1862.

## Section 232 Investigations to Date

The Commerce Department (or the Department of the Treasury before it) initiated a total of 31 Section 232 investigations between 1962 and 2019, including three investigations that remain ongoing (see **Table B-1**). In 16 of these cases, Commerce determined that the targeted imports did not threaten to impair national security. In 11 cases, Commerce determined that the targeted imports threatened to impair national security and made recommendations to the President. The President took action eight times. One case was terminated at the petitioner's request before Commerce completed its investigation. Prior to the Trump Administration, 10 Section 232 investigations were self-initiated by the Administration. (For a full list of cases to date, see **Appendix B**.)

In eight investigations dealing with crude oil and petroleum products, Commerce decided that the subject imports threatened to impair national security. The President took action in five of these cases. In the first three cases on petroleum imports (1973-1978), the President imposed licensing fees and additional supplemental fees on imports, which are no longer in effect, rather than adjusting tariffs or instituting quotas. In two cases, the President imposed oil embargoes, once in 1979 (Iran) and once in 1982 (Libya). Both were superseded by broader economic sanctions in the following years.[5]

[5] The Section 232 petroleum embargo against Iran was revoked by Executive Order 12282 of January 19, 1981, which established broader sanctions against Iran.

The petroleum embargo against Libya was superseded by (1) Proclamation 5141 of December 22, 1983, "Imports of Petroleum and Petroleum Products," 48 *Federal Register* 56929, and (2) Executive Order 12538, "Imports of Refined Petroleum Products from Libya," 50 *Federal Register* 47527, November 15, 1985; and then was effectively revoked by Executive Order 13357, "Termination of Emergency Declared in Executive Order 12543 With Respect to the Policies and Actions of the Government of Libya and Revocation of Related Executive Order," 69 *Federal Register* 56665, September 20, 2004, and the corresponding Treasury regulation, Department of the Treasury, Office of Foreign Assets

In the three most recent crude oil and petroleum investigations (from 1987 to 1999), Commerce determined that the imports threatened to impair national security, but did not recommend that the President use his authority to adjust imports. In the first of these reports (1987), Commerce recommended a series of steps to increase domestic energy production and ensure adequate oil supplies rather than imposing quotas, fees, or tariffs because any such actions would not be "cost beneficial and, in the long run, impair rather than enhance national security."[6] In the latter two investigations (1994 and 1999), Commerce found that existing government programs and activities related to energy security would be more appropriate and cost effective than import adjustments. By not acting, the President in effect followed Commerce's recommendation.

Prior to the Trump Administration, a President arguably last acted under Section 232 in 1986. In that case, Commerce determined that imports of metal-cutting and metal-forming machine tools threatened to impair national security. In this case, the President sought voluntary export restraint agreements with leading foreign exporters, and developed domestic programs to revitalize the U.S. industry.[7] These agreements predate the founding of the World Trade Organization (WTO), which established multilateral rules prohibiting voluntary export restraints (see "WTO Cases ").

In addition to the two recent cases on steel and aluminum, on May 23, 2018, after consultations with President Trump, Commerce Secretary Wilbur Ross announced the initiation of a Section 232 investigation to determine whether imports of automobiles, including SUVs, vans and light trucks, and automotive parts threaten to impair national security.[8] In January 2018, two U.S. mining companies petitioned for the investigation into uranium imports.[9] On July 18, Commerce announced the initiation of a Section 232 investigation on these imports and informed the Secretary of Defense.[10] In September 2018, a U.S. titanium company petitioned for the investigation into titanium sponge imports. In March 2019, Commerce announced the initiation of a Section 232 investigation on these imports and informed the Secretary of Defense.[11]

Control, "Libyan Sanctions Regulations, Angola (UNITA) Sanctions Regulations, Rough Diamonds (Liberia) Sanctions Regulations," 61 *Federal Register* 16042, March 30, 2006.

[6] Department of Commerce, *The Effect of Crude Oil and Refined Petroleum Product Imports on the National Security,* January 1989, https://www.bis.doc.gov/index.php/forms-documents/section-232-investigations/78-crude-oil-and-petroleum-proucts-1989/file.

[7] U.S. President (R. Reagan), "Statement on the Revitalization of the Machine Tool Industry" *Weekly Compilation of Presidential Documents*, vol. 22 (December 16, 1986), p. 1654.

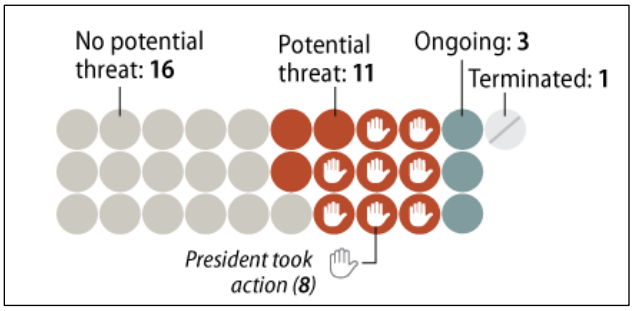
[8] U.S. Department of Commerce, "U.S. Department of Commerce Initiates Section 232 Investigation into Auto Imports," May 23, 2018, https://www.commerce.gov/news/press-releases/2018/05/us-department-commerce-initiates-section-232-investigation-auto-imports.

[9] Energy Fuels Resources (USA) Inc. and Ur-Energy USA Inc., "Petition for Relief under Section 232 of the Trade Expansion Act of 1962 from Imports of Uranium Products that Threaten National Security," January 16, 2018.

[10] U.S. Department of Commerce, "U.S. Department of Commerce Initiates Section 232 Investigation into Uranium Imports," July 18, 2018, https://www.commerce.gov/news/press-releases/2018/07/us-department-commerce-initiates-section-232-investigation-uranium.

[11] Commerce Department press release, March 2019, https://www.commerce.gov/news/press-releases/2019/03/us-department-commerce-initiates-section-232-investigation-titanium.

**Figure 2. Section 232 Investigations**




**Source:** CRS Graphic based on BIS data (https://www.bis.doc.gov/).

**Note:** For a detailed list of cases, see **Appendix B**.

## Relationship to WTO

While unilateral trade restrictions may appear to be counter to U.S. trade liberalization commitments under the WTO agreements, Article XXI of the General Agreement on Tariffs and Trade (GATT), which predates and was one of the foundational agreements of the WTO, allows WTO members to take measures to protect "essential security interests." Broad national security exceptions are also included in international trade obligations at the bilateral and regional levels, and could potentially limit the ability of countries to challenge such actions by trade partners. Historically, exceptions for national security have been rarely invoked and multiple trading partners have challenged recent U.S. actions under the WTO agreements (see "WTO Cases ").

# Recent Section 232 Actions on Steel and Aluminum

In April 2017, two presidential memoranda instructed Commerce to give priority to two self-initiated investigations into the national security threats posed by imports of steel and aluminum.[12] In conducting its investigation, Commerce held public hearings and solicited public comments via the *Federal Register* and consulted with the Secretary of Defense and other agencies, as required by the statute.[13] In addition to the hearings, stakeholders submitted approximately 300 comments regarding the Section 232 investigation and potential actions. Some parties (mostly steel producers) supported broad actions to limit steel imports, while others (mostly users and consuming industries such as automakers) opposed any additional tariffs or quotas on imports. The U.S. aluminum industry held differing views of the global aluminum tariff, with most parties opposing it.[14] Some stakeholders in the steel and aluminum industries sought a middle ground, endorsing limited actions to target the underlying issues of overcapacity

[12] U.S. President (Trump), "Memorandum on Steel Imports and Threats to National Security," *Weekly Compilation of Presidential Documents*, April 20, 2017, https://www.gpo.gov/fdsys/pkg/DCPD-201700259/pdf/DCPD-201700259.pdf, and U.S. President (Trump), "Memorandum on Aluminum Imports and Threats to National Security," *Weekly Compilation of Presidential Documents*, April 27, 2017, https://www.gpo.gov/fdsys/pkg/DCPD-201700284/pdf/DCPD-201700284.pdf.

[13] Department of Commerce, Bureau of Industry and Security, "Notice of Request for Public Comments and Public Hearing on Section 232 National Security Investigation of Imports of Steel," 82 *Federal Register* 19205, April 26, 2017, and Department of Commerce, Bureau of Industry and Security, "Notice of Request for Public Comments and Public Hearing on Section 232 National Security Investigation of Imports of Aluminum," 82 *Federal Register* 21509, May 9, 2017.

[14] CRS In Focus IF10998, *Effects of U.S. Tariff Action on U.S. Aluminum Manufacturing*, by Michaela D. Platzer.

and unfair trade practices. Still others focused on the process, voicing caution in the use of Section 232 authority and warning against an overly broad definition of "national security" for protectionist purposes.[15]

The Commerce investigations analyzed the importance of certain steel and aluminum products to national security, using a relatively broad definition of "national security," defining it 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."[16] The scope of the investigations extended to current and future requirements for national defense and to 16 specific critical infrastructure sectors, such as electric transmission, transportation systems, food and agriculture, and critical manufacturing, including domestic production of machinery and electrical equipment. The reports also examined domestic production capacity and utilization, industry requirements, current quantities and circumstances of imports, international markets, and global overcapacity. Commerce based its definition of national security on a 2001 investigation on iron ore and semi-finished steel.[17] Section 232 investigations prior to 2001 generally used a narrower definition considering U.S. national defense needs or overreliance on foreign suppliers.

## Commerce Findings and Recommendations

The final reports, submitted to the President on January 11 and January 22, 2018, respectively, concluded that imports of certain steel mill products[18] and of certain types of primary aluminum and unwrought aluminum[19] "threaten to impair the national security" of the United States. The Secretary of Commerce 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 and, separately, for the aluminum industry). The Secretary further recommended the President "take immediate action to adjust the level of these imports through quotas or tariffs" and identified three potential courses of action for both steel and aluminum imports, including tariffs or quotas on all or some steel imports from specific countries.

The Secretary of Defense, while concurring with Commerce's "conclusion that imports of foreign steel and aluminum based on unfair trading practices impair the national security," recommended targeted tariffs and that "an inter-agency group further refine the targeted tariffs, so as to create incentives for trade partners to work with the U.S. on addressing the underlying issue of Chinese

[15] "The case for and against 232 action on steel: Three principal positions," *Inside U.S. Trade*, June 12, 2017, and "Awaiting an aluminum decision: some key comment takeaways," *Inside U.S. Trade*, July 3, 2017.

[16] Department of Commerce, Bureau of Industry and Security, "The Effect of Imports of Steel on the National Security," p. 1, January 11, 2018.

[17] U.S. Department of Commerce, Bureau of Export Administration, "The Effect of Imports of Iron Ore and Semi-Finished Steel on the National Security," October 2001, https://bis.doc.gov/index.php/forms-documents?task=doc_download&gid=81.

[18] U.S. Department of Commerce, Bureau of Industry and Security, "The Effect of Imports of Steel on the National Security," January 11, 2018, https://www.commerce.gov/sites/commerce.gov/files/the_effect_of_imports_of_steel_on_the_national_security_-_with_redactions_-_20180111.pdf (hereinafter, Steel Report).

[19] U.S. Department of Commerce Bureau of Industry and Security, "The Effect of Imports of Aluminum on the National Security," January 17, 2018, https://www.commerce.gov/sites/commerce.gov/files/the_effect_of_imports_of_aluminum_on_the_national_security_-_with_redactions_-_20180117.pdf (hereinafter, Aluminum Report).

transshipment" in which Chinese producers ship goods to another country to reexport.[20] He also noted, however, that "the U.S. military requirements for steel and aluminum each only represent about three percent of U.S. production."[21]

## Presidential Actions

On March 8, 2018, President Trump issued two proclamations imposing duties on U.S. imports of certain steel and aluminum products, based on the Secretary of Commerce's findings.[22] The proclamations outlined the President's decisions to impose tariffs of 25% on steel and 10% on aluminum imports effective March 23, 2018, but provided for flexibility in regard to country and product applicability of the tariffs (see below). The new tariffs were to be imposed *in addition* to any duties already in place, including antidumping and countervailing duties.

In the proclamations, the President established a bifurcated approach, instructing Commerce to establish a process for domestic parties to request individual product exclusions and a U.S. Trade Representative (USTR)-led process to discuss "alternative ways" through diplomatic negotiations to address the threat with countries having a "security relationship" with the United States.

The President officially notified Congress of his actions in a letter dated April 6, 2018. Several Members actively engaged in voicing their views since the investigations were launched, including through hearings and letters to the President.[23]

### Country Exemptions

Initially, the President temporarily excluded imports of steel and aluminum products from Mexico and Canada from the new tariffs, and the Administration implicitly and explicitly linked a successful outcome of the North American Free Trade Agreement (NAFTA) renegotiation to maintaining the exemptions. With regard to other countries, the President expressed a willingness to be flexible, stating that countries with which the United States has a "security relationship" may discuss "alternative ways" to address the national security threat and gain an exemption from the tariffs. The President charged the USTR with negotiating bilaterally with trading partners on potential exemptions.

On March 22, after discussions with multiple countries, the President issued proclamations temporarily excluding Australia, Argentina, Brazil, South Korea, the European Union (EU), Canada and Mexico, from the Section 232 tariffs.[24] The President gave a deadline of May 1, 2018, by which time each trading partner had to negotiate "a satisfactory alternative means to remove the threatened impairment to the national security by imports" for steel and aluminum in order to maintain the exemption. On April 30, 2018, the White House extended negotiations and

[20] See Letter from James N. Mattis, Secretary of Defense, to Wilbur L. Ross Jr., Secretary of Commerce, 2018, https://www.commerce.gov/sites/commerce.gov/files/department_of_defense_memo_response_to_steel_and_aluminum_policy_recommendations.pdf.

[21] Ibid.

[22] Presidential Proclamation 9704 of March 8, 2018, "Adjusting Imports of Aluminum into the United States," 83 *Federal Register* 11619, March 15, 2018, and Proclamation 9705 of March 8, 2018, "Adjusting Imports of Steel Into the United States," 83 *Federal Register* 11625, March 15, 2018.

[23] U.S. President (Trump), "Letter to Congressional Leaders on Requests for Exclusions from United States Tariffs on Aluminum and Steel Imports," *Weekly Compilation of Presidential Documents*, April 6, 2018.

[24] Proclamation 9710 of March 22, 2018 "Adjusting Imports of Aluminum into the United States," 83 *Federal Register* 13355, March 28, 2018; and Proclamation 9711 of March 22, 2018, "Adjusting Imports of Steel into the United States," 83 *Federal Register* 13361, March 28, 2018.

tariff exemptions with Canada, Mexico, and the EU for an additional 30 days, until June 1, 2018, and exempted Argentina, Australia, and Brazil from the tariffs indefinitely pending final agreements.[25] South Korea, which pursued a resolution over the tariffs in the context of discussions to modify the U.S.-South Korea (KORUS) Free Trade Agreement, agreed to an absolute annual quota for 54 separate subcategories of steel and was exempted from the steel tariffs.[26] South Korea did not negotiate an agreement on aluminum and its exports to the United States have been subject to the aluminum tariffs since May 1, 2018.

On May 31, 2018, the President proclaimed Argentina and Brazil, in addition to South Korea, permanently exempt from the steel tariffs, having reached final quota agreements with the United States on steel imports.[27] Brazil, like South Korea, did not negotiate an agreement on aluminum and is subject to the aluminum tariffs. The Administration also proclaimed aluminum imports from Argentina permanently exempt from the aluminum tariffs subject to an absolute quota.[28] The Administration proclaimed imports of steel and aluminum from Australia permanently exempt from the tariffs as well, but did not set any quantitative restrictions on Australian imports.

As of June 1, 2018, imports of steel and aluminum from Canada, Mexico, and the European Union are subject to the Section 232 tariffs. These countries are among the largest suppliers of U.S. imports of the targeted goods, accounting for nearly 50% by value in 2018 (see **Appendix D**). The imposition of tariffs on these major trading partners increases the economic significance of the tariffs and prompted criticism from several Members of Congress, including the chairs of the House Ways and Means and Senate Finance Committees.[29]

The Trump Administration completed negotiations on the proposed United States-Mexico-Canada Agreement (USMCA) on September 30, 2018, to replace the NAFTA. The USMCA did not resolve or address the Section 232 tariffs on imported steel and aluminum from Canada and Mexico, but it includes a requirement that motor vehicles contain 70% or more of North American steel and aluminum content to qualify for duty-free treatment.[30] The three parties continue to discuss the steel and aluminum tariffs, which some analysts speculate could result in quotas on imports of Mexican and Canadian steel and aluminum. Some U.S., Canadian, and Mexican policymakers have suggested that the parties will not ratify the new agreement until the

[25] Executive Office of the President, "President Donald J. Trump Approves Section 232 Tariff Modifications," press release, April 30, 2018, https://www.whitehouse.gov/briefings-statements/president-donald-j-trump-approves-section-232-tariff-modifications/.

[26] U.S. Customs and Border Protection, *QB 18-118 Steel Mill Articles (AMENDED)*, May 1, 2018, https://www.cbp.gov/trade/quota/bulletins/qb-18-118-steel-mill-articles.

[27] Proclamation 9759 of May 31, 2018, "Adjusting Imports of Steel into the United States," 83 *Federal Register* 25857, June 5, 2018.

[28] Proclamation 9758 of May 31, 2018 "Adjusting Imports of Aluminum into the United States," 83 *Federal Register* 25849, June 5, 2018.

[29] Chairman Kevin Brady, "Brady Statement on Administration's Action on Steel and Aluminum Tariffs," press release, May 31, 2018, https://waysandmeans.house.gov/brady-statement-on-administrations-action-on-steel-and-aluminum-tariffs/; Chairman Orrin Hatch, "Hatch Statement on Administration Aluminum, Steel Tariff Announcement," press release, May 31, 2018, https://www.finance.senate.gov/chairmans-news/hatch-statement-on-administration-aluminum-steel-tariff-announcement.

[30] USTR, United States-Mexico-Canada Agreement Text, https://ustr.gov/trade-agreements/free-trade-agreements/united-states-mexico-canada-agreement/united-states-mexico. In a side letter on automobiles, the United States also agreed that, in the event of Section 232 measure imposed on passenger vehicles and auto parts, that the United States would exclude 2.6 million passenger vehicles, all light trucks imported from Mexico, and up to $108 billion worth (in declared customs value) of auto parts annually. For more information on USMCA, see CRS Report R44981, *NAFTA Renegotiation and the Proposed United States-Mexico-Canada Agreement (USMCA)*, by M. Angeles Villarreal and Ian F. Fergusson.

Section 232 tariffs are removed; the White House economic adviser stated that the Administration continues to negotiate the tariffs as "part of the bigger legislative picture discussion" for passage of USMCA.[31]

With respect to the EU, on July 27, 2018, after meeting with EU President Juncker, President Trump announced plans for "high-level trade negotiations" to eliminate tariffs, including those on steel and aluminum, among other objectives. The two sides agreed to not impose further tariffs on each other's trade products while negotiations are active.[32] It is unclear what those negotiations may seek in terms of alternative measures, but the United States could seek some type of quantitative restriction given the agreements the Administration has negotiated to date with most exempted countries.[33] In addition to seeking quantitative restrictions, the Trump Administration may also pursue increasing traceability and reporting requirements, which may help limit transshipments of steel or aluminum originating from nonexempt countries.

**Tariff Increase on U.S. Steel and Aluminum Imports from Turkey**

On August 10, 2018, President Trump issued a proclamation raising the Section 232 tariff to 50% on covered steel imports from Turkey. The President justified the action by stating "imports have not declined as much as anticipated and capacity utilization has not increased to [the] target level."[34] The value of the Turkish lira relative to the U.S. dollar has declined by roughly 40% since the date that the Section 232 tariffs went into effect until August, when the President proclaimed the adjusted tariff rate.[35] A depreciated lira makes U.S. imports from Turkey less costly to U.S. consumers, thereby counteracting the effect of the tariffs. The President noted the exchange rate volatility in his informal announcement of the tariff increase, but some observers contend that the action may be in response to ongoing foreign policy issues unrelated to trade.[36] In addition, the President announced in a tweet on August 10 that he had authorized an increase of the tariff on aluminum from Turkey to 20%, but he has not yet signed a Section 232 proclamation putting the higher duty into effect. In 2018, Turkey was the 13th-largest supplier of U.S. steel imports covered by the tariffs, accounting for $779 million of U.S. imports (approximately 2.6% of relevant U.S. steel imports). U.S. steel imports from Turkey decreased by 35% (-$413 million) from 2017 to 2018, the year the tariffs took effect.

## Product Exclusions

To limit potential negative domestic impacts of the tariffs on U.S. consumers and consuming industries, Commerce published an interim final rule for how parties located in the United States may request exclusions for items that are not "produced in the United States in a sufficient and

[31] Alexander Panetta, "Kudlow: 'Heavy negotiations' underway on ending steel tariffs; 'we'll get it done'," *PoliticoPro*, February 24, 2019.

[32] White House Factsheet, "President Donald J. Trump Launches a New Reciprocal Trade Relationship with the European Union," July 27, 2018.

[33] It appears that the quantitative restrictions negotiated by the Trump Administration to date are restrictions on U.S. imports to be administered by the United States. Some analysts have also suggested that the Administration may consider negotiating Voluntary Export Restraints (VER) to be administered by the exporting countries. The OECD defines VERs as "arrangements between exporting and importing countries in which the exporting country agrees to limit the quantity of specific exports below a certain level in order to avoid imposition of mandatory restrictions by the importing country." Article 11 of the WTO Agreement on Safeguards, prohibits WTO Members from seeking, taking, or maintaining VERS. WTO Agreement on Safeguards, Art 11(1)(b), https://www.wto.org/english/docs_e/legal_e/25-safeg_e.htm.

[34] The White House, "Presidential Proclamation Adjusting Imports of Steel Into the United States," August 10, 2018.

[35] Exchange rate values sourced from the Central Bank of Turkey.

[36] Rebecca Ballhaus and Jacob M. Schlesinger, "Trump Vows to Double Metals Tariffs on Turkey as Dispute Escalates Over Detained American," August 11, 2018.

reasonably available amount or of a satisfactory quality."[37] Requests for exclusions and objections to requests have been and will continue to be posted on regulations.gov.[38] The rule went into effect the same day as publication to allow for immediate submissions.

Exclusion determinations are based upon national security considerations. To minimize the impact of any exclusion, the rule allows only "individuals or organizations using steel articles ... in business activities ... in the United States to submit exclusion requests," eliminating the ability of larger umbrella groups or trade associations to submit petitions on behalf of member companies.[39] Any approved product exclusion is limited to the individual or organization that submitted the specific exclusion request. Parties may also submit objections to any exclusion within 30 days after the exclusion request is posted. The review of exclusion requests and objections will not exceed 90 days, creating a period of uncertainty for petitioners. Exclusions will generally last for one year from the date of signature.[40]

As of March 4, 2019, Commerce received almost 70,000 steel product exclusion requests, with 16,500 exclusions granted and 500 denied.[41] As of the same date, Commerce received 10,000 aluminum exclusion requests, with 3,000 exclusions granted and 500 denied.[42]

Companies have complained about the intensive, time-consuming process to submit exclusion requests; the lengthy waiting period to hear back from Commerce, which has exceeded the 90 days in some cases; what some view as an arbitrary nature of acceptances and denials; and that all exclusion requests to date have been rejected when a U.S. steel or aluminum producer has objected.[43] Alcoa, the largest U.S. aluminum maker, requested an exemption for all aluminum imported from Canada, where it operates three aluminum smelters. While the company benefits from higher aluminum prices as a result of the tariffs, it is also seeing increased costs in its own supply chain.[44] In addition, the Cause of Action Institute filed a series of Freedom of Information Act (FOIA) requests to gain insight into the exclusion process. Commerce did not respond, leading the organization to file a lawsuit against the agency.[45]

Several Members of Congress have raised concerns about the exclusion process. A bipartisan group of House Members, for example, raised concerns about the speed of the review process and the significant burden it places on manufacturers, especially small businesses.[46] The Members

---

[37] Department of Commerce, Bureau of Industry and Security, "Requirements for Submissions Requesting Exclusions From the Remedies Instituted in Presidential Proclamations Adjusting Imports of Steel Into the United States and Adjusting Imports of Aluminum into the United States," 83 *Federal Register* 12106, March 19, 2018.

[38] Docket Number BIS-2018-0006 (Steel); Docket Number BIS-2018-0002, (Aluminum).

[39] A parallel requirement applies for aluminum requests.

[40] Bureau of Industry and Security, *Requirements for Submissions Requesting Exclusions from the Remedies Instituted in Presidential Proclamations Adjusting Imports of Steel into the United States and Adjusting Imports of Aluminum into the United States; and the Filing of Objections to Submitted Exclusion Requests for Steel and Aluminum*, Docket BIS-2018-0006, https://www.regulations.gov/.

CRS received updated figures by email from the Bureau of Industry and Security, an agency of the U.S. Department of Commerce, on March 12, 2019.

[42] Ibid.

[43] Ed Crooks and Fan Fei, "Trade war winners and losers grapple with Trump tariff chaos," *The Financial Times*, July 23, 2018 and Jim Tankersley, "Steel Giants With Ties to Trump Officials Block Tariff Relief for Hundreds of Firms," *The New York Times*, August 5, 2018.

[44] Bob Tita, "Alcoa Requests Exemption from Aluminum Tariff," *The Wall Street Journal*, August 6, 2018.

[45] See Cause of Action Institute v. U.S. Department of Commerce, case number 1:18-cv-02397, in the U.S. District Court for the District of Columbia.

[46] MIL OSI - ForeignAffairs.co.nz, "MIL-OSI USA: Walorski Calls for Changes to Tariff Product Exclusion Process

included specific recommendations, such as allowing for broader product ranges to be included in a single request, allowing trade associations to petition, grandfathering in existing contracts to avoid disruptions, and regularly reviewing the tariffs' effects and sunsetting them if they have a "significant negative impact."[47]

Commerce asserts it has taken several steps to improve the exclusion process, including increasing and organizing its staff "to efficiently process exclusion requests," and "expediting the grant of properly filed exclusion requests that receive no objections." The agency's International Trade Administration (ITA) also became involved in the exclusion process by analyzing exclusion requests and objections to determine whether there is sufficient domestic production available to meet the requestor's product needs.[48] BIS remains the lead agency involved in making final decisions regarding whether the requests are granted or denied.

Some Members have questioned the Administration's processes and ability to pick winners and losers through granting or denying exclusion requests. On August 9, 2018, Senator Ron Johnson requested that Commerce provide specific statistics and information on the exclusion requests and process and provide a briefing to the Committee on Homeland Security and Governmental Affairs. Senator Elizabeth Warren requested that the Commerce Inspector General investigate the implementation of the exclusion process, including a review of the processes and procedures Commerce has established; how they are being followed; and if exclusion decisions are made on a transparent, individual basis, free from political interference. She also requested evidence that the exclusions granted meet Commerce's stated goal of "protecting national security while also minimizing undue impact on downstream American industries," and that the exclusions granted to date strengthen the national security of the United States.[49] Pending legislation to revise Section 232 also addresses the process for excluding products (e.g., S. 287).

On September 6, 2018, Commerce announced a new rule to allow companies to rebut objections to petitions.[50] The new rule, published September 11, 2018, includes new rebuttal and counter-rebuttal procedures, more information about the exclusion submission requirements and process, the criteria Commerce uses in deciding whether to grant an exclusion request, and revised estimates of the total number of exclusion requests and objections that Commerce expects to receive.[51] On October 29, 2018, the Commerce Inspector General's office (IG) initiated an audit of the agency's processes and procedures for reviewing and adjudicating product exclusion requests.[52] The audit is ongoing.

---

for Manufacturers," ForeignAffairs.co.nz, May 8, 2018.

[47] Ibid.

[48] Department of Commerce, Bureau of Industry and Security, "Interim Final Rule. Submissions of Exclusion Requests and Objections to Submitted Requests for Steel and Aluminum," 83 *Federal Register* 46026, 2018.

[49] Letter from Senator Elizabeth Warren to the Commerce Department, August 29, 2018.

[50] Testimony by Department of Commerce Assistant Secretary For Export Administration Bureau of Industry and Security Richard Ashooh at Senate Subcommittee on Commerce, Justice, Science, and Related Agencies hearing on *Conduct Oversight of Bureau of Industry & Security, International Trade Administration, & US International Trade Commission*, September 6, 2018, https://www.appropriations.senate.gov/hearings/conduct-oversight-of-bureau-of-industry-and-security-international-trade-administration_us-international-trade-commission.

[51] 83 *Federal Register* 46026, https://www.federalregister.gov/documents/2018/09/11/2018-19662/submissions-of-exclusion-requests-and-objections-to-submitted-requests-for-steel-and-aluminum?utm_campaign=subscription%20mailing%20list&utm_source=federalregister.gov&utm_medium=email.

[52] Letter from Carol Rice, Assistant Inspector General for Audit and Evaluation, to Daniel O. Hill, Acting Under Secretary of Commerce for Industry and Security, Bureau of Industry and Security, October 29, 2018.

To ensure that Commerce follows through with improving the exclusion process, in the Consolidated Appropriations Act, 2019 (P.L. 116-6), signed on February 15, 2019, Congress provided funding for "contractor support to implement the product exclusion process for articles covered by actions taken under section 232."[53] To ensure improvements to the exclusion process, Congress indicated that the additional money is to be "devoted to an effective Section 232 exclusion process" and required that Commerce submit quarterly reports to Congress.[54] Congress mandated that the reports identify

- the number of exclusion requests received;
- the number of exclusion requests approved and denied;
- the status of efforts to assist small- and medium-sized businesses in navigating the exclusion process;
- Commerce-wide staffing levels for the exclusion process, including information on any staff detailed to complete this task; and
- Commerce-wide funding by source appropriation and object class for costs undertaken to process the exclusions.

## Tariffs Collected to Date

As of March 28, 2019, U.S. Customs and Border Protection assessed $4.7 billion and $1.5 billion from the Section 232 tariffs on steel and aluminum, respectively. The tariffs collected are put in the general fund of the U.S. Treasury and are not allocated to a specific fund. Based on 2017 U.S. import values, annual tariff revenue from the Section 232 tariffs could be as high as $5.8 billion and $1.7 billion for steel and aluminum, respectively, but such estimates do not account for dynamic effects that may impact import flows.

Generally, higher import prices resulting from the tariffs should cause both import demand and tariff revenue to decrease over time, provided that U.S. production increases and sufficient domestic alternatives become available. Tariff revenue is also likely to decline as the Commerce Department grants additional product exclusions.

According to the President's proclamations implementing the Section 232 tariffs, one of the objectives of the tariffs is to "reduce imports to a level that the Secretary assessed would enable domestic steel (and aluminum) producers to use approximately 80 percent of existing domestic production capacity and thereby achieve long-term economic viability through increased production."[55]

[53] P.L. 116-6 Division C, Title I.

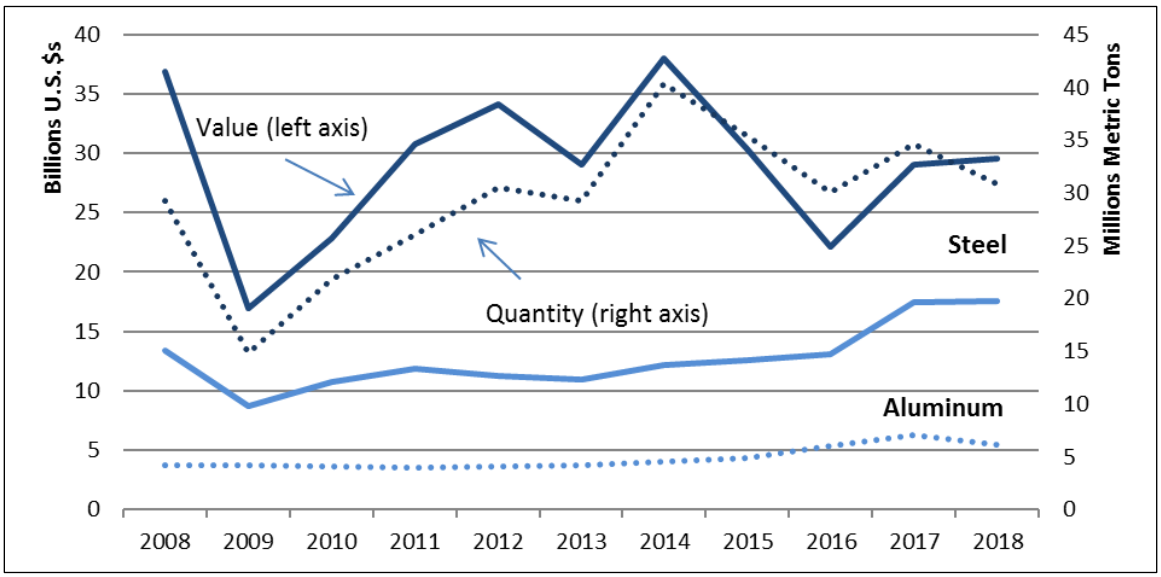
[54] H.J.Res. 31, p. 609.

[55] Presidential Proclamation 9704 of March 8, 2018, "Adjusting Imports of Aluminum into the United States," 83 *Federal Register* 11619, March 15, 2018, and Proclamation 9705 of March 8, 2018, "Adjusting Imports of Steel Into the United States," 83 *Federal Register* 11625, March 15, 2018.

# U.S. Steel and Aluminum Industries and International Trade

In 2018, U.S. imports of steel and aluminum products covered by the Section 232 tariffs totaled $29.5 billion and $17.6 billion, respectively (see **Appendix D**).[56] Over the past decade, steel imports have fluctuated significantly, by value and quantity, while imports of aluminum have generally increased. U.S. imports of both metals increased slightly by value from 2017 to 2018 (Section 232 tariffs became effective at different times for different countries), but imports of both decreased by more than 10% in quantity terms (-3.8 million metric tons for steel and -0.9 million metric tons for aluminum).[57] U.S. imports from individual countries fluctuated to an even greater degree over the past year (**Figure 3**). The largest declines in U.S. steel imports, by value, were from South Korea (-$430 million, -15%), Turkey (-$413 million, -35%), and India (-$372 million, -49%), with significant increases from the EU (+$567 million, +22%), Mexico (+$508 million, +20%), and Canada (+$404 million, +19%). The largest declines in aluminum imports were from China (-$729 million, -40%), Russia (-$676 million, -42%), and Canada (-$294 million, -4%), with major increases from the EU (+$395 million, 9%), India (+$221 million, 58%), and Oman ($186 million, +200%). The countries with permanent exclusions from the tariffs (all except Australia are instead subject to quotas) accounted for 18.4% of U.S. steel imports in 2018 and 4.4% of U.S. aluminum imports.

**Figure 3. U.S. Steel and Aluminum Imports Subject to Section 232 Tariffs**




**Source:** Created by CRS using data from Census Bureau on HTS products included in the Section 232 proclamations. Domestic Steel and Aluminum Manufacturing and Employment

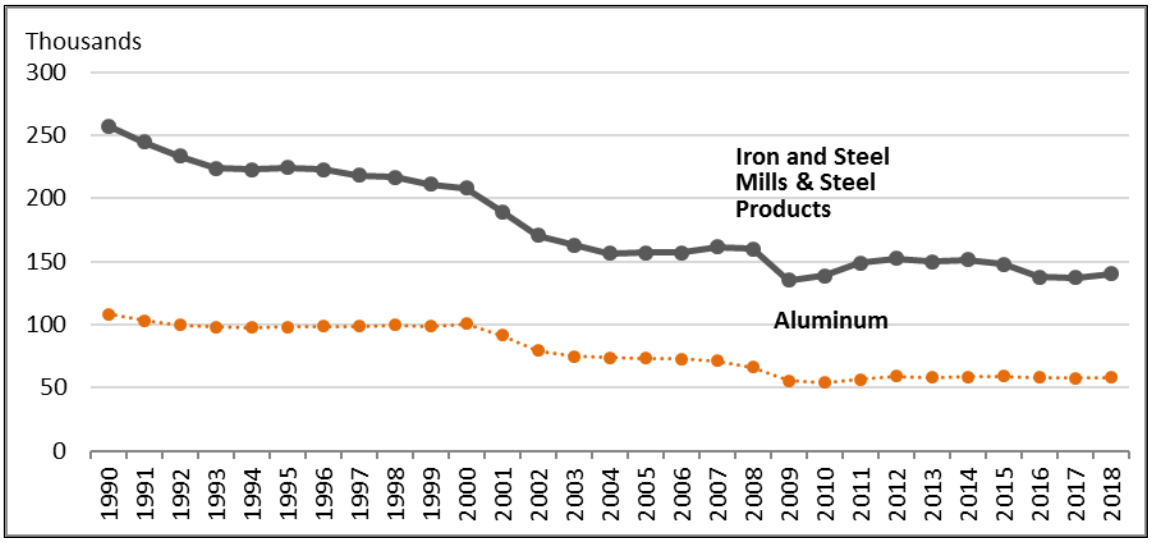
[56] CRS analysis based on Census Bureau data on HTS products included in the Section 232 proclamations.

[57] Section 232 steel and aluminum tariffs became effective on most U.S. imports in March 2018, but Canada, Mexico and the EU were exempt until June. U.S. steel imports from South Korea, Brazil, and Argentina were never subject to 232 tariffs but have been subject to a quota since May (South Korea) and June, respectively. U.S. aluminum imports from Argentina similarly have been subject to a quota since June. U.S. imports of steel and aluminum from Australia were exempted from Section 232 tariffs and quotas.

In 2018, U.S. steelmakers employed 140,100 workers (**Figure 4**), accounting for 1.1% of the nation's 12.7 million factory jobs. Employment in the steel industry has declined for many years as new technology, particularly the increased use of electric arc furnaces to make steel, has reduced the demand for workers.[58] According to the Bureau of Labor Statistics, labor productivity in steelmaking nearly tripled since 1987 and rose 20% over the past decade.[59] Hence, even a significant increase in domestic steel production is likely to result in a relatively small number of additional jobs. In 2018, for the first time since 2014, steel manufacturers added 2,700 jobs, a rise of 2% from a year earlier.

Aluminum manufacturers employed 58,100 workers in 2018, a figure that has changed little since the 2007-2009 recession. Domestic smelting of aluminum from bauxite ore, which requires large amounts of electricity, has been in long-term decline, and secondary aluminum produced from recycled scrap melted in a smelter now accounts for the majority of domestic aluminum production.[60] Imports of secondary unwrought aluminum are not covered by the Section 232 aluminum trade action.[61]

**Figure 4. Steel and Aluminum Manufacturing Employment**




**Source:** Bureau of Labor Statistics, Current Employment Survey for North American Industry Classification System (NAICS) 3311 (iron and steel mills), 3312 (steel products), and NAICS 3313 (aluminum).

Steelmaking and aluminum smelting are both extremely capital intensive. As a result, even small changes in output can have major effects on producers' profitability. Domestic steel producers have operated at 80% or less of production capacity in recent years, with a shift in recent months to a capacity utilization rate at U.S. steel mills of more than 80%.[62] Primary aluminum producers in the United States have operated at about 78% of production capacity in December 2018, up

[58] See CRS In Focus IF10902, *Trade Actions and U.S. Steel Manufacturing*, by Michaela D. Platzer, for a related discussion on the domestic steel industry.

[59] Bureau of Labor Statistics, Industry Productivity and Costs, https://www.bls.gov/lpc/.

[60] For more information on domestic aluminum manufacturing, see CRS In Focus IF10998, *Effects of U.S. Tariff Action on U.S. Aluminum Manufacturing*, by Michaela D. Platzer.

[61] The Section 232 trade action includes certain semi-finished wrought aluminum products, such as bars, rods, foil, and wire, which can be manufactured using primary aluminum, secondary aluminum, or a combination of the two.

[62] The U.S. Federal Reserve Board publishes industrial production and capacity utilization data by industry.

from around 43% in December 2017.[63] A stated aim of the metals tariffs is to enable U.S. producers in both sectors to use an average of 80% of their production capacity, which the Section 232 reports deem necessary to sustain adequate profitability and continued capital investment.[64]

## Global Production Trends

The OECD Global Forum on Steel Excess Capacity estimates global steel overcapacity was at 595 million metric tons in 2017.[65] While China is the world's largest steel producer, accounting for roughly 45% of global capacity, relatively little Chinese steel enters the U.S. market directly, due to extensive U.S. dumping and subsidy determinations, but the large amount of Chinese production acts to depress prices globally. China has indicated that it plans to reduce its crude steelmaking capacity by 100-150 million metric tons over the five-year period from 2016 to 2020.[66] According to the Chinese government, the country's crude steel capacity has fallen by more than 120 million metric tons since it announced its steel reduction goal in 2016.[67]

No OECD or other multinational forum has been established to monitor global aluminum overcapacity, though aluminum industry groups have called for such a forum.[68] Although China accounted for more than half of the world's primary aluminum production in 2017, it does not export aluminum in commodity form to the United States. China ships semi-finished aluminum such as bars, rods, and wire to the United States. These are subject to the Section 232 tariffs.[69]

Metals imports should be put in the context of U.S. production. In 2018, the United States produced more than twice the amount of steel it imported. According to ITA, import penetration—the share of U.S. demand met by steel imports—reached 33% in 2016, compared to 23% in 2006.[70] Some segments of the domestic steel industry, such as slab converters, import a sizable share of their semi-finished feedstock from foreign suppliers, totaling nearly 7.5 million tons in 2018.[71] In the primary aluminum market, U.S. net import reliance rose to 50% in 2018 from 33% in 2014, according to the U.S. Geological Survey.[72] Most U.S. foreign trade in steel and aluminum is with Canada (see **Appendix C**).

[63] U.S. Geological Survey, *Mineral Commodity Summary*, Aluminum, 2018.

[64] Steel Report, p. 4, and Aluminum Report, p. 107.

[65] G20 Global Forum on Steel Excess Capacity, Ministerial Report, September 20, 2018, p.6, https://www.meti.go.jp/english/press/2018/pdf/0921_003a.pdf.

[66] Germany's Federal Ministry for Economic Affairs and Energy, *Global Forum on Steel Excess Capacity*, November 30, 2017, p. 27.

[67] G20 Global Forum on Steel Excess Capacity, *Ministerial Report*, September 20, 2018, p. 10.

[68] European Aluminum, G7 Makes Explicit Urgency to Avoid Aluminum Overcapacity, June 10, 2018.

[69] CRS In Focus IF10998, *Effects of U.S. Tariff Action on U.S. Aluminum Manufacturing*, by Michaela D. Platzer.

[70] Department of Commerce, International Trade Administration, *Steel Imports Report: United States*, September 2018, https://www.trade.gov/steel/countries/imports/us.asp , p. 6.

[71] Department of Commerce, International Trade Administration, Enforcement & Compliance, U.*S. Steel Import Monitor, Import by Country and Product Category*, 2019.

[72] U.S. Geological Survey, *Mineral Commodity Summaries*, Iron and Steel, February 2019, https://minerals.usgs.gov/minerals/pubs/commodity/iron_&_steel/.

## International Efforts to Address Overcapacity

OECD analysis has found that ongoing global steel overcapacity and excess production are largely caused by government intervention, subsidization, and other market-distorting practices, although these are not the only factors.[73] Other reasons for excess capacity include cyclical market downturns. The situation is similar in the aluminum industry, where government financial support for large aluminum stockpiles has delayed the response to lower demand.

Past Administrations worked to address the issue of steel overcapacity. President George W. Bush, for example, initiated international discussions on global capacity reduction and improved trade discipline in the steel industry as part of his general steel announcement of 2001.[74] Other governments agreed to join the Bush Administration in discussing overcapacity and trade issues at the OECD in a process that started in mid-2001. The industrial, steel-producing members of the OECD were joined by major non-OECD steel producers, such as India, Russia, and, during later stages of the talks, China. Negotiations were suspended indefinitely in 2004, and by 2005, the OECD had abandoned this effort to negotiate an agreement among all major steel-producing countries to ban domestic subsidies for steel mills.

The Obama Administration also participated in international efforts to curb steel imports, including the launch of the G-20 Global Forum on Steel Excess Capacity in 2016, another venue that sought to address the challenges of excess capacity in steel worldwide.[75] In December 2016, the G-20 convened its first meeting of more than 30 economies—all G-20 members plus interested OECD members—as a global platform to discuss steel issues among the world's major producers.[76] The same year, as part of the U.S.-China Strategic and Economic Dialogue (SE&D) established in 2009, the Obama Administration agreed to address excess steel production and also to communicate and exchange information on surplus production in the aluminum sector.[77]

In September 2018, the OECD Forum agreed on a process to identify and remove subsidies and take other measures to reduce the global steel overcapacity. The OECD issued a consensus report outlining six principles and specific policy recommendations to address excess steel capacity.[78] The USTR, while supportive of the recommendations, questioned the Forum's ability to pursue effective implementation and did not rule out unilateral action.[79]

The aluminum industry argues it is also suffering because of China's excess production of primary aluminum. According to the aluminum associations of Japan, Europe, Canada, and the United States, global overcapacity amounted to 11 million metric tons in 2017. Akin to the global steel industry, aluminum producers contend that excess production has been largely caused by

[73] OECD, "Excess Capacity in the Global Steel Industry: The Current Situation and Ways Forward," 2015, p. 4, https://www.oecd.org/sti/ind/excess-capacity-in-the-global-steel-industry.pdf.

[74] President George W. Bush, Statement by the President Regarding a Multilateral Initiative on Steel, June 5, 2001, https://georgewbush-whitehouse.archives.gov/news/releases/2001/06/20010605-4.html.

[75] The White House, Fact Sheet: The 2016 G-20 Summit in Hangzhou, China, September 5, 2016, https://obamawhitehouse.archives.gov/the-press-office/2016/09/05/fact-sheet-2016-g-20-summit-hangzhou-china.

[76] European Commission, *Steel: Commission Welcomes New Global Forum to Tackle Root Causes of Overcapacity*, December 16, 2016, http://europa.eu/rapid/press-release_IP-16-4435_en.pdf.

[77] U.S. Department of the Treasury, 2016 U.S.-China Strategic and Economic Dialogue U.S.-Fact Sheet, June 7, 2016, https://www.treasury.gov/press-center/press-releases/Pages/jl0485.aspx.

[78] Global Forum on Excess Steel Capacity, Ministerial Report, September 20, 2018, https://www.g20.org/sites/default/files/gfsec_ministerial_report_2018.pdf.

[79] The U.S. Trade Representative, "USTR Statement on Meeting of the Global Forum on Steel Excess Capacity," USTR Press Releases, September 2018.

government intervention, subsidization, and other market-distorting practices, among other factors.[80] As noted, the U.S. Aluminum Association and some of its international counterparts seek to establish a global forum to address aluminum excess capacity.

The Trump Administration's Section 232 actions have led multiple U.S. trading partners, such as the EU, the UK, and Canada, to initiate their own safeguard investigations and quota restrictions to prevent dumping of steel and aluminum exports and protect domestic industries. Unlike the OECD efforts, the individual country safeguard actions are uncoordinated.

In addition to the Section 232 action, the Trump Administration is pursuing joint action on industrial overcapacity in other forums. The USTR, Ambassador Lighthizer, met with his EU and Japanese counterparts in May 2018, and the three countries agreed to concrete steps to address "nonmarket-oriented policies and practices that lead to severe overcapacity, create unfair competitive conditions for our workers and businesses, hinder the development and use of innovative technologies, and undermine the proper functioning of international trade."[81] The ministers agreed to work toward negotiation of new international rules on subsidies and state-owned enterprises and improved compliance with WTO transparency commitments.[82] The parties also agreed to cooperate on their concerns with third parties' technology transfer policies and practices[83] and issued a joint statement containing a list of factors that identify if market conditions for competition exist.[84] The parties have met multiple times and continue to work together, aiming to identify signals for nonmarket policies, enhance information sharing, and work with third parties to ensure market economy conditions exist and discuss potential new rules and means of enforcement.[85] In addition, in November 2018, the United States, the EU, Japan, Argentina, and Costa Rica put forward a joint proposal in the WTO to increase transparency, proposing incentives for compliance or penalties for noncompliance with WTO notification reporting requirements regarding subsidies.[86] U.S. unilateral tariff actions, however, may limit other countries' willingness to participate in multilateral forums.

# Policy and Economic Issues

Section 232 tariffs on steel and aluminum imports into the United States raise a number of issues for Congress. The economic repercussions of U.S. and foreign actions may be felt not only by domestic steel and aluminum producers, but by downstream manufacturers or other industries targeted for retaliation, and consumers. The response by other countries can have implications for the U.S. economy and multilateral world trading system. Also, other countries may be hesitant in the future to cooperate with the United States to address broader global issues, including steel and aluminum overcapacity, if their exports are subject to U.S. tariffs.

---

[80] The Aluminum Association, *Aluminum Excess Capacity: Time to Act*, June 10, 2018, https://www.aluminum.org/Timeforaction.

[81] U.S. Trade Representative, "Joint Statement on Trilateral Meeting of the Trade Ministers of the United States, Japan, and the European Union," May 2018.

[82] Ibid, Annex Statement 1, EU-Japan-US scoping paper to define the basis for the development of stronger rules on industrial subsidies.

[83] Ibid, Annex Statement 2, Joint Statement on Technology Transfer Policies and Practices.

[84] Ibid, Annex Statement 3, Joint Statement on Market Oriented Conditions.

[85] U.S. Trade Representative, "Joint Statement on Trilateral Meeting of the Trade Ministers of the United States, Japan, and the European Union," September 2018.

[86] "Procedures to Enhance Transparency and Strengthen Notification Requirements Under WTO Agreements," JOB/GC/204, November 1, 2018.

U.S. trading partners' responses to Section 232 actions have varied based on the country's relationship with the United States. Some countries are pursuing direct negotiations, while keeping other countermeasures in reserve, and raising actions at the WTO (see below). Others have proposed or pursued retaliation with their own tariffs. Some companies have pursued litigation,[87] and may also seek alternative markets for their own products to avoid U.S. tariffs.

## Retaliation

Several major U.S. trading partners have proposed or are imposing retaliatory tariffs in in response to the U.S. actions (see **Figure 5** below).[88] In total, retaliatory tariffs are in effect on products accounting for approximately $23.2 billion of U.S. exports in 2018. The process of retaliation is complex given multiple layers of relevant international rules and the potential for unilateral action, which may or may not adhere to those existing rules. Both through agreements at the WTO and in bilateral and regional free trade agreements (FTAs), the United States and its trading partners have agreed to maintain certain tariff levels. Those same agreements include rules on potential responses, including formal dispute settlement procedures and in some cases commensurate tariffs, when one party increases its tariffs above agreed-upon limits.[89] In addition to the national security considerations the Trump Administration has cited as justification for its Section 232 actions, increased tariffs are permitted under these agreements, under specific circumstances, including for example, antidumping tariffs, countervailing duties, and safeguard tariffs.[90]

[87] *See, e.g.*, Am. Inst. for Int'l Steel, Inc. v. United States, No. 18-00152 (Ct. Int'l Trade filed June 27, 2018); Severstal Exp. GmbH v. United States, No. 18-00057 (Ct. Int'l Trade May 3, 2018) (order granting joint stipulation of dismissal).

[88] Products targeted by retaliatory tariffs were identified in countries' World Trade Organization notifications (China (G/L/1218, March 29, 2018); India (G/L/1237/Rev 1, June 13, 2018); EU (G/L/1237; May 18, 2018); Turkey (G/L/1242, May 21, 2018); Russia (G/L/1241, May 22, 2018), and in the notices published by Canada, Mexico, Russia, and Turkey on their own government websites. Canada: Department of Finance (Canada), "Countermeasures in Response to Unjustified Tariffs on Canadian steel and aluminum products," June 29, 2018, https://www.fin.gc.ca/access/tt-it/cacsap-cmpcaa-1-eng.asp; Mexico: Ministry of Finance (Mexico), *Diario Oficial de la Federacion*, June 5, 2018, http://www.dof.gob.mx/nota_detalle.php?codigo=5525036&fecha=05/06/2018; Russia: Russian Federation, "Approval of rates of import duties in respect to certain goods from the United States," Decision no. 788. July 6, 2018, http://www.pravo.fso.gov.ru/laws/acts/53/555656.html; Turkey: Government of Turkey, "American merchandise subject to additional import tariffs," Decision no. 21, Official Gazette of Turkey, August 14, 2018, http://www.resmigazete.gov.tr/eskiler/2018/08/20180815-6.pdf.

[89] Chad P. Bown, *Trump's Steel and Aluminum Tariffs: How WTO Retaliation Typically Works*, Peterson Institute for International Economics, March 5, 2018, https://piie.com/blogs/trade-investment-policy-watch/trumps-steel-and-aluminum-tariffs-how-wto-retaliation-typically.

[90] Antidumping duties are imposed when a domestic industry is materially injured, or threatened with material injury, by sales found to be at less than fair value in the U.S. market; countervailing duties are imposed when a domestic industry is materially injured, or threatened with material injury, as a result of sales in the U.S. market of products found to be subsidized by a foreign government or other public entities; and safeguards are provided in response to injury to a domestic industry from a sharp increase in imports. For more information, see CRS In Focus IF10786, *Safeguards: Section 201 of the Trade Act of 1974*, by Vivian C. Jones, and CRS In Focus IF10018, *Trade Remedies: Antidumping and Countervailing Duties*, by Vivian C. Jones.

**Figure 5. Retaliatory Actions by U.S. Trading Partners**

| | U.S. Export | Effective Date | (Tariff) | Top 5 U.S. Exports Affected by Retaliation | 2018 Trade |
|---|---|---|---|---|---|
| Canada | $12.05B | July 1, 2018 | (10-25%) | Steel, Aluminum, Sauces, Toilet Paper/Towels, Yachts | |
| Mexico | $3.52B | June 5, 2018* | (7-25%) | Pork, Steel, Food Preparations, Cheese/Curd, Apples/Pears | |
| E.U. | $2.91B | June 22, 2018 | (10-25%) | Steel, Whiskies, Beauty Products, Yachts, Motorcycles | |
| China | $2.52B | April 2, 2018 | (15-25%) | Offal, Steel, Nuts, Pork, Stone Fruits (cherries/peaches) | |
| Turkey | $1.77B | June 21, 2018** | (4-140%) | Coal, Petroleum Coke, Nuts, Kraft Paper, Polymers | |
| Russia | $430M | July 6, 2018*** | (25-40%) | Motor Vehicles (Goods Transport), Dozers/Heavy Equipment, Optical Fibers, Taps,Cocks,Valves, Forklift | |

**Source:** CRS analysis of Global Trade Atlas IHS Markit trade data. Retaliatory tariff lists sourced from WTO notifications and partner country notifications. See footnote footnote 88 for complete sourcing.

**Notes:** U.S. exports approximated by using partner country import data. U.S. Section 232 actions target steel and aluminum imports, and steel and aluminum are among the top exports facing retaliation by several U.S. trading partners as highlighted above.

(*) June 5, 2018, for the majority of products, with remaining effective July 5, 2018.

(**) Turkey announced on August 18, 2018, an increase in its retaliatory tariff rates, in response to the Trump Administration's decision to increase the U.S. tariffs on Turkish steel to 50%. It is unclear from the notice when these additional tariff rates went fully into effect.

(***) Russia published its list of retaliatory tariffs rates and products on July 6, 2018. The tariffs appear to have gone into effect within 30 days of the publication.

The retaliatory actions of U.S. trading partners to date have been notified to the WTO pursuant to the Agreement on Safeguards. These retaliatory notifications are in addition to ongoing WTO dispute settlement proceedings (see "WTO Cases "). FTA partner countries may also claim that the increase in U.S. tariff rates violates U.S. FTA commitments and seek recourse through those agreements. For example, Canada and Mexico, U.S. partners in NAFTA, claim that the U.S. actions violate commitments in both NAFTA and the WTO agreements. Canada initially announced its intent to launch a dispute under the NAFTA's dispute settlement provisions in addition to actions at the WTO, although it appears Canada has taken no such action to date.[91]

U.S. trading partners' retaliation to the Trump Administration's Section 232 tariff actions has magnified the effects of the Section 232 tariffs. From an economic perspective, retaliation increases the scope of industries affected by the tariffs. U.S. agriculture exports, for example, are among the largest categories of U.S. exports targeted for retaliation, which may have contributed

[91] Government of Canada, "Address by the Honourable Chrystia Freeland, Minister of Foreign Affairs, on Steel and Aluminum Tariffs Imposed by the United States," May 31, 2018, https://www.canada.ca/en/global-affairs/news/2018/05/address-by-the-honourable-chrystia-freeland-minister-of-foreign-affairs-on-steel-and-aluminum-tariffs-imposed-by-the-united-states.html.

to reduced sales of certain U.S. farm products.[92] Given the scale of U.S. motor vehicle and parts imports, if the Trump Administration moves forward with Section 232 tariffs on that sector and U.S. trading partners respond with retaliation of a similar magnitude, it could have significant negative effects on U.S. exporters. For example, the United States imported more than $50 billion of motor vehicles and parts from the EU in 2018,[93] and the EU has announced it has prepared potential retaliatory tariffs on a commensurate value of U.S. exports.[94]

Retaliatory actions may also heighten concerns over the potential strain the Section 232 tariffs place on the international trading system. Many U.S. trading partners view the Section 232 actions as protectionist and in violation of U.S. commitments at the WTO and in U.S. FTAs, while the Trump Administration views the actions within its rights under those same commitments.[95] Furthermore, the Trump Administration argues that retaliation to its Section 232 tariffs, which U.S. trading partners have imposed under WTO safeguard commitments, violates WTO rules because it has imposed Section 232 tariffs pursuant to WTO national security exceptions. If the dispute settlement process in those agreements cannot satisfactorily resolve this conflict, it could lead to further unilateral actions and increasing retaliation.

## Domestic Court Challenges

The President's actions under Section 232 have resulted in legal challenges in the U.S. domestic court system. Specifically, the Section 232 actions on steel and aluminum have been challenged in cases before the U.S. Court of International Trade (CIT). In one case, Severstal Export Gmbh, a U.S. subsidiary of a Russian steel producer, sought a preliminary injunction from the United States Court of International Trade to prevent the United States from collecting the import tariffs on certain steel products.[96] The company and its Swiss affiliate argued that the President acted outside of the authority that Congress had delegated to him because the tariffs were not truly imposed for national security purposes.[97] The court denied the motion, determining that the plaintiffs were unlikely to prevail on the merits of their challenge.[98] According to the case docket, the parties agreed to dismiss the case in May 2018.

In another case, which was heard by a three-judge panel of the court, the American Institute for International Steel (AIIS), a trade association, challenged the constitutionality of Congress's delegation of authority to the President under Section 232.[99] The plaintiffs in the case argued that "Congress created an unconstitutional regime in section 232, in which there are essentially no limits or guidelines on the trigger or the remedies available to the President, and no alternative

[92] For more information, see CRS Report R45448, *Profiles and Effects of Retaliatory Tariffs on U.S. Agricultural Exports*, by Jenny Hopkinson.

[93] U.S. Census Bureau and Bureau of Economic Analysis, "FT-900", March 6, 2019, exhibit 18, https://www.census.gov/foreign-trade/Press-Release/current_press_release/exh18.pdf.

[94] "EU Trade Chief Threatens Retaliation Against U.S. Car Tariffs," *Financial Times*, November 14, 2018.

[95] For example, see China, "United States – Certain Measures on Steel and Aluminum Products Request for Consultations by China," WTO WT/DS544/1, April 9, 2018; and United States, "Certain Measures on Steel and Aluminum Products," WTO WT/DS544/2, April 17, 2018.

[96] *See* Order Denying Motion for Preliminary Injunction at 1-5, Severstal Export GMBH v. United States, No. 18-00057, 2018 WL 1705298 (Ct. of Int'l Trade April 5, 2018).

[97] *See id.*

[98] *See id.* at 24-25.

[99] Complaint at 1, Am. Inst. for Int'l Steel, Inc. v. United States, No. 18-00152 (Ct. Int'l Trade June 27, 2018).

protections to assure that the President stays within the law, instead of making the law himself."[100]

On March 25, 2019, the court issued an opinion rejecting the plaintiffs' arguments that Congress delegated too much of its legislative power to the President in Section 232, in violation of the separation of powers established in the Constitution.[101] In granting the United States' motion for judgment on the pleadings, the court held that it was bound by a 1976 Supreme Court precedent determining that Section 232 did not amount to an unconstitutional delegation because it established an "intelligible principle" to guide presidential action.[102]

One member of the three-judge panel, Judge Katzmann, wrote separately to express his significant concerns about the ruling without openly dissenting.[103] Katzmann wrote that he was bound to follow Supreme Court precedent and uphold the delegation but questioned whether the nondelegation doctrine retained any significant meaning if a delegation as broad as that in Section 232 was permissible.[104] The case is currently under appeal.

Most recently, U.S. importers of Turkish steel have initiated a case arguing that the President's increase of the Section 232 steel tariffs from 25% to 50% on U.S. imports from Turkey did not have a sufficient national security rationale, did not follow statutory procedural mandates, and violates the plaintiffs' Fifth Amendment Due Process rights because the action "creates an arbitrary distinction between importers of steel products from Turkey and importers of steel products from all other sources."[105] The case remains pending before the CIT.

## WTO Cases

The President's imposition of tariffs on certain imports of steel and aluminum products,[106] as well as Commerce's exemption of certain WTO members' products from such tariffs, may also have implications for the United States under WTO agreements. As an example, on April 9, 2018, China took the first step in challenging the executive branch's actions as violating U.S. obligations under the WTO agreements (particularly the Agreement on Safeguards) by requesting consultations with the United States.[107] Under WTO dispute settlement rules, members must first attempt to settle their disputes through consultations. If these fail, the member initiating a dispute may request the establishment of a dispute settlement panel composed of trade experts to

[100] Memorandum in Support of Plaintiffs' Motion for Summary Judgment at 3–4, Am. Inst. for Int'l Steel, Inc. v. United States, No. 18-00152 (July 19, 2018).

[101] Am. Instit. for Int'l Steel, Inc. v. United States, No. 18-00152, slip op. at 15 (Ct. Int'l Trade March 25, 2019).

[102] *Id.* at 6-7 (citing Fed. Energy Admin. v. Algonquin SNG Inc., 426 U.S. 548, 559-60 (1976)).

[103] *Algonquin,* slip op. at 15 (Katzmann, J., dubitante).

[104] *Id.* at 28.

[105] Complaint at 1-3, MedTrade Inc. v. United States, No.19-00009 (Ct. Int'l Trade Jan. 17, 2019).

[106] For legal background on the tariff measures, see CRS Legal Sidebar LSB10097, *UPDATE: Threats to National Security Foiled? A Wrap Up of New Tariffs on Steel and Aluminum*, by Brandon J. Murrill.

[107] Request for Consultations by China, *U.S.—Certain Measures on Steel and Aluminum Products*, WT/DS/544/1 (April 9, 2018) (hereinafter, Request for Consultations). This report does not examine potential implications under other international agreements to which the United States is a party, such as other U.S. free trade agreements. Notably, the executive branch's actions are also subject to legal challenge in U.S. courts. On April 5, 2018, the United States Court of International Trade denied a motion for a preliminary injunction that sought to prevent the United States from collecting the import tariffs on certain steel products until the court ruled upon legal challenges to the tariffs. Order Denying Motion for Preliminary Injunction at 1-4, Severstal Export GMBH v. United States, No. 18-00057, 2018 WL 1705298 (Ct. of Int'l Trade April 5, 2018). The motion was made by a Swiss company and its U.S. affiliate, both wholly owned subsidiaries of a Russian steel producer. *Id.*

determine whether a country has violated WTO rules.[108] In October, China requested the formation of a panel.[109] Other WTO members have requested consultations with the United States, or joined existing requests, and panels have been composed to hear the cases (see **Figure 6**).

In its request, China alleged that the U.S. tariff measures and exemptions are contrary to U.S. obligations under several provisions of the GATT, the foundational WTO agreement that sets forth binding international rules on international trade in goods.[110] In particular, China alleged that the measure violates GATT Article II, which generally prohibits members from imposing duties on imported goods in excess of upper limits to which they agreed in their Schedules of Concessions and Commitments.[111] It further alleged that Commerce's granting of exemptions from the import tariffs to some WTO member countries, but not to China, violates GATT Article I, which obligates the United States to treat China's goods no less favorably than the goods of other WTO members (i.e., most-favored-nation treatment).[112] China also maintained that the Section 232 tariff measures are "in substance" a safeguards measure intended to alleviate injury to a domestic industry from increased quantities of imported steel that competes with domestic steel, but that the United States did not make the proper findings and follow the proper procedures for imposing such a measure as required by the GATT and WTO Safeguards Agreement.[113]

[108] WTO Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU) arts. 3-6. A WTO Member may appeal a panel's report to the WTO Appellate Body. *Id.* art. 17(1). The text of the DSU and other WTO agreements discussed in this report are available at https://www.wto.org/english/docs_e/legal_e/final_e.htm.

[109] Items proposed for consideration at the next meeting of the Dispute Settlement Body, WTO/AIR/DSB/70, October 19, 2018.

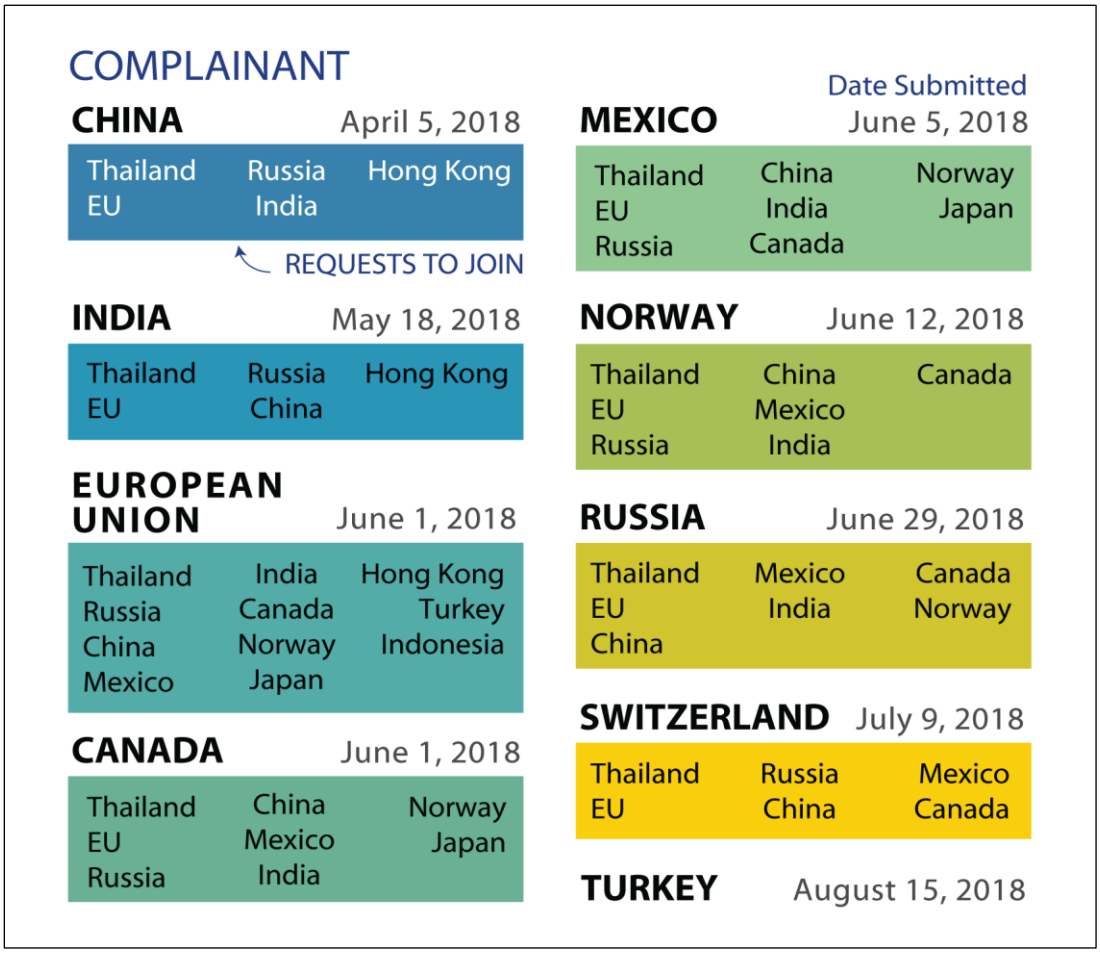
[110] General Agreement on Tariffs and Trade 1994 (GATT) art. II.

[111] GATT Article II limits the charges that WTO Members can impose in connection with the import of products. It provides that a WTO Member shall not impose "ordinary customs duties" in excess of the bound tariff rates set forth in that Member's Schedule of Concessions. It also bars "other duties and charges of any kind imposed in connection with the importation" of products in excess of charges levied on the date of the tariff concession. A Member's schedule is a list of specific commitments as to tariffs and other trade barriers. *Goods Schedules: Members' Commitments*, WORLD TRADE ORG, https://www.wto.org/english/tratop_e/schedules_e/goods_schedules_e.htm. The GATT provides limited ways in which WTO Members may modify the bound tariff rates. *E.g.*, GATT art. XXVIII (establishing procedures for negotiations among WTO Members on changes to a Member's bound tariff rates in its schedules).

[112] Request for Consultations at 2; GATT art. I:1 ("With respect to customs duties and charges of any kind imposed on or in connection with importation or exportation . . . , and with respect to the method of levying such duties and charges, and with respect to all rules and formalities in connection with importation and exportation . . . any advantage, favour, privilege or immunity granted by any contracting party to any product originating in or destined for any other country shall be accorded immediately and unconditionally to the like product originating in or destined for the territories of all other contracting parties."). China also alleged that the measures violate GATT Article X:3(a), arguing that the United States "failed to administer its laws, regulations, decisions, and rulings in relation to the measures at issue in a uniform, impartial and reasonable manner."

[113] Request for Consultations at 2.

**Figure 6. WTO Cases Regarding Section 232 Actions**




**Source:** CRS based on WTO filings.

The United States has invoked the so-called national security exception in GATT Article XXI in defense of the steel and aluminum tariffs. GATT Article XXI states, in relevant part, that the GATT[114] will not

> be construed . . . (b) to prevent any [member country] from taking any action which it considers necessary for the protection of its essential security interests
>
> (i) relating to fissionable materials or the materials from which they are derived; (ii) relating to the traffic in arms, ammunition and implements of war and to such traffic in other goods and materials as is carried on directly or indirectly for the purpose of supplying a military establishment; [or]
>
> (iii) taken in time of war or other emergency in international relations. . .

While some analysts argue that a WTO panel may evaluate whether a WTO member's use of the national security exception falls within one of the three provisions listed above, historically, the

[114] As noted, China has also alleged that the United States' imposition of steel and aluminum tariffs violated the WTO Safeguards Agreement, which lacks an exception for national security interests. This report does not analyze whether the United States could invoke the GATT's national security exception to justify a violation of the Safeguards Agreement.

United States has taken the position that this exception is self-judging—or, in other words, once a WTO member has invoked the exception to justify a measure potentially inconsistent with its WTO obligations, a WTO panel may not proceed to the merits of the dispute and cannot evaluate whether the WTO member's use of the exception is proper.[115] Though this exception has been invoked several times throughout the history of the WTO and its predecessor agreement, the GATT 1947, it has yet to be interpreted by a WTO dispute settlement panel.[116] Accordingly, there is little guidance as to (1) whether a WTO panel would decide, as a threshold matter, that it had the authority to evaluate whether the United States' invocation of the exception was proper; and (2) how a panel might apply the national security exception, if invoked, in any dispute before the WTO involving the new steel and aluminum tariffs.[117] In the past, however, WTO members have expressed concern that overuse of the exception will undermine the world trading system because countries might enact a multitude of protectionist measures under the guise of national security.[118]

If one of the WTO panels renders an adverse decision against the United States, the United States would be expected to remove the tariffs, generally within a reasonable period of time, or face the possibility of paying compensation to the complaining member or being subject to countermeasures allowed under the rules.[119] Such countermeasures might include the complaining member imposing higher duties on imports of selected products from the United States.[120] However, China has already begun imposing its own duties on selected U.S. exports without awaiting the outcome of a dispute settlement proceeding,[121] perhaps because it often takes years before the WTO's Dispute Settlement Body authorizes a prevailing WTO member to retaliate.[122]

---

[115] *See, e.g.,* Dispute Settlement Body, Minutes of Meeting Held in the Centre William Rappard on October 23, 2017, ¶ 4.9, WT/DSB/M/403 (February 20, 2018) (noting that a U.S. representative, in commenting on the United Arab Emirates' invocation of national security exceptions in a dispute with Qatar, had maintained that national security issues "were political and were not matters appropriate for adjudication in the WTO dispute settlement system."); GATT Panel Report, *United States—Trade Measures Affecting Nicaragua,* ¶ 1.2, L/6053 (October 13, 1986) (noting the United States' argument that the national security exception in the GATT "left it to each [GATT party] to judge what actions it considered necessary for the protection of its essential security interests" and that "[a] panel could therefore not address the validity of, nor the motivation for, the United States' invocation of [the exception]").

[116] *See, e.g.,* sources cited *supra* note 70.

[117] For a legal analysis of the GATT"s national security exception, see CRS Legal Sidebar LSB10223, *The "National Security Exception" and the World Trade Organization*, by Brandon J. Murrill.

[118] *See, e.g.,* WTO Council for Trade in Goods, *National Security Cited in Two Trade Concerns at Goods Council Meeting*, WORLD TRADE ORG., https://www.wto.org/english/news_e/news17_e/good_10jul17_e.htm (June 30, 2017) (discussing potential systemic risks to the world trading system from overuse of the national security exception).

[119] DSU arts. 21-22. Members whose measures are deemed inconsistent with its WTO obligations and unjustified under one of the GATT exceptions are expected to implement the panel and/or Appellate Body's report. *Id.* art. 21.3. That is, the defending Member must withdraw, modify, or replace its inconsistent measures. *See id.* If a disagreement arises as to whether the defending Member has, in fact, implemented the report, a WTO panel may be convened to hear the dispute over compliance. *Id.* art. 21.5. The WTO Appellate Body hears appeals of these compliance panel reports. *Id.* art. 17.1.

[120] *See id.* art. 22.3. Ultimately, when a defending Member fails to implement a panel or Appellate Body report within the established compliance period, the prevailing Member may request that the defending Member negotiate a compensation agreement. *Id.* art. 22.2. If such negotiations are not requested or if an agreement is not reached, the prevailing Member may also request authorization to impose certain trade sanctions against the noncomplying Member. *Id.* art. 22.2-22.3. Specifically, the WTO may authorize the prevailing Member to suspend tariff concessions or other trade obligations that it otherwise owes the noncomplying Member under a WTO agreement. *Id.*

[121] Charles Hutzler, *China Retaliates Against Trump Tariffs with Duties on American Meat and Fruit*, WALL STREET J. (April 1, 2018), https://www.wsj.com/articles/china-retaliates-with-new-tariffs-on-u-s-meat-and-other-products-1522618533.

[122] *Evaluation of the WTO Dispute Settlement System: Results to Date*, WORLD TRADE ORG., https://www.wto.org/english/tratop_e/dispu_e/disp_settlement_cbt_e/c12s3p1_e.htm ("[D]espite the deadlines, a full dispute settlement

In turn, the United States has argued that unilateral imposition of tariffs in response to the U.S. Section 232 measures cannot be justified under WTO rules.[123] On July 16, 2018, the United States filed its own WTO complaints over the retaliatory tariffs imposed by five countries (Canada, China, EU, Mexico, and Turkey) in response to U.S. actions, and in late August filed a similar case against Russia.[124] Dispute settlement panels have been composed to hear these cases.

## Additional Section 232 Investigations

### Automobiles and Parts

As mentioned, subsequent to the steel and aluminum investigations, the Trump Administration initiated a third Section 232 investigation into the imports of automobiles, including SUVs, vans and light trucks, and automotive parts in May 2018. Commerce held a public hearing to inform the investigation and requested comments from stakeholders on the impact of these imports on national security, identifying a broad set of factors related to national defense and the national economy for consideration.[125] As many foreign auto manufacturers have established facilities in the United States, Commerce specifically requested information on how the impact may differ when "U.S. production by majority U.S.-owned firms is considered separately from U.S. production by majority foreign-owned firms."

The value of U.S. imports potentially covered under the new investigation is significantly greater than that of steel and aluminum imports. With complex global supply chains, industry dynamics such as the existence of foreign-owned auto manufacturing facilities in the United States, and the potential for further retaliation by trading partners if tariffs are imposed as a result of the investigation, the economic consequences could be substantial.[126] According to Ford Motor Co.'s executive vice president and president of global operations, Joe Hinrichs, "the auto industry is a global business. The benefits of scale and global reach are important ... The big companies that we compete against—Toyota, Volkswagen, General Motors, Nissan, Hyundai, Kia—are all global in nature because we realize the benefits of sharing the engineering, the platforms and scale, and our supply base."[127]

---

procedure still takes a considerable amount of time, during which the complainant suffers continued economic harm if the challenged measure is indeed (WTO)-inconsistent. No provisional measures (interim relief) are available to protect the economic and trade interests of the successful complainant during the dispute settlement procedure. Moreover, even after prevailing in dispute settlement, a successful complainant will receive no compensation for the harm suffered during the time given to the respondent to implement the ruling.").

[123] See, for example, Committee on Safeguards, Imposition of a Safeguard Measure by the United States on Imports of Aluminum and Steel: Communication from the United States in Response to China's Requests Circulated on 26 March 2018, 1-2, G/SG/161/Suppl.1 (April 4, 2018) ("Because the actions under the Steel and Aluminum Proclamations are not safeguard measures, the United States considers that Article 8.2 of the *Agreement on Safeguards* does not justify China's suspension of concessions or other obligations. China has asserted no other justification for its measures, and the United States is aware of none. Therefore, it appears that China's actions have no basis under WTO rules.").

[124] USTR, "United States Challenges Five WTO Members Imposing Illegal Tariffs Against U.S. Products," press release, July 2018, https://ustr.gov/about-us/policy-offices/press-office/press-releases/2018/july/united-states-challenges-five-wto.

[125] U.S. Department of Commerce, "Notice on Section 232 National Investigation of Imports of Automobiles and Automotive Parts," 83 *Federal Register* 24735-24737, May 30, 2018.

[126] To illustrate the complexity of auto negotiations, see CRS In Focus IF10835, *NAFTA Motor Vehicle Talks Reopen Old Trade Debate*, by Bill Canis.

[127] Doug Palmer, "Trump's Trade Moves Challenge Ford's Global Focus," *PoliticoPro*, June 20, 2018.

Some Members and auto industry representatives have spoken out in opposition to the new Section 232 investigation. The Driving American Jobs Coalition was created to oppose the potential tariffs and is comprised of a coalition of industry groups representing auto manufacturers, parts suppliers, auto dealers, parts distributors, retailers, and vehicle service providers.[128] Others view the investigation as a tactical move by the Administration to pressure trade negotiating partners as the President continues to threaten auto tariffs.[129] As mentioned, the EU has reportedly drafted a list of targets for retaliatory tariffs if the Administration moves forward with auto tariffs under Section 232.[130] Three groups have voiced support for at least limited measures to address auto imports: the United Automobile Workers, the United Steelworkers, and the Forging Industry Association.[131]

Commerce submitted the final Section 232 report to the President on February 17, 2019, but the report has not been publicly released.[132] Some Members have asked for the report to be made public, and the Cause of Action Institute sued Commerce to release the report after an unsuccessful Freedom of Information Act request.[133] As noted earlier, the President has 90 days to review the report and make his determination as to whether he agrees or not with the Commerce findings and/or recommendation. In advance of the report's release, Senate Finance Chairman Grassley publicly reiterated his opposition to potential tariffs on auto or auto part imports, stating "I hope the president will heed my call to forgo the auto tariffs and focus on opening new markets.... In short, raising tariffs on cars and parts would be a huge tax on consumers who buy or service their cars, whether they are imported or domestically produced."[134] Proposed legislation in the House and Senate would require a report by the U.S. International Trade Commission (USITC) on the economic importance of domestic automotive manufacturing before the President could act (S. 121, H.R. 1710).

## Uranium

Unlike the self-initiated investigations into steel, aluminum, and auto imports, the Trump Administration opened two additional Section 232 investigations in response to industry petitions. In July 2018, Commerce launched a Section 232 investigation into uranium ore and product imports in response to a petition from two U.S. mining companies and after consulting with industry and government officials.[135] The petitioners, the uranium-mining companies Energy Fuels and Ur-Energy, requested limiting imports to guarantee about 25% of the U.S. nuclear

[128] GT Staff, "Coalition Launches Campaign to Oppose Section 232 Auto Tariffs," GlobalTrade Magazine, September 4, 2018, http://www.globaltrademag.com/global-trade-daily/coalition-launches-campaign-to-oppose-section-232-auto-tariffs.

[129] Jakob Hanke, et al, "Juncker and Trump's transatlantic trade truce falters," *Politico*, October 17, 2018.

[130] Jonathan Stearns and Irina Vilcu, "EU Ready to Target Caterpillar, Xerox If Trump Hits Cars, Official Says," *Bloomberg*, February 22, 2019.

[131] Doug Palmer and Megan Cassella, "U.S. allies warn of retaliation if Trump imposes auto tariffs," *PoliticoPro*, July 19, 2018.

[132] U.S. Department of Commerce, "Statement from the Department of Commerce on Submission of Automobiles and Automobile Parts Section 232 Report to the President," Press Releases, February 17, 2019.

[133] Eliana Johnson and Andrew Restuccia, "Trump administration withholds report justifying 'shock' auto tariffs," *PoliticoPro*, March 20, 2019; Doug Palmer, "Watchdog group sues for release of Commerce auto tariff report," *PoliticoPro*, March 21, 2019.

[134] Doug Palmer, "Grassley urges Trump not to impose auto tariffs," *PoliticoPro*, February 14, 2019.

[135] Bureau of Industry and Security, Office of Technology Evaluation, U.S. Department of Commerce, "Notice of Request for Public Comments on Section 232 National Security Investigation of Imports of Uranium," 83 *Federal Register* 35204, July 25, 2018.

market for U.S. uranium producers, and "Buy American" provisions for government purchases of uranium to bolster the industry.[136]

Uranium mining is a relatively small-scale industry in the United States, accounting for 1.6% of global production of uranium from mines. At the end of 2017, Energy Fuels was the only remaining operator of a uranium mine in the United States. The Energy Information Administration (EIA) reports U.S. production at U.S. mines shrank to 1.2 million pounds, down 55% from 2016, and U.S. production in 2017 was at its lowest annual level since 2004. EIA also reports annual drops since 2013 in shipments, employment, and expenditures in the U.S. uranium production industry.[137] Kazakhstan accounted for 39% of the world's production of uranium; Canada and Australia supplied roughly a third of the world's production in 2017.[138] China made up 3.2% of worldwide uranium production in 2017.

The House Natural Resources Subcommittee questioned the need for the investigation and requested documentation from the petitioners regarding their communication with the Administration.[139] The U.S. nuclear power industry opposes the investigation and claims that a uranium quota would lead to job losses in their industry.[140]

## Titanium Sponge

In March 2019, Commerce launched another Section 232 investigation in response to a petition from a U.S. titanium firm.[141] In explaining the investigation, the Commerce Secretary stated, "Titanium sponge has uses in a wide range of defense applications, from helicopter blades and tank armor to fighter jet airframes and engines."[142]

Titanium Metals Corporation (known as Timet) is currently the only producer of titanium sponge in the United States; USGS estimates that titanium sponge manufacturing employed 150 workers in 2018.[143] In 2015, there were three such producers.[144] For 2018, and the United States was 75% import reliant for titanium sponge.[145] In 2018, Japan was the biggest supplier of titanium sponge,

[136] Energy Fuels, "Energy Fuels and Ur-Energy Jointly File Section 232 Petition with U.S. Commerce Department to Investigate Effects of Uranium Imports on U.S. National Security," press release, January 16, 2018, http://www.energyfuels.com/news-pr/energy-fuels-ur-energy-jointly-file-section-232-petition-u-s-commerce-department-investigate-effects-uranium-imports-u-s-national-security/.

[137] Energy Information Administration, *2017 Domestic Uranium Production Report*, May 2018, https://www.eia.gov/uranium/production/annual/.

[138] World Nuclear Association, *World Uranium Mining Production*, March 2019, http://www.world-nuclear.org/information-library/nuclear-fuel-cycle/mining-of-uranium/world-uranium-mining-production.aspx.

[139] Letter from Chairman of Committee on Natural Resources and Chairman of Subcommittee on Energy and Mineral Resources to President and CEOs of Energy Fuels, Inc., and Ur-Energy, Inc., dated February 5, 2019.

[140] Ad Hoc Utilities Group, "Domestic Uranium Quotas Threaten America's Economy, Energy, and Security," https://www.ahuguranium.com/.

[141] Commerce Department, "Notice of Request for Public Comments on Section 232 National Security Investigation of Imports of Titanium Sponge," 84 *Federal Register* 8503, March 8, 2019.

[142] Commerce Department press release, March 2019, https://www.commerce.gov/news/press-releases/2019/03/us-department-commerce-initiates-section-232-investigation-titanium.

[143] USGS, *Titanium and Titanium Dioxide Mineral Commodity Summaries*, February 2019, https://minerals.usgs.gov/minerals/pubs/commodity/titanium/.

[144] USGS, *Titanium Minerals Yearbook*, March 2018, p. 79.7, https://minerals.usgs.gov/minerals/pubs/commodity/titanium/.

[145] USGS, *Titanium and Titanium Dioxide Mineral Commodity Summaries*, February 2019, https://minerals.usgs.gov/minerals/pubs/commodity/titanium.

accounting for more than 90% of sponge imports; Kazakhstan was the second-leading supplier to the United States, making up 6.5% of imported titanium sponge.[146] Although China was the world's largest producer of titanium sponge, producing 70,000 tons in 2018, it is not an important source of sponge imports for the United States.[147] Any Section 232 tariff would be added to the existing 15% ad valorem tariff on titanium sponge imports.

Unlike steel and aluminum imports, which have multiple countervailing and antidumping duties in place, there are no such duties in place for uranium or titanium sponge imports; however, there is a suspended investigation into Russian uranium imports.[148]

## Potential Economic Impact

The Section 232 tariffs affect various stakeholders in the U.S. economy, prompting reactions from several Members of Congress, some in support and others voicing concern. Congress has also held a number of hearings to examine the issue. For example, the tariffs and their effects on U.S. stakeholders were a focus of Members' questions during recent House Ways and Means and Senate Finance hearings on U.S. trade policy with USTR Robert Lighthizer.[149] In general, the tariffs are expected to benefit domestic steel and aluminum producers by restricting imports, thereby putting upward pressure on U.S. steel and aluminum prices and expanding production in those sectors, while potentially negatively affecting consumers and downstream domestic industries (e.g., manufacturing and construction) due to higher costs of input materials. In addition, retaliatory tariffs by other countries raise the price of U.S. exports, potentially leading to fewer sales of U.S. products abroad, magnifying the possible negative impact of the Section 232 tariffs.

Economic studies of the tariffs estimate varying potential aggregate outcomes, but generally suggest an overall modest negative effect on the U.S. economy of the tariffs imposed to date, which could increase considerably if the Administration proceeds with Section 232 tariffs on U.S. motor vehicles and parts. U.S. motor vehicle and parts imports totaled $373.7 billion in 2018, nearly eight times the value of U.S. steel and aluminum imports ($47.1 billion) subject to Section 232 tariffs.[150]

### Economic Dynamics of the Tariff Increase

Changes in tariffs affect economic activity directly by influencing the price of imported goods and indirectly through changes in exchange rates and real incomes. The extent of the price change and its impact on trade flows, employment, and production in the United States and abroad

[146] Global Trade Atlas, based on U.S. import statistics for 8108.20.0010, Titanium Sponge.

[147] USGS, *Titanium and Titanium Dioxide Mineral Commodity Summaries*, February 2019, https://minerals.usgs.gov/minerals/pubs/commodity/titanium/.

[148] http://ia.ita.doc.gov/agreements/index.html.

[149] In the 115th Congress, the House Ways and Means Committee held hearings examining the potential economic implications of the tariffs and the product exclusion process, and its Trade Subcommittee held a hearing on the effects on U.S. agriculture producers. The Senate Finance Committee also held a hearing with Commerce Secretary Ross to discuss the Administration's Section 232 investigations and the potential impacts of Section 232 auto tariffs. A webcast of the hearings and links to witness testimony are available at https://waysandmeans.house.gov/legislation/hearings and https://www.finance.senate.gov/hearings.

[150] For example, see Global Economics, "Global economic impacts of the Trump administration's proposed tariffs on automotive imports," August 22, 2018; Center for Automotive Research, "U.S. Consumer & Economic Impacts of U.S. Automotive Trade Policies," February 2019.

depend on resource constraints and how various economic actors (foreign producers of the goods subject to the tariffs, producers of domestic substitutes, producers in downstream industries, and consumers) respond as the effects of the increased tariffs reverberate throughout the economy. The following outcomes are generally expected at the level of individual firms and consumers:

- **The price of the imported goods subject to the tariff is likely to increase.** The magnitude of the price increase will depend on a number of factors, including the extent to which foreign producers lower their own prices and absorb a portion of the tariff increase. Known as the tariff "pass-through" rate, recent economic studies find that the tariffs have been nearly completely passed through to downstream industries and consumers with little effect on foreign export prices.[151]

  Anecdotal reports suggest U.S. firms are paying increased prices for steel and aluminum purchased from abroad. For example, CP Industries, a maker of steel cylinders based in McKeesport, PA, is paying tariffs on imports of certain Chinese steel pipes it asserts cannot be produced in sufficient quantity in the United States to meet its demands.[152] The company claims this raises the costs of its production by roughly 10%. The higher input costs potentially give foreign competitors an advantage in the U.S. market and abroad.
- **Demand for the imported goods facing the tariffs is likely to decrease, while demand for those goods produced domestically is likely to increase.** Consumers and downstream firms' sensitivity to the price increase (their price elasticity of demand) will depend in large part on the degree to which the steel and aluminum products produced domestically are sufficient substitutes for the products facing the tariffs.

  In 2018, the year the tariffs went into effect, U.S. imports of steel and aluminum subject to higher tariffs decreased by more than 10% in quantity terms, although both increased slightly in value terms (Figure 3). Annual domestic U.S. steel production meanwhile increased by 6% from 2017 to 2018,[153] while primary U.S. aluminum production increased by 18% (January-November, latest data available).[154]
- **The price and output of goods subject to the tariff produced domestically are likely to increase.** As consumers of the products facing the tariffs shift their demand to lower- or zero-tariff substitutes, domestic producers are likely to respond with a combination of increased output and prices. Resource constraints that may limit or slow an expansion of output could cause prices to increase more rapidly. The low U.S. unemployment rate suggests such constraints may include

[151] Mary Amiti, Stephen J. Redding, and David Weinstein, *The Impact of the 2018 Trade War on U.S. Prices and Welfare*, Centre for Economic Policy Research, Discussion Paper DP13564, March 1, 2019, https://www.princeton.edu/~reddings/papers/CEPR-DP13564.pdf.

[152] Eduardo Porter, "'How Long Can We Last?' Trump's Tariffs Hit Home in the U.S.," *New York Times*, April 10, 2018.

[153] Department of Commerce, International Trade Administration, *Steel Industry Executive Summary: February 2019*, March 2019, https://enforcement.trade.gov/steel/license/documents/execsumm.pdf.

[154] U.S. Geological Survey, *Mineral Industry Surveys: Aluminum November 2018*, February 2019, https://minerals.usgs.gov/minerals/pubs/commodity/aluminum/mis-201811-alumi.pdf.

frictions in shifting labor from other domestic industries into steel and aluminum production.[155] In addition to reacting to higher-cost production and supply constraints, domestic steel and aluminum producers may also increase prices simply as a strategic response to the higher prices charged by their foreign competitors subject to the tariffs.[156]

In an anticipation of higher domestic demand and the ability to charge higher prices on U.S. steel and aluminum, some producers have announced investment and production increases. For example, U.S. Steel Corporation announced plans to increase capacity through a number of new or expanded facilities, including most recently a new furnace near Birmingham, AL.[157] Similarly, three U.S. aluminum smelters are being restarted, including a Century Aluminum facility in Kentucky.[158] Broad indices of U.S. steel and aluminum producer prices were up 14% and 5% between 2017 and 2018, respectively.[159]

- **Input costs for downstream domestic producers are likely to increase.** As prices likely rise in the United States for the goods subject to the tariffs, domestic industries that use steel and aluminum in their products ("downstream" industries, such as auto manufacturers and oil producers) face higher input costs. Higher input costs for downstream domestic producers are likely to lead to some combination of lower profits for producers and higher prices for consumers, which in turn could dampen demand for downstream products and result in a reduction of output in these sectors, and possibly employment declines. For example, Ford CEO James Hacket suggested the metal tariffs are expected to cost the auto manufacturer roughly $1 billion.[160]
- **U.S. exports from the industries subject to retaliatory tariffs are likely to decline.** Six U.S. trading partners (Canada, Mexico, EU, China, Turkey, and Russia) have imposed retaliatory tariffs in response to U.S. Section 232 tariffs affecting approximately $23 billion of U.S. exports in 2018, including many U.S. agricultural goods such as pork and dairy products. The retaliatory tariffs may have led to decreased demand for U.S. exports and given U.S. exporters an incentive to manufacture abroad to avoid the tariffs. For example, according to U.S. Department of Agriculture, Chinese tariffs on soybeans caused overall U.S. agricultural and food exports to China to decline in 2018, and China increased its purchases of soybeans from Brazil and elsewhere.[161]

  Canada, Mexico, and the EU account for 80% of U.S. exports subject to

[155] Dom Yanchunas, "U.S. Line Pipe Prices Jump on Section 232 Supply Fears," *Metal Bulletin*, May 29, 2018.

[156] Mary Amiti, Sebastian Heise, and Noah Kwicklis, "Will New Steel Tariffs Protect U.S. Jobs?," Federal Reserve Bank of New York, *Liberty Street Economics (blog)*, April 19, 2018, http://libertystreeteconomics.newyorkfed.org/2018/04/will-new-steel-tariffs-protect-us-jobs.html.

[157] Bob Tita, "U.S. Steel to Expand Under Tariffs," *Wall Street Journal*, February 11, 2019.

[158] Alan Rappeport, "Trump's Tariffs are Paying Off for Century Aluminum," *New York Times*, August 20, 2018.

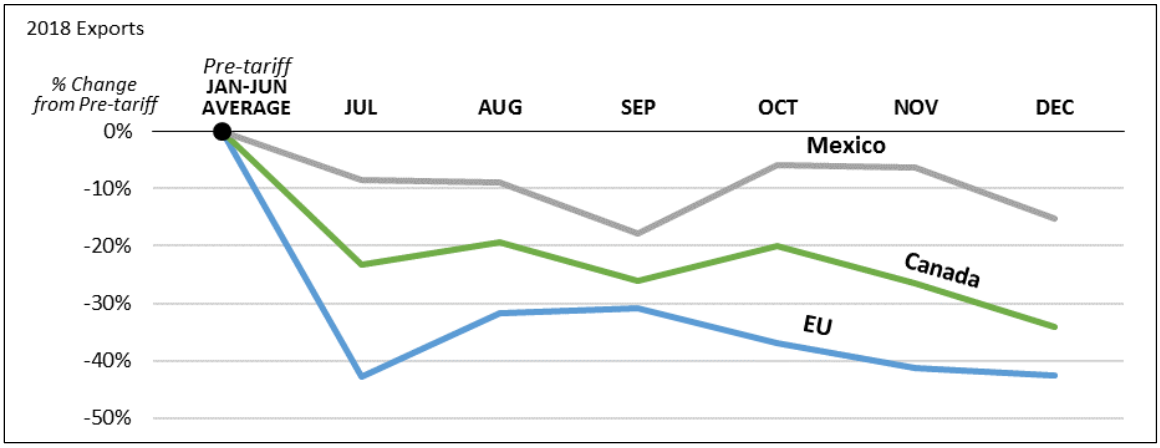
[159] BLS producer price indices for iron, steel, and ferroalloy manufacturing, series ID PCU3311, and alumina refining and primary aluminum production, series ID PCU33131331313 (accessed March 20, 2019).

[160] "Trump Metal Tariffs will Cost Ford $1 Billion in Profits, CEO Says," *Reuters*, September 26, 2018, Business News.

[161] For more information, see CRS In Focus IF11085, *China's Retaliatory Tariffs on U.S. Agricultural Products*, by Jenny Hopkinson.

retaliatory tariffs in response to Section 232 actions. Since the retaliatory tariffs took effect, U.S. exports to these trading partners have decreased on average by 25%, 10%, and 38%, respectively. Facing retaliatory tariffs on U.S. motorcycle exports to the EU, Harley Davidson has announced its intent to shift some of its production out of the United States in order to remain competitive in the EU market.[162]

**Figure 7. U.S. Exports to EU, Canada, and Mexico subject to Section 232 Retaliation**




**Source:** CRS analysis with data from the U.S. Census Bureau.

**Note:** Exports subject to retaliation at 6-digit HTS classification.

Aggregating these microeconomic effects, tariffs also have the potential to affect macroeconomic variables, although these impacts may be limited in the case of the Section 232 tariffs, given their focus on two specific commodities with potential exemptions, relative to the size of the U.S. economy. With regard to the value of the U.S. dollar, as demand for foreign goods potentially falls in response to the tariffs, U.S. demand for foreign currency may also fall, putting upward pressure on the relative exchange value of the dollar.[163] This in turn would reduce demand for U.S. exports and increase demand for foreign imports, partly offsetting the effects of the tariffs. Tariffs may also affect national consumption patterns, depending on how the shift to higher-cost domestic substitutes affects consumers' discretionary income and therefore aggregate demand. Finally, given their ad hoc nature, these tariffs, in particular, are also likely to increase uncertainty in the U.S. business environment, potentially placing a drag on investment.

## Assessing the Overall Economic Impact

From a global standpoint, tariff increases on steel and aluminum are likely to result in an unambiguous welfare loss due to what most economists consider is a misallocation of resources caused by shifting production from lower-cost to higher-cost producers. On the other hand, some see the Administration's trade actions as addressing long-standing issues of fairness that are intended to provide U.S. producers with a more level playing field. Looking solely at the

[162] "U.S. Trade War with Europe Revs Up as Harley-Davidson Shifts Production," *Financial Times*, June 25, 2018.

[163] A trade-weighted index of the exchange value of the U.S. dollar against the currencies of a broad group of major trading partners increased by about 10% throughout 2018. Section 232 tariffs may have had a limited effect on this fluctuation, however, as U.S. Section 301 tariffs have affected a much larger share of U.S. trade, and a number of other factors influence exchange rates. Board of Governors of the Federal Reserve System (US), Trade Weighted U.S. Dollar Index: Broad [TWEXB], retrieved from FRED, Federal Reserve Bank of St. Louis; https://fred.stlouisfed.org/series/TWEXB, January 17, 2019.

domestic economy, the net welfare effect is unclear, but also likely negative. Generally, economic models would suggest the negative impact of higher prices on consumers and industries using the imported goods is likely to outweigh the benefit of higher profits and expanded production in the import-competing industry and the additional government revenue generated by the tariff. It is theoretically plausible to generate an overall positive welfare effect for the domestic economy if the foreign producers absorb a large enough portion of the tariff increase. Given the current excess capacity and intense price competition in the global steel and aluminum industries, however, this level of tariff absorption by foreign firms seems unlikely. Moreover, retaliation by foreign governments would erode this welfare gain.

The direct economic effects of the Section 232 tariffs on steel and aluminum may be limited due to the relatively small share of economic activity directly affected. In 2018, U.S. steel and aluminum imports were $29.5 billion and $17.6 billion, respectively, roughly 2% of all U.S. imports. Various stakeholder groups have prepared quantitative estimates of the costs and benefits across the economy. Specific estimates from these studies should be interpreted with caution given their sensitivity to modeling assumptions and techniques, but generally they suggest a small negative overall effect on U.S. gross domestic product (GDP) from the tariffs with employment shifts into the domestic steel and aluminum industries and away from other sectors in the economy.

**Studies Examining the Economic Effects of Recent Tariff Actions**

The Congressional Budget Office estimates that the tariffs imposed by the Trump Administration to date (including Section 301 tariffs, which affect nearly five times the level of U.S. imports as Section 232 tariffs) will result in GDP declines of 0.1% annually.[164] A study by the International Monetary Fund (IMF) comes to a largely similar conclusion, but further estimates that if the Administration goes forward with Section 232 tariffs on the auto industry and U.S. trade partners retaliate this negative effect could grow to approximately 0.6% annual GDP decline.[165] A more recent academic study, which also accounts for increased U.S. government revenue resulting from the tariffs, estimates a slightly more modest negative aggregate welfare effect of $7.8 billion annually or 0.04% of GDP.[166] For a more comprehensive listing of studies, see Table 2 in CRS Report R45529, *Trump Administration Tariff Actions: Frequently Asked Questions*, coordinated by Brock R. Williams.

# Issues for Congress

As Congress debates the Administration's Section 232 actions it may consider the following issues, many of which include potential legislative responses.

## Appropriate Delegation of Constitutional Authority

In enacting Section 232 of the Trade Expansion Act, Congress delegated aspects of its authority to regulate international commerce to the executive branch. Use of the statute to restrict imports does not require any formal approval by Congress or an affirmative finding by an independent agency, such as the USITC, granting the President broad discretion in applying this authority. Should Congress disapprove of the President's use of the statute, its current recourse is limited to passing new legislation or using informal tools to pressure the Administration (e.g., putting holds on presidential nominee confirmations in the Senate). Some Members and observers have

[164] Congressional Budget Office, *The Budget and Economic Outlook: 2019 to 2029*, January 2019, pp. 25-29.

[165] International Monetary Fund, *World Economic Outlook 2018: Challenges to Steady Growth*, October 9, 2018, pp. 33-35.

[166] Pablo D. Fajgelbaum, Pinelopi K. Goldberg, and Patrick J. Kennedy, et al., *The Return to Protectionism*, National Bureau of Economic Research, NBER Working Paper 25638, March 2019, https://www.nber.org/papers/w25638.

suggested that Congress should require additional steps in the Section 232 process. In the 116th Congress, a variety of proposals have been introduced to amend Section 232, in various ways, such as by

- requiring an economic impact study by the USITC, congressional consultation, or approval of any new tariffs,
- allowing for a resolution of disapproval of trade actions, or
- revisiting the delegation of its constitutional authority more broadly, such as by requiring congressional approval of executive branch trade actions more generally.

Some Members, including Senate Finance Chair Grassley, seek to draft a consensus bill to restore congressional authority that would gain sufficient bipartisan support to withstand a possible presidential veto. Issues under debate include whether any changes would be retroactive, potentially affecting the steel and aluminum tariffs, or whether they would only apply to future actions, and whether Congress's role should be consultative or decisive (e.g., requiring congressional approval). For a list of proposals in the 116th Congress, see **Appendix C**.

## Legislative Responses to Retaliatory Tariffs

Several major U.S. trading partners have proposed or are currently imposing retaliatory tariffs in response to the U.S. actions. In the 115th Congress, some Members of Congress proposed legislation to respond to the potential economic impact of these foreign retaliatory tariffs. Some proposals expand programs like trade adjustment assistance to include assistance for workers, firms, and farmers harmed by foreign retaliation.[167] Other measures propose increased funding and programming for certain agricultural export programs to help farmers find new markets for their exports.[168] For a list of proposals from the 115th Congress, see **Appendix C**.

## Establishing Threshold

It is relatively easy for a stakeholder to prompt the Section 232 investigation process. The statute states that "Upon request of the head of any department or agency, upon application of an interested party, or upon his own motion, the Secretary of Commerce ... shall immediately initiate an appropriate investigation." To limit the volume of Section 232 petitions and ensure that any requests are sufficiently justified, Congress may consider establishing criteria or a threshold that a request must meet before Commerce and Defense agencies invest resources in conducting a Section 232 investigation. Similarly, Congress may consider limiting the types of imported articles that may be considered under Section 232 (e.g., S. 287).

## Interpreting National Security

Congress created the Section 232 process to try to ensure that U.S. imports do not cause undue harm to U.S. national security. Some observers have raised concerns that restrictions on U.S. imports under Section 232, however, may harm U.S. allies, which could also have negative

[167] For more information on trade adjustment assistance, see CRS In Focus IF10570, *Trade Adjustment Assistance for Workers (TAA)*, by Benjamin Collins, CRS Report RS20210, *Trade Adjustment Assistance for Firms*, by Rachel F. Fefer, and CRS Report R40206, *Trade Adjustment Assistance for Farmers*, by Mark A. McMinimy.

[168] The Administration has also announced an assistance program for farmers harmed by foreign retaliation, through the U.S. Department of Agriculture; for more information see CRS Report R45310, *Farm Policy: USDA's Trade Aid Package*, by Randy Schnepf et al.

implications for U.S. national security. For example, Canada is considered part of the U.S. defense industrial base according to U.S. law and is also a top source of U.S. imports of steel and aluminum.[169]

National security is not clearly defined in the statute, allowing for ambiguity and alternative interpretations by an Administration. International trade commitments both at the multilateral and FTA level generally include broad exceptions on the basis of national security. The Trump Administration argues its Section 232 actions are permissible under these exceptions, while many U.S. trading partners claim the actions are unrelated to national security. If the United States invokes the national security exemption in what may be perceived to be an arbitrary way, it could similarly encourage other countries to use national security as a rationale to enact protectionist measures and limit the scope of potential U.S. responses to such actions.

Congress may consider amending Section 232 to address these concerns. For example, some Members have proposed to narrowly define "national security" under Section 232 and the factors to be considered in a Section 232 investigation. One bill limits it to protection against foreign aggression (S. 287).

## Establishing New International Rules

Addressing the specific market-distorting practices that are the root causes of steel and aluminum overcapacity (e.g., government intervention, subsidization) may require updating or amending existing trade agreements. Broad WTO negotiations for new multilateral rules, which may have offered opportunity to address some of these issues, have stalled.[170] Recent U.S. FTA negotiations, including the recently concluded USMCA, include related disciplines (e.g., by establishing rules on state-owned enterprises or anticorruption), and the United States is engaged in negotiations with China on overcapacity and other trade barriers. To address these issues, Congress could consider establishing specific or enhanced new negotiating objectives for trade agreement negotiations, potentially through new or modified Trade Promotion Authority (TPA) legislation. Congress could also consider directing the executive branch to prioritize engagement in such negotiations, by, for example, endorsing the current OECD discussions or the trilateral negotiations announced by USTR with the EU and Japan to address nonmarket practices, including subsidies, state-owned enterprises, and technology transfer requirements, mostly aimed at China.

## Impact on the Multilateral Trading System

Some analysts argue that the United States risks undermining the international system it helped create when it invokes unilateral trade actions that may violate core commitments and with regard to broad use of national security exemptions. These observers fear that disagreements at the WTO on these issues may be difficult to resolve through the existing dispute settlement procedures given the concerns over national sovereignty that would likely be raised if a WTO dispute settlement panel issued a ruling relating to national security. Furthermore, actions by the United States that do not make use of the multilateral system's dispute settlement process may open the United States to criticism and could impede U.S. efforts to use the multilateral system for its own enforcement purposes. For example, China called on other parties such as the EU to join it in opposition to the U.S. actions on Section 232, while simultaneously promoting domestic policies

[169] 10 U.S.C. §148.

[170] For more information, see CRS In Focus IF10002, *The World Trade Organization*, by Ian F. Fergusson and Rachel F. Fefer.

often seen as undermining WTO rules.[171] Congress could potentially address these concerns by conducting increased oversight of the Administration's actions by inviting testimony from multiple parties, considering legislation to establish more stringent criteria, or requiring congressional approval of any use of Section 232, among other possible actions.

## Impact on Broader International Relationships

The U.S. unilateral actions under Section 232 have raised the level of tension with U.S. trading partners and could pose risks to broader international economic cooperation. For example, trade tensions between the United States and its traditional allies contributed to the lack of consensus at the conclusion of the G-7 summit in June 2018.[172] The strain on international trading relationships also could have broader policy implications, including for cooperation between the United States and allies on foreign policy issues.

[171] Lyubov Pronina, "China Seeks EU's Support in Standing Up to U.S. Trade Threat," *Bloomberg BNA*, April 9, 2018. For more information on U.S.-China trade, see CRS Report RL33536, *China-U.S. Trade Issues*, by Wayne M. Morrison.

[172] For more information, see CRS Insight IN10919, *The G-7 Summit in Charlevoix, Canada: Changing U.S. Leadership in Global Forums*, by Rebecca M. Nelson.

# Appendix A. Amendments to and Past Uses of Section 232 (19 U.S.C. §1862)

Concern over national security, trade, and domestic industry was first raised by the Trade Agreements Extension Act of 1954 (P.L. 83-464 §2). The 1954 act prohibited the President from decreasing duties on any article if the President determined that such a reduction might threaten domestic production needed for national defense.[173] In 1955, the provision was amended to also allow the President to increase trade restrictions, in cases where national security may be threatened.[174]

The Trade Agreements Extension Act of 1958 (P.L. 85-686 §8) expanded the 1955 provisions, by outlining specific factors to be considered during an investigation, allowing the private sector to petition for relief, and requiring the President to publish a report on each petition.[175] The factors to be considered during an investigation included (1) the domestic production capacity needed for U.S. national security requirements, (2) the effect of imports on domestic production needed for national security requirements, and (3) "the impact of foreign competition on the economic welfare of individual domestic industries."

Section 232 of the Trade Expansion Act of 1962 (P.L. 87-794) continued the provisions of the 1958 Act. Section 232 has been amended multiple times over the years, including (1) to change the time limits for investigations and actions; (2) to change the advisory responsibility from the Secretary of the Treasury to the Secretary of Commerce; and (3) to limit presidential authority to adjust petroleum imports.[176]

In 1980, Congress amended Section 232 to create a joint disapproval resolution provision under which Congress could override presidential actions to adjust petroleum or petroleum product imports.[177] The bill was signed into law on April 2, 1980, the same day that President Carter proclaimed a license fee on crude oil and gasoline pursuant to Section 232 in Proclamation 4744.[178]

---

[173] P.L. 83-464, §2.

[174] The original inclusion of the 1955 provision appears to be due to considerations about specific minerals, namely petroleum, fluorspar, lead, and zinc. However, according to the committee report, the committee chose not to focus on specific commodities, but to create a more general provision requiring the President to adjust imports where national security may be threatened. (See S. Rpt. 84-232, p. 4.)

[175] P.L. 85-686, §8. For a review of the committee's rationale for these changes see, H. Rpt. 85-2502, H. Rpt. 85-1761, and S. Rpt. 85-1838.

[176] Following the reorganization of trade functions in 1973, the Trade Act of 1974 (P.L. 93-618, §127(d)) changed the responsibility to advise the President from the Director of Office of Emergency Preparedness to the Secretary of the Treasury with requirements to consult with the Secretaries of Defense, Commerce, and other appropriate departments and agencies. The 1974 Act also placed a one-year time limit on the investigation. Following the reorganization of trade functions in the Reorganization Plan No. 3 of 1979, the Omnibus Trade and Competitiveness Act of 1988 (P.L. 100-418, §402) changed the advisory responsibility from the Secretary of the Treasury to the Secretary of Commerce. The Omnibus Trade and Competitiveness Act of 1988 also reduced the investigation timeline from one year to 270 days and created the 15-day implementation period for the President to act. The Crude Oil Windfall Profit Tax Act of 1980 (P.L. 96-223, §402) created an option for Congress to override presidential actions to adjust petroleum imports through a joint disapproval resolution.

[177] P.L. 96-223, §402, the Crude Oil Windfall Profit Tax Act of 1980.

[178] Presidential Proclamation 4744, "Petroleum Import Adjustment Program," *Federal Register* volume 45, No. 66, April 3, 1980.

On April 15, 1980, two weeks after the President's proclamation on the crude oil and gasoline license fee, Representative James Shannon introduced House Joint Resolution 531 to disapprove and effectively nullify the presidential action. The House Ways and Means Subcommittee on Trade voted 14 to 4 to disapprove the presidential action; the resolution was favorably reported out of the full committee on a 27 to 7 vote. Dissenting views were voiced by Members who supported the fee program and were concerned about U.S. dependence on foreign oil. While the measure passed the House, it was indefinitely postponed in the Senate.[179] Multiple joint resolutions of disapproval were introduced in Congress in 1980, but none passed both chambers.

In addition to the disapproval mechanism created in the Crude Oil Windfall Profit Tax Act of 1980, President Carter's action in Proclamation 4744 was also challenged in court and through separate legislation in Congress. On May 13, 1980, a federal district court struck down the President's action on petroleum imports as unlawful, thereby preventing the government from implementing the program. The court's decision, however, was appealable to the higher courts.[180] Before a court could consider an appeal, Congress enacted an amendment to a bill to extend the public debt limit (P.L. 96-264, Section 2) on June 6, 1980, which terminated Proclamation 4744's petroleum import program. Section 2 of P.L. 96-264 did not use the disapproval mechanism established in the Crude Oil Windfall Profit Tax Act of 1980; it was a separate piece of legislation that was attached as an amendment to an unrelated bill.[181]

On June 19, 1980, the President formally rescinded Proclamation 4744 "in its entirety, effective March 15, 1980."[182]

[179] H.J.Res 531.

[180] *Indep. Gasoline Marketers Council, Inc. v. Duncan*, 492 F. Supp. 614 (D.D.C. 1980).

[181] H.R. 7428 (P.L. 96-264).

[182] "Imports of Petroleum and Petroleum Products," Proclamation 4766, June 19, 1980, (45 *Federal Register* 41899).

# Appendix B. Section 232 Investigations

**Table B-1. Section 232 Investigations and Presidential Actions, 1962-2018**

| | Subject of Investigation | Year Initiated | Initiator | Treasury or Commerce Determination | Presidential Action |
|---|---|---|---|---|---|
| 1 | Manganese and chromium ferroalloys | 1963 | Manufacturing Chemists Association, Inc. | Negative | - |
| 2 | Tungsten mill products | 1964 | General Electric Company (Co.) | Negative | - |
| 3 | Antifriction bearings | 1964 | Anti-Friction Bearing Manufacturers Association | Terminated at request of petitioner | - |
| 4 | Watches, watch movements and parts | 1965 | Presidential Request | Negative | - |
| 5 | Manganese, silicon and chromium ferroalloys and refined metals | 1968 | Committee of Producers of Ferroalloys and Related Products | Negative | - |
| 6 | Miniature and instrument precision ball bearings | 1969 | Anti-Friction Bearing Manufacturers Association | Negative | - |
| 7 | Extra high voltage power circuit breakers, transformers, and reactors | 1972 | General Electric Co. | Negative | - |
| 8 | Petroleum | 1973 | Chairman of the Oil Policy Committee | Positive | Transitioned away from existing quota system to a license fee (Proclamation 4210, 38 FR 9645) |
| 9 | Petroleum | 1975 | Secretary of the Treasury | Positive | Added supplemental fee to the license fee (Proclamation 4341); fee was later reduced to zero (Proclamation 4655) |
| 10 | Iron and steel nuts, bolts, large screws | 1978 | Presidential Directive | Negative | - |
| 11 | Petroleum | 1978 | Secretary of the Treasury | Positive | Conservation fee added, but found to be illegal and blocked by District Court in 492 F. Supp. 614 |

| | Subject of Investigation | Year Initiated | Initiator | Treasury or Commerce Determination | Presidential Action |
|---|---|---|---|---|---|
| 12 | Petroleum from Iran | 1979 | Secretary of the Treasury | Positive | Embargo imposed on petroleum from Iran on Nov. 12, 1979 (Proclamation 4702) |
| 13 | Glass-lined chemical processing equipment | 1981 | Ceramic Coating Co. | Negative | - |
| 14 | Manganese, silicon and chromium ferroalloys and related metals | 1981 | Ferroalloys Association | Negative | - |
| 15 | Iron and steel nuts, bolts, large screws | 1982 | Secretary of Defense | Negative | - |
| 16 | Petroleum from Libya | 1982 | Presidential Request | Positive | Embargo imposed on petroleum from Libya on Mar. 10, 1982 (Proclamation 4907) |
| 17 | Metal-cutting and Metal Forming Machine Tools | 1983 | National Machine Tool Builders' Association | Positive | Deferred a formal decision on the Section 232 case and instead sought voluntary restraint agreements starting in 1986 with leading foreign suppliers and developed a domestic plan of programs to help revitalize the industry.[a] |
| 18 | Antifriction bearings | 1987 | Anti-Friction Bearing Manufacturers Association | Negative | - |
| 19 | Petroleum | 1987 | National Energy Security Committee (an industry group) | Positive | No action taken[b] |
| 20 | Plastic injection molding machinery | 1988 | Society of the Plastic Industry, Inc. | Negative | - |
| 21 | Uranium | 1989 | Secretary of Energy | Negative | - |
| 22 | Gears and gearing products | 1991 | American Gear Manufacturers Association | Negative | - |

| | Subject of Investigation | Year Initiated | Initiator | Treasury or Commerce Determination | Presidential Action |
|---|---|---|---|---|---|
| 23 | Ceramic Semiconductor Packaging | 1992 | Coors Electronic Package Co. and Ceramic Process Systems Corporation | Negative | - |
| 24 | Crude Oil and Petroleum Products | 1994 | Independent Petroleum Association of America | Positive | No action taken[b] |
| 25 | Crude Oil | 1999 | Secretary of Commerce | Positive | No action taken[b] |
| 26 | Iron ore and finished steel | 2001 | Representatives James Oberstar and Bart Stupak | Negative | - |
| 27 | Steel | 2017 | Secretary of Commerce | Positive | Imposed tariffs of 25% on steel imports, from all countries, with an initial exception for Canada and Mexico, with other potential future exceptions[c] |
| 28 | Aluminum | 2017 | Secretary of Commerce | Positive | Imposed tariffs of 10% on aluminum imports, from all countries, with an initial exception for Canada and Mexico, with other potential future exceptions[d] |
| 29 | Automobiles, including SUVs, vans and light trucks, and automotive parts | 2018 | Secretary of Commerce | In Process | |
| 30 | Uranium ore and products | 2018 | U.S. uranium mining companies (UR-Energy and Energy Fuels) | In Process | |
| 31 | Titanium Sponge | 2019 | Titanium Metals Corp. | In Process | |

**Source:** CRS compiled from the Bureau of Industry and Security's "Section 232 Investigations Program Guide," June 2007, available at https://www.bis.doc.gov/index.php/forms-documents/section-232-investigations/86-section-232-booklet/file, and other Department of Commerce sources.

a. For the announcement of the action, see, U.S. President (R. Reagan), "Statement on the Machine Tool Industry," May 20, 1986. For an announcement of the voluntary restraint agreements with Japan and Taiwan, see "Statement on the Revitalization of the Machine Tool Industry," December 16, 1986. The agreement was modified in 1991 and extended through December 1993, (see: U.S. President (G. H.W. Bush), "Statement by Press Secretary Fitzwater on Extension of Machine Tool Voluntary Restraint Agreements With Japan and Taiwan," December 27, 1991).

b. In the 1987, 1994, and 1999 investigations into petroleum and crude oil, the Commerce Department determined that certain oil imports threatened to impair national security but did not recommend that the President use his authority to adjust imports. In not acting, the President followed the Commerce

recommendation in these three investigations. In the 1989 report, Commerce did not recommend that the President adjust imports using quotas, fees, or tariffs under the authority of Section 232 because any such actions would not be "cost beneficial and, in the long run, impair rather than enhance national security." In the 1994 and 1999 investigations into oil imports, Commerce found that existing government programs and activities related to energy security were more appropriate and cost effective than import adjustments. (Also see Department of Commerce, "The Effect of Crude Oil and Refined Petroleum Product Imports on the National Security," January 1989, https://www.bis.doc.gov/index.php/forms-documents/section-232-investigations/78-crude-oil-and-petroleum-products-1989/file.)

c. Presidential Proclamation 9705, "Presidential Proclamation on Adjusting Imports of Steel into the United States," March 8, 2018, (83 FR 11625).

d. Presidential Proclamation 9704, "Presidential Proclamation on Adjusting Imports of Aluminum into the United States," March 8, 2018, (83 FR 11619).

e. Although this investigation concluded with a negative threat determination, the President accepted Commerce's recommendation to start a 10-year program to upgrade the National Defense Stockpile ore into high-carbon ferrochromium and ferromanganese and to remove certain ferroalloy imports from eligibility for duty-free entry under the Generalized System of Preferences.

# Appendix C. Proposals Concerning Section 232

**Table C-1. Select Proposals to Amend Section 232: 116th Congress**

(Through March 12, 2019)

| Legislation | Title | Brief Description |
|---|---|---|
| S. 365 / H.R. 1008 | Trade Security Act of 2019 | To amend Sec. 232 to allow for a congressional joint disapproval resolution to override presidential actions; to transfer investigatory authority to the Secretary of Defense; and to outline the scope of a national security assessment. |
| S. 287 / H.R. 940 | Bicameral Congressional Trade Authority Act of 2019 | To amend Sec. 232 to require congressional approval of presidential actions; to transfer investigatory authority to the Secretary of Defense. The bill also outlines specific national security-related items to be covered under Sec. 232 investigations. |
| H.R. 723 | Global Trade Accountability Act of 2019 | To amend Sec. 232 and other trade authorities to require congressional approval of unilateral trade actions. |
| S. 121 | Automotive Jobs Act of 2019 | To stall the current Sec. 232 investigation into auto imports, and to require a study of the U.S. auto industry by USITC. |

**Source:** CRS, compiled from Congress.gov

**Notes:** Sec. 232 = Section 232 of the Trade Expansion Act of 1962; USITC = U.S. International Trade Commission

**Table C-2. Select Proposals Concerning Section 232: 115th Congress**

| Legislation | Title | Brief Summary |
|---|---|---|
| **Select Proposals Concerning Congressional-Executive Authorities** | | |
| H.R. 6923 | Promoting Responsible and Free Trade Act | To amend Sec. 232 to require congressional approval of presidential actions; to transfer investigatory authority from Commerce to Defense; and to revoke Sec. 232 actions within the previous 2 years. |
| S. 3329 | Trade Security Act of 2018 | To amend Sec. 232 to allow for congressional disapproval of a presidential action, and to transfer investigatory authority from Commerce to Defense. |
| H.R. 6337 | To amend the Trade Expansion Act of 1962 to require Congressional approval before the President adjusts imports that are determined to threaten to impair national security | To amend Sec. 232 to require congressional approval of presidential actions. |
| S. 3013 | A bill to amend the Trade Expansion Act of 1962 to require Congressional approval before the President adjusts imports that are determined to threaten to impair national security | To amend Sec. 232 to require congressional approval for any "unilateral trade action," with an exception for a temporary 90-day action. |
| H.R. 5760 | Trade Authority Protection Act | To amend Sec. 232 and other trade authorities to provide for a great congressional role by allowing for a congressional joint disapproval resolution to override presidential actions. |

| Legislation | Title | Brief Summary |
|---|---|---|
| S. 177 / H.R. 5281 | Global Trade Accountability Act of 2018 | To amend Sec. 232 and other trade authorities to require congressional approval for any "unilateral trade action," with an exception for a temporary 90-day action. |
| S. 3230 | A bill to impose a limitation on increases in duties on imports of steel and aluminum from Canada, Mexico, and the European Union, to improve congressional oversight of tariffs imposed to protect national security, and for other purposes | To limit specific tariff actions, and to amend Sec. 232 of the Trade Expansion Act of 1962 to require consultation with Congress. |
| **Select Proposals Limiting Specific Tariff Actions or Investigations** | | |
| S. 3266 | Automotive Jobs Act of 2018 | To direct the USITC to report on the status of the U.S. automotive industry. The bill would suspend the Sec 232 investigation into auto imports until the USITC submits its report to the President and Congress. |
| H.Res. 810 | Reaffirming the trade and investment partnership between the United States and the European Union is critical to the economic and national security of the United States. | To reaffirm the trade and investment partnership between the United States and the European Union; and approves of the temporary exemption from steel and aluminum import tariffs for the European Union member countries and other close allies of the United States. |
| S. 2538 | A bill to prohibit an increase in duties on imports of steel and aluminum. | To limit specific tariff actions on steel and aluminum. |
| **Select Proposals Responding to Retaliatory Tariffs** | | |
| H.R. 7379 | American Agriculture First Act | To allow the Secretary of Agriculture to purchase agricultural commodities from domestically owned enterprises, for products effected by "trade damage from retaliation by foreign nation." |
| H.R. 7147 | To direct the Secretary of Agriculture to treat certain planted soybean crops as harvested commodity crops under the Market Facilitation Program. | To require the Department of Agriculture to treat a soybean crop as an eligible crop for payments under the Market Facilitation Program (MFP) if market conditions have discouraged or prevented a producer of a soybean crop from harvesting the crop or entering the crop into the stream of commerce. (The MFP provides payments to producers with commodities that have been significantly impacted by actions of foreign governments resulting in the loss of traditional exports.) |
| H.R. 6699 / S. 3407 | Agricultural Export Promotion Act of 2018 | To offset retaliatory duties by establishing a fund to promote the exports of U.S. agricultural commodities and products. |
| S. 3289/ H.R. 6395 | Assistance for Workers Harmed by Tariffs on Exports Act | To provide trade adjustment assistance to workers impacted by retaliatory tariffs. |
| S. 3258 / H.R. 6483 | Assistance for Farmers Harmed by Tariffs on Exports Act | To provide trade adjustment assistance to farmers impacted by retaliatory tariffs. |
| H.R. 6396 | Assistance for Firms Harmed by Tariffs on Exports Act | To provide trade adjustment assistance to firms impacted by retaliatory tariffs. |
| **Proposals Concerning Transparency** | | |

| Legislation | Title | Brief Summary |
|---|---|---|
| H.Res. 1018 | Requesting the President to transmit to the House of Representatives certain documents in the possession of the President relating to the determination to impose certain tariffs and to the strategy of the United States with respect to China | To request greater transparency in the Administration's trade policy. |
| S. 408 / H.R. 1172 | Presidential Trade Transparency Act of 2017 | To require greater transparency in the Administration's trade policy, by requiring personal financial reporting from the President, concerning certain trade actions. |

**Source:** CRS, compiled from Congress.gov

**Notes:** Sec. 232 = Section 232 of the Trade Expansion Act of 1962.

# Appendix D. 2018 U.S. Steel and Aluminum Imports

**Table D-1. Top U.S. Import Suppliers of Products Covered under Section 232 Proclamations**

(2018, million $s)

| Steel | | | | Aluminum | | | |
|---|---|---|---|---|---|---|---|
| **Trading Partner** | **Import Value (million $s)** | **2018/2017 (million $s)** | **Import Share** | **Trading Partner** | **Import Value (million $s)** | **2018/2017 (million $s)** | **Import Share** |
| **Permanently Exempted** | | | | **Permanently Exempted** | | | |
| *Brazil | 2,596.7 | +144.8 | 8.8% | *Argentina | 443.0 | -103.7 | 2.5% |
| *South Korea | 2,360.9 | -430.0 | 8.0% | Australia | 337.1 | +123.6 | 1.9% |
| Australia | 240.1 | +29.6 | 0.8% | Total Exempted | 780.1 | +19.9 | 4.4% |
| *Argentina | 220.6 | -1.0 | 0.7% | **Not Exempted** | | | |
| Total Exempted | 5,418.3 | -256.6 | 18.4% | Canada | 6,749.1 | -293.8 | 38.4% |
| **Not Exempted** | | | | EU | 1,644.4 | +394.9 | 9.3% |
| EU | 6,559.7 | +566.8 | 22.2% | U.A.E. | 1,495.6 | +79.0 | 8.5% |
| Canada | 5,599.1 | +403.8 | 19.0% | China | 1,112.7 | -729.0 | 6.3% |
| Mexico | 3,001.7 | +507.7 | 10.2% | Russia | 928.6 | -676.4 | 5.3% |
| Japan | 1,656.8 | -2.0 | 5.6% | Bahrain | 663.2 | +78.6 | 3.8% |
| Russia | 1,391.0 | -22.1 | 4.7% | India | 602.6 | +220.7 | 3.4% |
| Taiwan | 1,164.4 | -100.5 | 3.9% | South Africa | 477.6 | +137.2 | 2.7% |
| China | 907.8 | -97.5 | 3.1% | Japan | 350.3 | +98.0 | 2.0% |
| Vietnam | 844.2 | +311.8 | 2.9% | Indonesia | 307.6 | +105.1 | 1.7% |
| Turkey | 778.5 | -413.1 | 2.6% | Qatar | 292.8 | -14.2 | 1.7% |
| India | 388.9 | -371.9 | 1.3% | Oman | 279.4 | +186.3 | 1.6% |
| Spain | 360.9 | -0.3 | 1.2% | Mexico | 248.6 | -12.9 | 1.4% |
| Thailand | 295.8 | -59.3 | 1.0% | South Korea | 246.2 | +134.7 | 1.4% |
| U.A.E. | 197.4 | -20.1 | 0.7% | Saudi Arabia | 229.6 | +81.6 | 1.3% |
| Ukraine | 192.5 | +21.2 | 0.7% | Austria | 203.9 | +49.5 | 1.2% |
| South Africa | 186.9 | -91.7 | 0.6% | Brazil | 189.3 | +51.0 | 1.1% |
| Indonesia | 186.3 | +106.5 | 0.6% | Taiwan | 167.3 | +110.2 | 1.0% |
| **Total Nonexempted | 24,105.3 | +746.9 | 81.6% | **Total Nonexempted | 16,813.6 | +170.9 | 95.6% |
| **U.S. Total (All Countries)** | **29,523.5** | **+490.4** | **100.0%** | **U.S. Total (All Countries)** | **17,593.7** | **+190.9** | **100.0%** |

**Source:** Created by CRS using data from the Census Bureau on HTS products included in the Section 232 proclamations.

**Notes:** European Union (EU) includes 28 member states. U.A.E. refers to the United Arab Emirates.

(*) Absolute quota effective in place of additional tariffs.

(**) Total nonexempted includes additional countries not listed.

## Author Information

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

Keigh E. Hammond
Research Librarian

Vivian C. Jones
Specialist in International Trade and Finance

Brandon J. Murrill
Legislative Attorney

Michaela D. Platzer
Specialist in Industrial Organization and Business

Brock R. Williams
Specialist in International Trade and Finance

## 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.