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Section 232 Investigations: Overview and Issues for Congress

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Summary

President Trump has used Section 232 authority to apply new tariffs to steel and aluminum imports and potentially to imports of automobiles and automobile parts. 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 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." Congress has interest in Section 232 actions because they are a delegation of its constitutional authority over tariffs and commerce with foreign nations, and raise a number of economic and policy issues. Some Members have introduced legislation to revise Section 232 authorities.

Global overcapacity in steel and aluminum production, mainly driven by China, has been an ongoing concern of Congress. 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. The George W. Bush, Obama, and Trump Administrations have each engaged in multilateral discussions to address global steel capacity reduction through the Organisation for Economic Co-operation and Development (OECD) and other international forums.

Effective March 23, 2018, President Trump applied 25% and 10% tariffs, respectively, on certain steel and aluminum imports and, in February 2020, expanded the scope of products subject to the additional tariffs. Permanent tariff exemptions in exchange for quantitative limitations on U.S. imports were negotiated 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. The United States removed tariffs on steel and aluminum imports from Mexico and Canada, in part to secure congressional support for the new United States-Mexico-Canada Agreement (USMCA) and after the three countries agreed to establish an import monitoring mechanism. USMCA includes side letters limiting potential Section 232 tariffs on autos and parts above a certain threshold of imports.

Commerce is managing a process for exclusions of steel and aluminum products subject to Section 232 tariffs in order to limit potential negative domestic effects of the tariffs on U.S. businesses and consumers. As of early December 2019, of the nearly 94,000 steel exclusion requests, over 47,000 had been granted and over 13,000 had been denied. Commerce has also received over 13,000 aluminum exclusion requests, with almost 6,500 exclusions granted and 900 denied. The remaining requests are pending. Several Members of Congress and the Commerce Inspector General have raised issues and concerns about the exclusion process.

Several 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." In turn, the United States has initiated cases against other countries' retaliatory measures under WTO rules. Some U.S. firms are also challenging the Administration's actions domestically.

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, and 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.

After imposing steel and aluminum tariffs, the Administration opened three additional Section 232 investigations, intensifying debate over potential legislation to revise the authority. The investigations covered

- automobile and automobile part imports, initiated May 23, 2018;
- uranium ore and product imports, initiated July 18, 2018; and
- titanium sponge imports, initiated March 4, 2019.

Commerce determined imports of each product threaten to impair national security in its final reports, which were submitted to the President, but have not been made public. The President chose not to impose restrictions on uranium and titanium, but potential import restrictions on autos remain pending.

The President's Section 232 tariff actions and investigations raise a number of potential issues for Congress. The focus on imports from traditional U.S. allies has prompted some policymakers to raise questions about the proper interpretation of threats to national security on which Section 232 investigations are based. The tariffs' economic effects—relatively higher domestic steel and aluminum prices and expansion in production in those sectors, and higher costs for consumers and many end users (e.g., auto manufacturing and construction)—have also prompted reactions from several Members, some in support of the measures and others voicing concerns. 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.

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Introduction

The Trump Administration has conducted five investigations, two of which have led to presidential proclamations imposing tariffs on U.S. imports of certain steel and aluminum products, 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." The Constitution gives Congress primary authority over international trade matters.[2] 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.[3]

Section 232 is one of several tools the United States has at its disposal to address trade barriers and other foreign trade practices. Additional tools include (1) investigations and actions to address import surges that are or threaten to be a "substantial cause of serious injury" to a U.S. industry (Section 201 of the Trade Act of 1974); (2) those that address violations or denial of U.S. benefits under trade agreements (Section 301 of the Trade Act of 1974); and (3) antidumping and countervailing duty laws (Title VII of the Tariff Act of 1930) to counter injurious unfair trade practices.

International 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, farmers, 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 in February 2019, the uranium report in April, and the titanium sponges report in November, but none of the three reports has been made public or reportedly shared with Congress. All of the investigations potentially raise a number of economic and policy issues for Congress.

This report provides an overview of Section 232, analyzes the Trump Administration's Section 232 investigations and actions, and considers select 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

Following an investigation by the Department of Commerce, Section 232 of the Trade Act of 1962 authorizes the President to impose imports restrictions on products, imported into the United States "in such quantities or under such circumstances as to threaten to impair the national

[1] P.L. 87-794; 19 U.S.C. §1862.

[2] Article I, Section 8, of the Constitution gives Congress the power "To regulate Commerce with foreign Nations ..." and "To lay and collect Taxes, Duties, Imposts, and Excises.... "

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

security." 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 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 petition 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 as to whether or not the targeted product(s) 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. According to the statute, 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.[4]

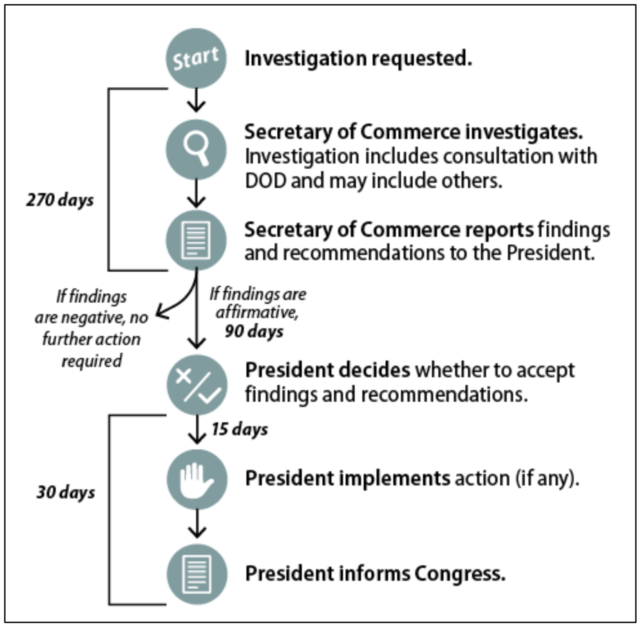
Once the President receives the report, he has 90 days to decide whether or not he concurs with the Commerce Department's findings and recommendations, and to determine the nature and duration of the action he views as necessary to adjust the imports so they no longer threaten to impair the national 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."[5] Congress does not have to approve of a Section 232 determination or action.[6]

[4] 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).

[5] Section 232 (b).

[6] For more information on TPA, see CRS In Focus IF10038, *Trade Promotion Authority (TPA)*, by Ian F. Fergusson.

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 (see **Table B-1**). In 16 of these cases, Commerce determined that the targeted imports did not threaten to impair national security. In 14 cases, Commerce determined that the targeted imports threatened to impair national security and made recommendations to the President (see **Figure 2**). The President took action nine 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 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.[7]

[7] 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 Control, "Libyan Sanctions Regulations, Angola (UNITA) Sanctions Regulations, Rough Diamonds (Liberia)

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 presidential action 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."[8] 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.[9] These agreements predate the founding of the World Trade Organization (WTO), which established multilateral rules prohibiting voluntary export restraints.

The Trump Administration has initiated five Section 232 investigations to date. In addition to the two cases on steel and aluminum, 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 on May 23, 2018.[10] In January 2018, two U.S. uranium producers petitioned for an investigation into uranium imports.[11] On July 18, 2018, Commerce announced the initiation of a Section 232 investigation on these imports and informed the Secretary of Defense.[12] In September 2018, a U.S. titanium company petitioned for an 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.[13]

Sanctions Regulations," 61 *Federal Register* 16042, March 30, 2006.

[8] 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.

[9] 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.

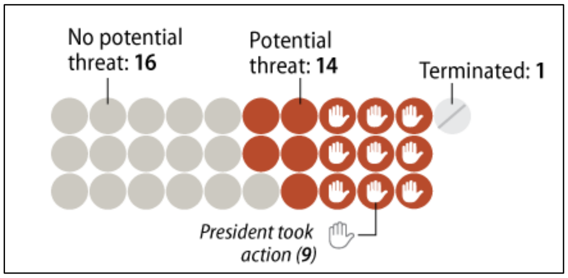
[10] U.S. Department of Commerce, "U.S. Department of Commerce Initiates Section 232 Investigation into Auto Imports," May 23, 2018, https://www.commerce.gov/news/press-releases/2018/05/us-department-commerce-initiates-section-232-investigation-auto-imports.

[11] 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.

[12] 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.

[13] U.S. Department of Commerce 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/).

Notes: 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 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 ").

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.[14] 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.[15] 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.[16] Some stakeholders in the steel and aluminum industries sought a middle ground, endorsing limited actions to target the underlying issues of overcapacity and unfair trade practices. Still others focused on the process, voicing caution in the use of

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[14] 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.

[15] 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.

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

Section 232 authority and warning against an overly broad definition of "national security" for protectionist purposes.[17]

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."[18] 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 primary metals (e.g., production of iron and steel and aluminum) machinery, transportation equipment, and electrical equipment.[19] 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.[20] 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[21] and certain types of primary aluminum and unwrought aluminum[22] "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

[17] "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.

[18] U.S. Department of Commerce, Bureau of Industry and Security, "The Effect of Imports of Steel on the National Security," p. 1, 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] In addition to being labeled as one of the "critical infrastructure sectors," both steel and aluminum industry organizations seek designation as an "essential industry" to allow continuation of operations in the event of federal emergencies such as during the Covid-19 pandemic. See American Iron and Steel Institute, "AISI Urges Administration to Designate Steel as Essential Industry," March 20, 2020, and Aluminum Association, "American Aluminum an Essential Industry in a Moment of National Emergency," March 19, 2020.

[20] 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.

[21] U.S. Department of Commerce, Bureau of Industry and Security, "The Effect of Imports of Steel on the National Security," January 11, 2018.

[22] 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).

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 transshipment" in which Chinese producers ship goods to another country to reexport.[23] He also noted, however, that "the U.S. military requirements for steel and aluminum each only represent about three percent of U.S. production."[24]

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.[25] 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 (AD/CVD).

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 have voiced their views since the investigations were launched, including through hearings and letters to the President.[26]

On January 24, 2020, after the steel and aluminum tariffs had been in effect for over 22 months, the President expanded the scope of products covered to include "derivative" products, effective February 8, 2020.[27] The President's proclamation stated that the additional tariffs were needed because the domestic steel and aluminum industries continued to be below the target capacity utilization identified in the initial Commerce investigations, and imports of certain finished, or derivative, products were undermining the purpose of the original proclamations.

With the increased costs of steel and aluminum inputs because of the Section 232 tariffs, some U.S. manufacturers had trouble competing with importers of finished, or derivative, products

[23] 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.

[24] Ibid.

[25] 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.

[26] 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.

[27] The White House, "Proclamation on Adjusting Imports of Derivative Aluminum Articles and Derivative Steel Articles into the United States," 85 *Federal Register* 5281, January 24, 2020. For a full list of derivative products covered see https://www.bis.doc.gov/index.php/other-areas/office-of-technology-evaluation-ote/section-232-investigations. Steel and aluminum derivative products are defined according to certain criteria and the specific covered products are specified in annexes of the presidential proclamation.

(e.g., steel wheels or metal filing cabinets). Thus, U.S. industries manufacturing similar products have sought AD/CVD protection from import competition. Thus, there has been a noticeable increase in AD/CVD investigations on finished products containing steel or aluminum. The additional AD/CVD cases as a result of the Section 232 tariffs are in addition to any AD/CVD duties already in place. Some economists have called this phenomenon "cascading protection."[28]

According to the January 2020 proclamation, the countries that successfully negotiated exemptions from each of the steel and aluminum tariffs (see below) are also exempt from the additional tariffs on derivative products. The Commerce process for requesting product exclusions applies to derivative products (see below).

Some analysts have raised questions about the President's authority to impose the additional tariffs and some U.S. manufacturers have challenged the action (see "Proclamation Imposing Tariffs on Steel-Derivative Products"). The President's actions under the 2020 proclamation relies on the 2018 Section 232 investigations, although those investigations did not cover steel and aluminum derivative products. House Ways and Means Committee Member Representative Walorski sent a letter to Commerce questioning why a new investigation was not needed for the change in product scope, and how the change would help increase domestic industry capacity utilization, among other issues.[29] The Section 232 statute does not specifically allow for additional actions after the initial timeline or provide an expiration date of an investigation. Similar questions as to whether the President's authority to act is time-limited have been raised in relation to the Section 232 auto investigation (see "Automobiles and Parts").

Country Exemptions

Although tariffs were initially imposed on most trading partners, including many allies and FTA partners, the President expressed a willingness to consider exceptions to individual countries, specifically 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. 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 charged the USTR with negotiating bilaterally with trading partners on potential exemptions.

On March 22, 2018, 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.[30] 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 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

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[28] Chad P. Bown, "Trump's steel and aluminum tariffs are cascading out of control," *Peterson Institute for International Economics*, February 4, 2020.

[29] Letter from Rep. Jackie Walorski to Wilbur L. Ross Jr., Secretary of Commerce, March 3, 2020.

[30] 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.

agreements.[31] 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.[32] 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.[33] 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.[34] 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 all other countries were subject to the Section 232 tariffs. The imposition of tariffs on major trading partners such as Canada, Mexico, and the European Union increased 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.[35]

The Trump Administration completed negotiations on the 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 includes a requirement that motor vehicles contain 70% or more of North American steel and aluminum content to qualify for duty-free treatment.[36] The parties also signed side letters in case of Section 232 action on autos and auto parts, to exclude certain amounts of Canadian and Mexican exports of these products and provide a 60-day period to reach a negotiated outcome.[37] Separately, on May 17, 2019, the three parties announced a new monitoring

[31] 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/.

[32] 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.

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

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

[35] 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.

[36] 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 and the United States-Mexico-Canada Agreement (USMCA)*, by M. Angeles Villarreal and Ian F. Fergusson.

[37] Side letters are available at https://ustr.gov/trade-agreements/free-trade-agreements/united-states-mexico-canada-agreement/agreement-between.

mechanism to prevent surges in imports of steel and aluminum, and agreed to withdraw all Section 232 steel and aluminum tariffs and related retaliatory tariffs.[38]

On October 16, 2018, the Trump Administration notified Congress under TPA of new broad-based U.S. trade agreement negotiations with the EU to address ongoing trade frictions including Section 232 tariffs. The Administration seeks a "fairer, more balanced" U.S.-EU relationship. The TPA notification followed the July 2018 Joint Statement (agreed between President Trump and European Commission President Jean-Claude Juncker) that aimed to de-escalate trade tensions in which the two sides agreed to not impose further tariffs on each other's trade products while negotiations are active.[39] The negotiations have not started formally, largely due to lack of U.S.-EU consensus on their scope. The EU asserts that it will stop negotiating if it is subject to new Section 232 tariffs.[40]

Proposed Tariff Increases on Steel and Aluminum Imports

President Trump has proposed further tariff increases for steel and aluminum imports from Turkey, Argentina, and Brazil. The President has cited trade-related concerns, plus other foreign and economic policy goals for these proposals. The most recent proposals have not been implemented.

Turkey[41]

President Trump has adjusted tariffs on steel imports from Turkey twice (raising tariffs to 50% in August 2018, and then reducing them to 25% in May 2019), and has proposed further increases. On October 14, 2019, after Turkey's military incursion into northeast Syria, President Trump announced plans to apply sanctions on Turkey, as well as increase steel tariffs on imports from Turkey back to 50%.[42] While sanctions were applied, and then later lifted after an announced ceasefire, the tariff increase has not been imposed to date.[43]

The value of U.S. imports of steel from Turkey have decreased 83.3% between 2017 and 2019. In 2019, Turkey was the 23rd largest supplier of steel to the United States, dropping from its position as the 9th largest supplier in 2017.

The President also proposed a tariff increase on aluminum imports from Turkey, but no increase has been implemented. U.S. imports of aluminum from Turkey rose by more than 390% from 2017, making it the 14th largest supplier of aluminum to the United States.

Argentina and Brazil

In June 2018, President Trump announced that some countries would be exempt from the tariffs, after agreeing to adhere to quotas on imports into the United States. Among others, permanent exemptions were granted to Brazil for steel tariffs and to Argentina for both steel and aluminum tariffs, in exchange for quotas.

[38] USTR, "Joint Statement by the United States and Mexico on Section 232 Duties on Steel and Aluminum," May 17, 2019, https://ustr.gov/about-us/policy-offices/press-office/press-releases/2019/may/united-states-announces-deal-canada-and and "Modification of Regulations Regarding the Steel Import Monitoring and Analysis System," 85 *Federal Register* 17515, March 30, 2020.

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

[40] For more information, see CRS In Focus IF10931, *U.S.-EU Trade and Economic Issues*, by Shayerah Ilias Akhtar.

[41] Also see CRS In Focus IF10961, *U.S.-Turkey Trade Relations*, by Shayerah Ilias Akhtar.

[42] The White House, "Statement from President Donald J. Trump Regarding Turkey's Actions in Northeast Syria," October 14, 2019, at https://www.whitehouse.gov/briefings-statements/statement-president-donald-j-trump-regarding-turkeys-actions-northeast-syria/.

[43] The White House, "Remarks by President Trump on the Situation in Northern Syria," October 23, 2019, at https://www.whitehouse.gov/briefings-statements/remarks-president-trump-situation-northern-syria/.

In December 2019, citing concerns over the valuation of Argentina and Brazil's currencies, President Trump announced plans to reinstate steel and aluminum tariffs on imports from Argentina and Brazil.[44] The tariffs have not been reinstated to date.

In 2019, Brazil was the second largest supplier of steel to the United States by value, accounting for 11.3% of relevant U.S. imports. Argentina was the 21st largest supplier of steel by value (1.0% of relevant U.S. imports) and the 10th largest supplier of aluminum (2.6% of relevant U.S. imports) to the United States.

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 reasonably available amount or of a satisfactory quality."[45] Requests for exclusions and objections to requests were initially posted on regulations.gov.[46] The rule went into effect the same day as publication to allow for immediate submissions.

Commerce reviews exclusion requests and makes determinations based upon national security considerations. To minimize the impact of any single exclusion on the Section 232 action, 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.[47] 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.[48]

As of December 6, 2019, Commerce received almost 94,000 steel product exclusion requests, with 47,140 exclusions granted and 13,262 denied.[49] As of the same date, Commerce received 13,249 aluminum exclusion requests, with 6,443 exclusions granted and 862 denied (see **Figure 3**).[50] Some Members have advocated for or against specific exclusions in support of constituents that represent different parts of the supply chain, in some cases putting Members on opposing sides of an exclusion request.[51]

[44] @realDonaldTrump, December 2, 2019, at https://twitter.com/realDonaldTrump/status/1201455858636472320.

[45] U.S. 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.

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

[47] A parallel requirement applies for aluminum requests.

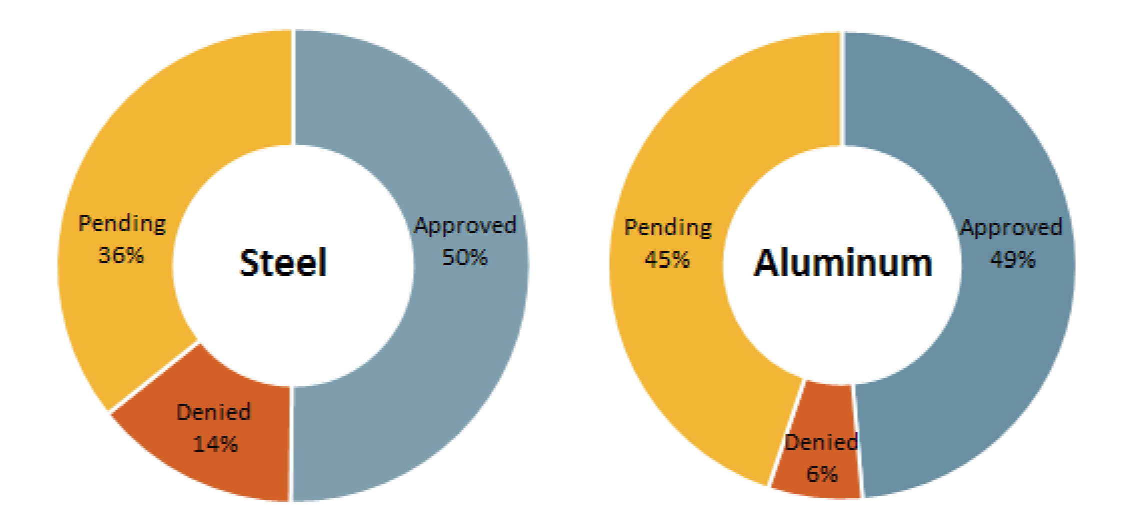
[48] Bureau of Industry and Security, *Requirements for Submissions Requesting Exclusions from the Remedies Instituted in Presidential Proclamations Adjusting Imports of Steel into the United States and Adjusting Imports of Aluminum into the United States; and the Filing of Objections to Submitted Exclusion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

[49] Christine McDaniel and Joe Brunk, "Section 232 Steel and Aluminum Tariff Exclusion Requests Continue Apace," *Mercatus The Bridge*, January 21, 2020.

[50] Ibid.

[51] For example, see letters from Reps. H. Rogers, Kaptur, Guthrie, Comer, M. Rogers, Barr, Aderholt, Johnson, Gonzalez and Gibbs to President Trump, February 7, 2020, and from Sen. Toomey to Secretary Ross, February 5, 2020, related to exclusion requests from Allegheny Technologies Incorporated (ATI).

Figure 3. Steel and Aluminum Product Exclusion Requests



Source: CRS based on data gathered by Mercatus.

Note: Exclusion requests through December 6, 2019.

Companies have raised strong concerns about the intensive, time-consuming process to submit exclusion requests; the lengthy waiting period to hear back from Commerce, which has exceeded 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.[52] Some steel companies who expected to benefit from the tariffs and whose exclusion requests have been denied are experiencing financial difficulty.[53]

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.[54] The Members 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."[55]

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." Commerce's Bureau of Industry and Security (BIS) is the lead agency involved in making final decisions regarding whether the requests are granted or denied. The agency's International Trade Administration (ITA) also became involved in the exclusion process by analyzing exclusion requests and

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[52] Ed Crooks and Fan Fei, "Trade war winners and losers grapple with Trump tariff chaos," *The Financial Times*, July 23, 2018 and. Christine McDaniel and Joe Brunk, "Section 232 Steel and Aluminum Tariff Exclusion Requests Continue Apace," *Mercatus The Bridge*, January 21, 2020.

[53] Bryan Gruley and Joe Deaux, "The Biggest Fan of Trump's Steel Tariffs is Suing Over Them," *Bloomberg*, February 13, 2020.

[54] MIL OSI - ForeignAffairs.co.nz, "MIL-OSI USA: Walorski Calls for Changes to Tariff Product Exclusion Process for Manufacturers," ForeignAffairs.co.nz, May 8, 2018.

[55] Ibid.

objections to determine whether there is sufficient domestic production available to meet the requestor's product needs.[56]

On September 6, 2018, Commerce announced a new rule to allow companies to rebut objections to petitions.[57] The rule, published September 11, 2018, included 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.[58] In June 2019, Commerce launched a new online 232 Exclusions Portal for submitting and processing of steel and exclusion requests, objections, rebuttals, and sur-rebuttals.[59] The portal is for all submissions as of June 13, 2019, while all prior submissions reside on regulations.gov. The portal may provide greater transparency of 232 submission documents, but does not necessarily impact Commerce's decision-making process.

Some Members have questioned the Administration's processes and ability to pick winners and losers through granting or denying exclusion requests. For example, 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. House Ways and Means Committee Member Representative Walorski sent the Commerce Secretary multiple letters seeking further data on the exclusion process. Senator Elizabeth Warren requested that the Commerce Inspector General investigate the implementation of the exclusion process, including a review of the procedures Commerce has established; how they are being followed; and if exclusion decisions are made on a transparent, individual basis, free from political interference. Senator Warren 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.[60] Pending legislation to revise Section 232 also addresses the process for excluding products (e.g., S. 287, H.R. 940, S. 2362).

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.[61] In July 2019, the Commerce IG determined that BIS had a large backlog of exclusion requests and that requests with objections had lower completion rates.[62] In October 2019, the IG issued a

[56] U.S. 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.

[57] 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.

[58] 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.

[59] Portal is available at https://www.commerce.gov/page/section-232-investigations.

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

[61] 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.

[62] Letter from Carol Rice, Assistant Inspector General for Audit and Evaluation, to Nazak Nikakhtar, Assistant Secretary for Industry and Analysis, Performing the Non-Exclusive Duties of the Under Secretary of Commerce for

Management Alert regarding "a lack of transparency that contributes to the appearance of improper influence in decision-making for tariff exclusion requests."[63] The IG recommended that BIS take specific actions to ensure transparency. Commerce has not announced any new changes to the exemption process or policy to further address the concerns noted in the IG report and by some Members.[64]

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."[65] 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.[66] 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 4, 2020, two full years since the Section 232 tariffs took effect, U.S. Customs and Border Protection assessed $6.8 billion and $2.0 billion from the tariffs on steel and aluminum, respectively. Roughly $4.5 billion and $1.5 billion of these duties on steel and aluminum, respectively, were collected the first year the tariffs were in effect, highlighting that revenue from the Section 232 actions has been declining. This reflects both the exemptions to Canada and Mexico in May 2019, top suppliers of both metals, and declining imports in response to the relatively higher import prices, an objective of the Administration's actions.[67] The tariffs collected are put in the general fund of the U.S. Treasury and are not allocated to a specific fund.

Industry and Security, Bureau of Industry and Security, July 1, 2019.

[63] Letter from Carol Rice, Assistant Inspector General for Audit and Evaluation, to Secretary Ross, Management Alert: Certain Communications by Department Officials Suggest Improper Influence in the Section 232 Exclusion Request Review Process Final Memorandum No. OIG-20-003-M, October 28, 2019.

[64] For example, see Rep. Walorski Statement on Commerce OIG Finding "Improper Influence" in Section 232 Exclusion Process, October 30, 2019.

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

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

[67] 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." 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.

Additional Trump Administration Investigations

Automobiles and Parts[68]

Subsequent to the steel and aluminum investigations, the Trump Administration in May 2018 initiated a third Section 232 investigation into the import of passenger cars, SUVs, vans, light trucks, and automotive parts.[69] Commerce held a public hearing to hear from stakeholders on the potential impact of these imports on national security, identifying a broad set of factors related to national defense and the national economy for consideration.[70] As many foreign auto manufacturers have established facilities in the United States—accounting for 45% of employment in U.S. auto assembly and parts plants[71]—Commerce specifically requested information on how the impact of auto imports on U.S. national security may differ when "U.S. production by majority U.S.-owned firms is considered separately from U.S. production by majority foreign-owned firms."[72]

The value of U.S. imports potentially covered under the new investigation is significantly greater than that of steel and aluminum imports. In 2019, the United States imported more than eight million vehicles, with a value of $197 billion, and more than $155 billion in auto parts.[73] With complex global supply chains, industry dynamics such as the large number 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.[74] For example, the 1.9 million vehicles exported from the United States in 2019—with a value of $59 billion—and $85 billion in parts exports could be targeted for retaliation by some trading partners, as could the vehicle assembly plants of U.S. controlled companies in overseas markets such as China and Europe.[75] The Center for Automotive Research (CAR), a research and analysis group that studies issues affecting the automotive industry, estimated that a 25% tariff added to all imported vehicles and parts (including from Canada and Mexico) could

68 CRS Specialist Bill Canis contributed to this section.

69 For a further discussion of the Section 232 auto industry investigation, see CRS In Focus IF10971, *Section 232 Auto Investigation*, coordinated by Rachel F. Fefer.

70 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.

71 In 2017, employment in manufacture of motor vehicles, bodies and trailers, and vehicle parts was 972,000; of those, 431,000 worked in foreign-owned plants in the United States, U.S. Department of Commerce, Bureau of Economic Analysis (BEA), *Activities of U.S. Affiliates of Foreign Multinational Enterprises,* viewed on February 20, 2020, https://www.bea.gov/data/intl-trade-investment/activities-us-affiliates-foreign-mnes, and BEA, *National Income and Product Accounts*, Table 6.4D. Full-time and Part-Time Employees by Industry, viewed February 20, 2020, https://apps.bea.gov/iTable/iTable.cfm?reqid=19&step=3&isuri=1&nipa_table_list=193&categories=survey.

72 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.

73 Mexico, Japan, Canada, Germany, and South Korea accounted for 85% of vehicles imported by the United States in 2018; nearly 40% of automotive parts were imported from Mexico, with China, Canada, Japan, Germany, and South Korea accounting for an additional 43% of imports. U.S. Department of Commerce, International Trade Administration, *Automotive Team: Industry Trade Data*, https://legacy.trade.gov/td/otm/autostats.asp.

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

75 European Union members alone in 2019 purchased 350,201 U.S-made vehicles, worth $13.7 billion. Nearly three-quarters of U.S. automotive parts exports were to Mexico and Canada. U.S. Department of Commerce, International Trade Administration , *Automotive Team: Industry Trade Data*, https://legacy.trade.gov/td/otm/autostats.asp

raise the cost of U.S. vehicle assembly by 6%; if levied only against the post-Brexit European Union, those costs would increase by less than 1%.[76]

In its 2019 annual report, Ford Motor Company asserts that "steps taken by the U.S. government to apply or consider applying tariffs on automobiles, parts, and other products and materials have the potential to disrupt existing supply chains, impose additional costs on our business, affect the demand for our products, and make us less competitive. Further, other countries attempting to retaliate by imposing tariffs would increase the cost for us to import our vehicles into such countries."[77]

The automotive supply chain has already been affected by steel and aluminum tariffs. According to CAR, U.S. vehicles and parts manufacturers account for 26% of U.S. steel consumption and 31% of aluminum consumption.[78] The American Automotive Policy Council, an industry trade group that represents the policy interests of Fiat Chrysler Automobiles (FCA US), Ford, and General Motors, has estimated that the Section 232 steel and aluminum tariffs have added $400 to the price of a new vehicle.[79]

Some Members and auto industry representatives spoke out in opposition to any tariffs during the auto industry Section 232 investigation. The Driving American Jobs Coalition, created to oppose the potential tariffs, is comprised of industry groups representing auto manufacturers, parts suppliers, auto dealers, parts distributors, retailers, and vehicle service providers.[80] Others view the use of this investigation and potential tariffs as a tactical move by the Administration to pressure trade negotiating partners as the President continues to threaten auto tariffs.[81] For example, since the initiation of trade negotiations with the EU, the President has repeatedly threatened to impose tariffs on U.S. auto imports in the absence of progress on the negotiations.[82] 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.[83] Three groups voiced support for at least limited measures to address auto imports: the United Automobile Workers, the United Steelworkers, and the Forging Industry Association.[84]

Commerce submitted the final Section 232 report to the President on February 17, 2019, but the report has not been publicly released.[85] Some experts and Members have suggested that the

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[76] Michael Schultz, Kristin Dziczek, and Yen Chan, et al., *U.S. Consumer & Economic Impacts of U.S. Automotive trade Policies*, Center for Automotive Research, February 2019, p. 26, https://www.cargroup.org/wp-content/uploads/2019/02/US-Consumer-Economic-Impacts-of-US-Automotive-Trade-Policies-.pdf

[77] Ford Motor Company, *2019 Annual Report*, Form 10-K, For the Year Ended December 31, 2019, p. 15, https://shareholder.ford.com/investors/financials/annual-reports/default.aspx.

[78] Michael Schultz, Kristin Dziczek, and Yen Chan, et al., *U.S. Consumer & Economic Impacts of U.S. Automotive trade Policies*, Center for Automotive Research, February 2019, pp. 24-25.

[79] Ryan Beene, "Auto industry unites to oppose Trump import tariffs," *Automotive News*, March 29, 2019, https://www.autonews.com/automakers-suppliers/auto-industry-unites-oppose-trump-import-tariffs.

[80] 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.

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

[82] "Trump threatens big tariffs on car imports from EU," Reuters, January 22, 2020.

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

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

[85] U.S. Department of Commerce, "Statement from the Department of Commerce on Submission of Automobiles and

deadline expired in November 2019, by which President Trump may act under the current Section 232 report;[86] the Administration disagrees.[87] 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.[88] On March 6, 2020, Senator Toomey and other Members of Congress filed an amicus brief with the district court arguing, among other things, that (1) Congress needed the report in order to exercise oversight over the authority it had granted to the executive branch in Section 232; and (2) the President could not invoke executive privilege to withhold disclosure of the document.[89] The court has not issued a decision in the case.

To compel the Administration to release the report, Congress included an amendment in the Consolidated Appropriations Act, 2020 (H.R. 1158; P.L. 116-93) mandating that Commerce publish the report in the *Federal Register* and that it submit to Congress any portion of the report that contains classified information.[90] The Administration has yet to release the report. A legal opinion by the Department of Justice cited executive privilege, noting that disclosure of the report "would risk impairing ongoing diplomatic efforts to address a national-security threat and would risk interfering with executive branch deliberations," in apparent reference to ongoing negotiations with the EU and others.[91] Several Members, including Senate Finance Chair Senator Grassley have pushed back against the Administration's refusal to release the report.[92]

Bills introduced 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 impose import restrictions on the sector (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 imports in response to a petition from two uranium producers (uranium mining and milling companies), and after consulting with industry, government officials, and a public comment period.[93] The

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Automobile Parts Section 232 Report to the President," Press Releases, February 17, 2019.

[86] David Lawder, "Trump can no longer impose 'Section 232' auto tariffs after missing deadline: experts," Reuters, November 19, 2020, and https://twitter.com/SenToomey.

[87] "Wilbur Ross Says U.S. Has Had Constructive Talks With German Automotive," *Bloomberg Markets*, January 23rd, 2020.

[88] 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.

[89] Senator Toomey, "Toomey Leading Bipartisan Amicus Brief Supporting Lawsuit Seeking Release of Commerce Department's 232 Auto Report," March 7, 2020, https://www.toomey.senate.gov/?p=op_ed&id=2591.

[90] P.L. 116-93, Sec. 112.

[91] Steven A. Engel, Assistant Attorney General Office Legal Counsel, "Publication of a Report to the President on the Effect of Automobile and Automobile-Part Imports on the National Security," January 17, 2020, https://www.justice.gov/olc/opinion/file/1236426/download.

[92] "Grassley says he intends to 'pursue' release of Section 232 autos report," *Inside U.S. Trade*, February 11, 2020; Doug Palmer, "Toomey blasts Commerce decision not to release auto report," *PoliticoPro*, January 21, 2020; letter from New Democrat Coalition to Pres. Trump dated February 13, 2020.

[93] 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*

petitioners, the uranium producers Energy Fuels and Ur-Energy, requested limiting imports to guarantee 25% of the U.S. nuclear fuel market for U.S. uranium producers, and "Buy American" provisions for government purchases of uranium to bolster the industry.[94]

Compared to historical production, current uranium mining has become a relatively small-scale industry in the United States. The Energy Information Administration (EIA) reports U.S. production of uranium shrank to 1.6 million pounds in 2018, 33% less than 2017, and declined to 173,875 pounds in 2019.[95] Kazakhstan accounted for 41% of the world's production of uranium; Canada and Australia supplied roughly a quarter of the world's production in 2017.[96] China made up 3.5% of worldwide uranium production in 2018.[97]

In April, 2019, Commerce submitted its report to the President, determining affirmatively that uranium imports threaten to impair U.S. national security.[98] In July, the President expressed concerns regarding national security, calling for a "fuller analysis of national security considerations with respect to the entire nuclear fuel supply chain." The White House memorandum established a Nuclear Fuel Working Group, co-chaired by the Assistant to the President for National Security Affairs and the Assistant to the President for Economic Policy, with representatives from other executive branch agencies. The working group was directed to "examine the current state of domestic nuclear fuel production to reinvigorate the entire nuclear fuel supply chain," and provide a report to the President within 90 days of the memorandum.[99] To date, the Nuclear Fuel Working Group has not publicly announced the completion of their report or recommendations to the President.[100]

Titanium Sponge

In March 2019, Commerce launched another Section 232 investigation in response to a petition from a U.S. titanium firm.[101] 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."[102]

Register 35204, July 25, 2018.

[94] 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/.

[95] Energy Information Administration (EIA), *Domestic Uranium Production Report - Quarterly*, February 13, 2020, https://www.eia.gov/uranium/production/quarterly/.

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

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

[98] The White House, Memorandum on the Effect of Uranium Imports on the National Security and Establishment of the United States Nuclear Fuel Working Group, Presidential Memorandum, July 12, 2019, https://www.whitehouse.gov/presidential-actions/memorandum-effect-uranium-imports-national-security-establishment-united-states-nuclear-fuel-working-group/.

[99] Ibid.

[100] For more information on uranium enrichment, see CRS Report R45753, *The Front End of the Nuclear Fuel Cycle: Current Issues*, by Lance N. Larson.

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

[102] U.S. Department of Commerce press release, March 2019, https://www.commerce.gov/news/press-releases/2019/

Titanium Metals Corporation (known as Timet) is currently the only producer of titanium sponge in the United States; U.S. Geological Survey (USGS) estimates that titanium sponge manufacturing employed 150 workers in 2019.[103] In 2016, there were three such producers.[104] For 2019, and the United States was 86% import reliant for titanium sponge, up from 73% the previous year.[105] In 2019, Japan was the biggest supplier of titanium sponge to the United States, accounting for more than 90% of sponge imports; Kazakhstan was the second-leading supplier, making up 8% of imported titanium sponge.[106] Although China was the world's largest producer of titanium sponge, producing 84 thousand tons in 2019, it is not an important source of sponge imports for the United States.[107] In its 232 petition, Timet voiced concern that without protection, the U.S. defense and aerospace industries could become dependent on titanium sponge imports from "risky" sources such as China or Russia. Furthermore, the company noted that China is not certified as a producer of premium grade titanium sponge used in rotating parts of jet engines.[108]

Commerce submitted its report to the President in November 2019, but has not released it to Congress or to the public.[109] On February 27, 2020, the President announced that he agreed with the Commerce finding that titanium sponge imports threaten to impair national security and also with the Commerce recommendation not to adjust imports.[110] Similar to the uranium case, the White House memorandum established a working group, in this case co-chaired by the Secretary of Defense and the Secretary of Commerce with heads from other executive branch agencies. The working group is to meet with counterpart agencies in Japan to "agree upon measures to ensure access to titanium sponge in the United States for use for national defense and critical industries in an emergency."[111] Furthermore, the President instructed the Secretary of Defense "to take all appropriate action… to increase access to titanium sponge for use for national defense and critical industries and to support domestic production capacity for the production of titanium sponge to meet national defense requirements."[112] Timet is reportedly satisfied with the result of the investigation.[113]

03/us-department-commerce-initiates-section-232-investigation-titanium.

[103] USGS, *Titanium and Titanium Dioxide Mineral Commodity Summaries*, January 2020, https://minerals.usgs.gov/minerals/pubs/commodity/titanium/.

[104] USGS, *Titanium Minerals Yearbook*, January 2020, Table 2, p. 79.7.

[105] USGS, *Titanium and Titanium Dioxide Mineral Commodity Summaries*, January 2020.

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

[107] USGS, *Titanium and Titanium Dioxide Mineral Commodity Summaries*, January 2020, https://minerals.usgs.gov/minerals/pubs/commodity/titanium/.

[108] Petition of the Titanium metals Corporation Under Section 232 of the Trade Expansion Act of 1962 for relief from Imports of Titanium Sponge that Threaten National Security, September 27, 2018, p.19, https://www.timet.com/assets/local/documents/petition/Titanium-Sponge-232-Petition-Executive-Summary.pdf.

[109] https://www.bis.doc.gov/index.php/other-areas/office-of-technology-evaluation-ote/section-232-investigations.

[110] The White House, *Memorandum on the Effect of Titanium Sponge Imports on the National Security*, February 27, 2020.

[111] Ibid.

[112] Ibid.

[113] Doug Palmer, "Trump won't restrict titanium sponge imports in name of national security," *PoliticoPro*, February 28, 2020.

U.S. Steel and Aluminum Industries and International Trade

In 2019, U.S. imports of steel and aluminum products covered by the Section 232 tariffs totaled $23.9 billion and $15.7 billion, respectively (see **Table D-1**). Over the past decade, steel imports have fluctuated significantly, by value and quantity. Imports of aluminum have generally increased through 2018, but saw a slight decline in 2019 (see **Figure 4**). Compared to 2017, imports of both metals have decreased, by value and quantity. Steel imports have decreased 17.7% by value (-$5.1 billion) and 24.0% by quantity (-8.3 million metric tons). Aluminum imports have decreased 8.5% in value (-$1.5 billion), and 12.5% by quantity (-0.9 million metric tons).

U.S. imports from individual countries fluctuated since the tariffs went into effect (see **Table D-1**).[114] When comparing 2019 trade data to 2017, before the tariffs took effect, the largest declines in U.S. steel imports were from Turkey (-$994.6 million, -83.3%), the European Union (-$894.4 million, -14.9%), Russia (-$812.9 million, -57.5%), and South Korea (-$537.7 million, -19.3%), with notable increases in trade from Brazil (+$250.4, +10.2%) and Mexico (+$148.2, +5.9%). The largest declines in aluminum imports were from Canada (-$1,388.4 million, -19.8%), China (-$1,064.4 million, -60.7%), Russia (-$1,024.5 million, -62.8%), and Argentina (-$134.7 million, -24.6%). Aluminum imports increased by value from Australia (+$361.4 million, +170.2%), the European Union (+$607.7 million, +50.1%), and Turkey (+$196.3 million, +390.6%).

The countries with permanent exclusions from the tariffs accounted for 52.5% of U.S. steel imports in 2019 and 43.1% of U.S. aluminum imports.

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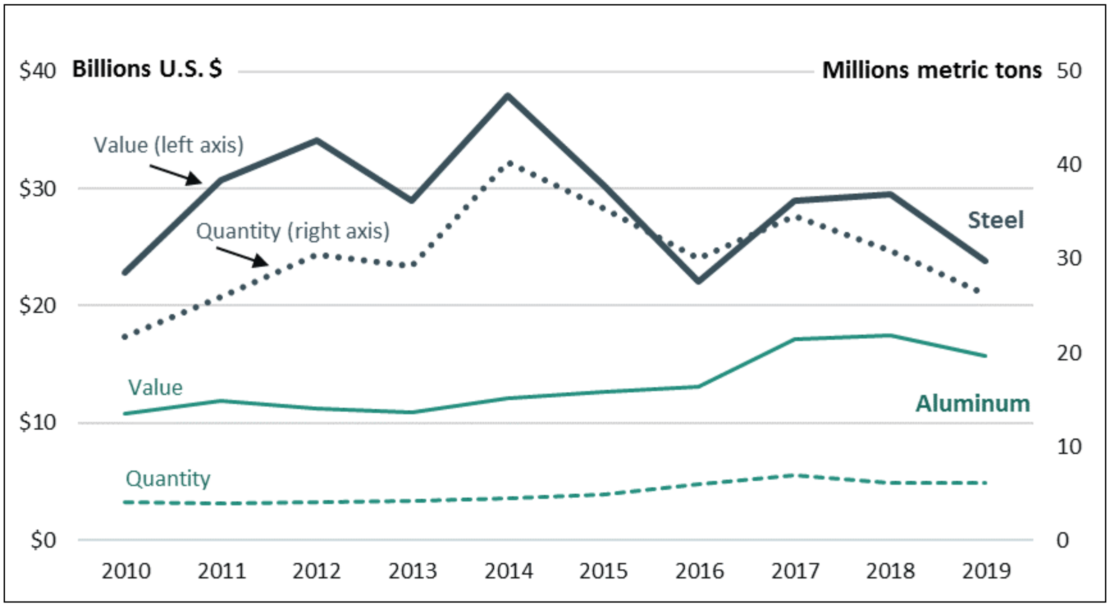
[114] Section 232 tariffs became effective at different times for different countries. Section 232 steel and aluminum tariffs became effective on most U.S. imports in March 2018, but Canada, Mexico and the EU were exempt until June 2018. U.S. steel imports from South Korea, Brazil, and Argentina were never subject to 232 tariffs but have been subject to a quota since May 2018 (South Korea) and June 2018 (Brazil and Argentina). U.S. aluminum imports from Argentina similarly have been subject to a quota since June 2018. U.S. imports of steel and aluminum from Australia were exempted from Section 232 tariffs and quotas. On May 19, 2019, Canada and Mexico were permanently excepted from both steel and aluminum tariffs.

Figure 4. U.S. Steel and Aluminum Imports



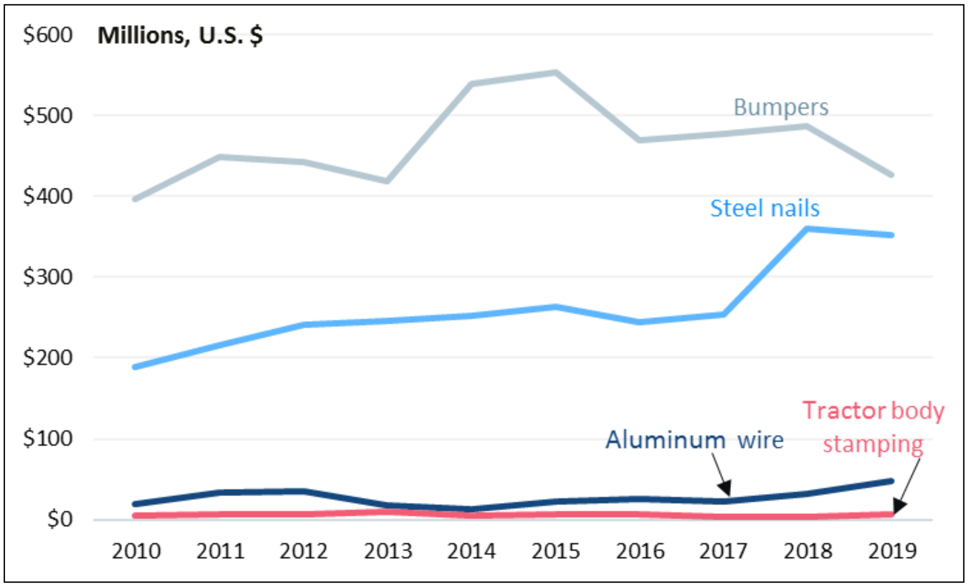
Source: CRS compiled from U.S. Census Bureau data, based on the HTS codes listed in the 2018 Section 232 proclamations.

Notes: Data does not include derivative products.

As mentioned, in February 2020, the Administration declared that while steel and aluminum imports decreased, a perceived increase in imports of certain derivatives of steel and aluminum undermined the purpose of the Section 232 steel and aluminum actions.[115] In response, the President proclaimed tariffs on selected derivatives products, namely steel nails, aluminum wire, automobile bumpers, and body stamping for tractors. In 2019, the United States imported a total of $831.8 million worth of these selected derivative products. In comparison to 2017, imports of these selected derivative products increased overall by 9.8% ($74.5 million); however, import trends differed by each derivative group. For example, the majority of the overall increase was due to increased imports of steel nails (38.6% increase, $97.9 million, as compared to 2017). Conversely, imports of automobile bumpers decreased 10.6% (-$50.3 million) during the same period (see **Figure 5**).

[115] Presidential Proclamation 9980 of January 24, 2020, "Adjusting Imports of Derivative Aluminum Articles and Derivative Steel Articles Into the United States."

Figure 5. U.S. Imports of Select Derivative Products



Source: CRS compiled from U.S. Census Bureau data for HTS codes listed in Presidential Proclamation 9980 (January 24, 2020) on steel and aluminum derivative products.

Notes: Illustrates total U.S. imports of the steel and aluminum derivative products identified in the Presidential Proclamation 9980. Steel nails consist of HTS codes: 73170030, 7317005503, 7317005505, 7317005507, 7317005560, 7317005580, and 7317006560. Bumpers consist of HTS 87081030. Body stamping for tractors consist of HTS 87082921, and Aluminum wire consists of HTS 76141050, 76149020, 76149040, and 76149050.

U.S. Steel and Aluminum Manufacturing and Employment

As discussed earlier (see "Commerce Findings and Recommendations"), a stated goal of the metal tariffs is to spur U.S. producers of steel and aluminum to operate at an average of 80% or more of their production capacity. Commerce's Section 232 reports deemed this as necessary to sustain adequate profitability, to reopen idled capacity, and to continue capital investment in both manufacturing sectors.[116] Currently, domestic steel producers operate at 80% or less of production capacity (it was 77.1% in 2019 and about the same in 2018).[117] Domestic producers of primary aluminum operated at an estimated 60% of production capacity in 2019, a rise from about 55% of capacity in 2018.[118]

Domestic Steel Manufacturing

U.S. raw steel production increased to 87 million metric tons in 2019, compared to 82 million metric tons in 2017, the year before the Section 232 trade action took effect.[119] According to the USGS, nationwide in 2019 three companies in nine locations operated large integrated steel

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

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

[118] U.S. Geological Survey (USGS), *Mineral Commodity Summary*, Aluminum, 2019 and 2020.

[119] USGS, *Mineral Commodity Summary*, Iron and Steel, 2020.

mills—once the chief method of producing steel in the United States—and 50 companies operated 98 minimills—with lower capital and energy costs and a largely nonunion workforce.[120]

One effect of the steel tariff is that U.S. hot-rolled band steel prices initially rose, registering a 10-year high of more than $1,000 per metric ton at the beginning of July 2018. Since then, the domestic price of steel has been dropping, reaching around $650 per metric ton in February 2020, which was lower than before the United States applied the steel tariff.[121] U.S. downstream industries that use steel have had to contend, at least for a time, with higher costs of inputs into production. Any price increases may put U.S. exporters of products made of steel at a disadvantage as they compete against foreign rivals who may pay a lower price for steel in the global market when buying materials for production.

Figures from the U.S. government show a modest increase in steel manufacturing jobs, and it is possible that the tariffs may have prevented some additional steel jobs from disappearing. U.S. steelmakers directly employed 144,000 workers in 2019 (see **Figure 6**), accounting for 1.1% of the nation's 12.8 million factory jobs. Steel manufacturers added a total of 6,600 jobs in 2018 and 2019, a rise of 4.8% from 2017.[122] Nevertheless, steelmakers employed 7,300 fewer people than in 2014. Despite the recent uptick, the U.S. government expects steel industry employment to shrink to 124,100 jobs by 2028.[123] What is not yet known and difficult to assess is the employment effect of increased input costs on other U.S. manufacturing industries that use steel intensively, such as manufacturers of automobiles and parts, household appliances, and farm machinery. The possible effects of the steel and aluminum tariffs on the automotive supply chain are discussed in the section "Automobiles and Parts". Beyond the various U.S. tariff actions over the years meant to protect the industry from foreign competition, employment in the steel industry has been affected by new technology, particularly the increased use of electric arc furnaces to make steel, which has reduced the demand for workers.[124] According to the Bureau of Labor Statistics, labor productivity in steelmaking nearly tripled since 1987 and rose 10% over the past decade.[125] Hence, even a significant increase in domestic steel production is likely to result in a relatively small number of additional jobs. In the past two years, a few steel plant expansions have been realized or announced, and some blast furnaces have reopened.[126] Nevertheless, industry experts are skeptical domestic steelmakers will make long-term capital expenditures solely on the basis of trade and tariff policy that could change or be eliminated in the future at the President's discretion. Some analysts argue the uncertainty associated with the tariff actions could discourage steelmakers from adding new capacity.[127] Over the same period, other steelmakers have closed mills, idled employees, or cut back on work hours.[128]

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[120] Ibid., 2020.

[121] World Steel Dynamics, *Steelbenchmarker: Price History, Tables and Charts*, February 10, 2020.

[122] Bureau of Labor Statistics (BLS), *Current Employment Statistics (CES)*, Iron and Steel Mills (NAICS 3311) and Steel Products (NAICS 3312), accessed February 24, 2020, https://www.bls.gov/ces/.

[123] BLS, *Employment and Output by Industry*, Table 2.7, September 4, 2019, https://www.bls.gov/emp/tables/industry-employment-and-output.htm.

[124] 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.

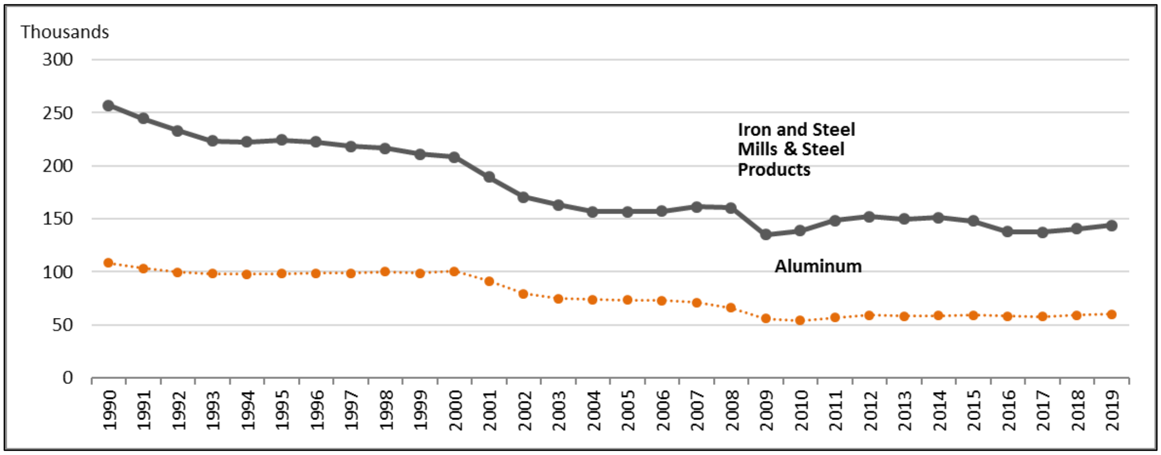
[125] BLS, Industry Productivity and Costs, https://www.bls.gov/lpc/.

[126] Bob Tita, "U.S. Steel's Turnaround Plan Runs Through Big River Mill," *Wall Street Journal*, February 20, 2020.

[127] Shawn Donnan and Joe Deaux, "Trump's Tariffs Revived a Steel Town, but Industry is Unforgiving," *Bloomberg News*, December 18, 2019.

[128] As one example, AK Steel's plant in Ashland, KY, closed permanently at the end of 2019.

Figure 6. 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).

Domestic Aluminum Manufacturing

Figures from the USGS indicate that domestic production of raw aluminum has risen over the past two years, reaching 1.1 million metric tons in 2019, up from 741,000 metric tons in 2017, the lowest level since 1951. Three companies operated eight primary aluminum smelters in the United States in 2019, compared with five companies that operated nine primary aluminum smelters in 2010.[129] U.S. production of aluminum accounted for a tiny fraction of the world's primary aluminum production at 1.7% in 2019, whereas China constituted more than half.[130] A main source of imported aluminum for the United States is Canada, which was exempted from the aluminum tariff in mid-May 2019.[131]

One aim of the 10% tariff was to raise the price of imported aluminum as a way to encourage domestic manufacturers to restart idled capacity. In October 2019, the average spot price of primary aluminum ingot produced in the United States was $2,123 per metric ton, or 24% higher than the London price (the global price of aluminum). However, in the first 10 months of 2019, the average price of primary aluminum in the United States fell by 7%, according to USGS.[132]

Aluminum manufacturers directly employed 59,800 workers in 2019, 2,200 more than in 2017, and an increase of 1,100 jobs from 2014 (see **Figure 6**). Similar to the trend in steelmaking, the U.S. Bureau of Labor Statistics (BLS) expects employment in aluminum manufacturing to shrink, falling to 52,800 jobs by 2028.[133] A reason for this is that 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.[134] Secondary aluminum production, which has been

[129] USGS, *Mineral Commodity Summary*, Aluminum, February 2000 and January 2019.

[130] USGS, *Mineral Commodity Summary*, Aluminum, January 2019.

[131] The Section 232 U.S. aluminum tariffs on Canada and Mexico applied from June 1, 2018 to May 19, 2019.

[132] USGS, *Aluminum Mineral Industry Survey*, Table 6, October 2019.

[133] BLS, *Employment and Output by Industry*, Table 2.7, September 4, 2019.

[134] 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.

fairly steady over the past two decades, accounted for three-fourths of U.S. aluminum production in 2019, and the United States was the world's largest producer of secondary aluminum.[135] China ranked second. Imports of secondary unwrought aluminum are not covered by the Section 232 aluminum trade action.[136]

Another development affecting aluminum is that the President's Commerce budget request for FY2021 published in February 2020 seeks funds to create a formal aluminum import monitoring system "to track imports of aluminum products and provide an early warning system for import surges."[137] The aluminum program would be similar to the import monitoring and analysis system for steel administered by ITA's Enforcement and Compliance unit.[138]

Global Production Trends

Tariffs to protect the domestic steel industry do not address the underlying issue of global overcapacity. The steel committee of the Organisation for Economic Co-operation and Development (OECD) estimates global steel overcapacity was at 440 million metric tons in 2019.[139] Although China is the world's largest steel producer, accounting for roughly 45% of global capacity in 2018, relatively little Chinese steel enters the U.S. market directly, due to extensive U.S. AD/CVD duties, but the large amount of Chinese production depresses 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.[140] 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.[141]

No OECD or other multinational forum has been established to monitor global aluminum overcapacity, though aluminum industry groups have called for such a forum.[142] Although China accounted for more than half of the world's primary aluminum production in 2019, it does not export aluminum in commodity form to the United States.[143] China ships semi-finished aluminum such as bars, rods, and wire to the United States. These are subject to the Section 232 tariffs.[144]

[135] Secondary aluminum can be substituted for primary aluminum in most uses, although primary aluminum is favored in some applications, such as electronics or aerospace manufacturing.

[136] 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.

[137] U.S. Department of Commerce, International Trade Administration (ITA), *Budget Estimates Fiscal Year 2021*, February 24, 2020, p. 41.

[138] See Steel Import Monitoring and Analysis (SIMA) system, https://enforcement.trade.gov/steel/license/index.html.

[139] See Fabien Mercier, Valentina Burrai, and Daichi Mabashi, *Steel Market Developments Q4 2019*, OECD, 2019, p. 38, https://www.oecd.org/sti/ind/steel-market-developments.htm; and, 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.

[140] OECD, *Latest Developments in Steelmaking Capacity*, July 2019, p. 11, https://www.oecd.org/sti/ind/steelcapacity.htm.

[141] In October 2019, China blocked the continuation of the Global Forum on Excess Capacity in the G20; however, more than 30 countries, including the United States, have pledged to continue the work of the Global Forum to reduce the global overcapacity of this metal. G20 Global Forum on Steel Excess Capacity, *Ministerial Report*, September 20, 2018, p. 10.

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

[143] USGS, *Aluminum*, Mineral Commodity Summaries, January 2020, p. 2.

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

Metals imports should be put in the context of U.S. production. In 2019, the United States produced more than three times the amount of steel it imported.[145] According to Commerce, import penetration—the share of U.S. demand met by steel imports—rose to 28.3% in 2018, from 23% in 2009.[146] 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 6.1 million tons in 2019.[147] In the primary aluminum market, U.S. net import reliance fell to 22% in 2019 from 41% in 2015, according to USGS.[148] Most U.S. foreign trade in steel and aluminum is with Canada (see **Appendix D**).

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.[149] 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 disciplines in the steel industry as part of his general steel announcement of 2001.[150] 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.[151] 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.[152] 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.[153]

[145] USGS, *Mineral Commodity Summaries*, Iron and Steel, January 2020.

[146] DOC, ITA, *Steel Imports Report: United States*, Global Steel Trade Monitor, September 2019, p. 6.

[147] DOC, ITA, Enforcement & Compliance, U.*S. Steel Import Monitor, Import by Country and Product Category,* 2019.

[148] USGS, *Mineral Commodity Summaries*, Iron and Steel, January 2020.

[149] 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.

[150] 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.

[151] 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.

[152] 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.

[153] U.S. Department of the Treasury, 2016 U.S.-China Strategic and Economic Dialogue U.S.-Fact Sheet, June 7, 2016,

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.[154] The USTR, while supportive of the recommendations, questioned the Forum's ability to pursue effective implementation and did not rule out unilateral action.[155] Some Members have expressed support of U.S. participation in the Forum and other global coalitions to address overcapacity.[156] Despite calls from international steel industry associations and most Forum members, including the United States, the G-20 was unable to overcome objections by China to extend the Forum's mandate past November 2019.[157] However, the Chair noted that a large majority of members agreed to continue and USTR stated that it "will continue to work with like-minded partners to seek long-term solutions" to global overcapacity.[158]

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. A June 2019 OECD report found that subsidies, especially in China and the countries of the Gulf Cooperation Council, and other market-distorting practices impact global competition in the aluminum industry.[159]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 began meeting with EU and Japanese counterparts in May 2018, 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."[160] The parties also agreed to cooperate on their concerns with third parties' technology transfer policies and practices[161] and issued a joint statement containing a list of factors that identify if market conditions for competition exist.[162] In January 2020, the three parties issued a statement with specific recommendations and proposed reforms to strengthen the

https://www.treasury.gov/press-center/press-releases/Pages/jl0485.aspx.

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

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

[156] Senators Portman, Brown, Braun, and Casey, "Portman, Brown, Braun, Casey Urge USTR to Prioritize Extension of the Global Forum on Steel Excess Capacity," October 24, 2019.

[157] G-20 Chair, Japanese Ministry of Economy, "Trade and Industry, Ministerial Meeting on the Global Forum on Steel Excess Capacity (GFSEC) Held," October 26, 2019, https://www.meti.go.jp/english/press/2019/1026_001.html.

[158] USTR, "USTR Statement on Meeting of the Global Forum on Steel Excess Capacity," October 26, 2019.

[159] OECD (2019), "Measuring Distortions in International Markets: the Aluminium Value Chain", *OECD Trade Policy Papers*, No. 218, OECD Publishing, Paris, https://doi.org/10.1787/c82911ab-en.

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

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

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

existing WTO Agreement on Subsidies and Countervailing Measures (ASCM) rules.[163] 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.[164] U.S. unilateral tariff actions, however, may limit other countries' willingness to participate or support U.S. reform proposals 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. Some companies have challenged the president's actions through domestic litigation,[165] and may also seek alternative markets for their own products to avoid U.S. tariffs.

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. 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.

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 CIT to prevent the United States from collecting the import tariffs on certain steel products.[166] The company and its Swiss affiliate argued that the President acted outside of the authority delegated by Congress because the tariffs were not truly imposed for national security purposes.[167] The court denied the motion, determining that the plaintiffs were unlikely to prevail on the merits of their challenge.[168] According to the case docket, the parties agreed to dismiss the case in May 2018.

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[163] U.S. Trade Representative, "Joint Statement on Trilateral Meeting of the Trade Ministers of Japan, the United States and the European Union," January 14, 2020.

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

[165] *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).

[166] *See* Severstal Export GmbH v. United States, No. 18-00057, 2018 WL 1705298, at *2 (Ct. of Int'l Trade April 5, 2018).

[167] *See id.* at *9.

[168] *See id.* at *10. Another case filed in December 2019 against the steel and aluminum tariffs challenges the executive branch's alleged failure to meet Section 232's statutory requirements, and its purportedly overbroad interpretation of "threat to national security" in Section 232. Complaint at 14-17, Universal Steel Prods., Inc. v. United States, No. 19-00209 (Ct. Int'l Trade Dec. 3, 2019). The case remains pending before the court.

In another case, which was heard by a three-judge panel of the CIT, 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.[169] The plaintiffs 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 protections to assure that the President stays within the law, instead of making the law himself."[170]

On March 25, 2019, the CIT 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.[171] In granting the United States' motion for judgment on the pleadings, the CIT 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.[172] One member of the three-judge panel, Judge Katzmann, wrote separately to express his significant concerns about the ruling without openly dissenting.[173] Judge 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.[174] On appeal, the U.S. Court of Appeals for the Federal Circuit (Federal Circuit) affirmed the case, agreeing with the CIT that the case was controlled by the Supreme Court precedent that "declare[d] section 232 not to violate the nondelegation doctrine."[175] AIIS has asked the Supreme Court to review the Federal Circuit's decision.[176]

More recently, the CIT issued a preliminary decision in a case in which U.S. importers of Turkish steel alleged 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."[177] In a decision denying the United States' motion to dismiss the company's complaint in *Transpacific Steel LLC v. United States*, the CIT indicated that the President's power to impose tariffs under Section 232, while broad, is not unlimited.[178] Specifically, the court suggested that the President must closely adhere to the procedural requirements of the statute when exercising such authority.[179] The court also determined that the company raised a plausible argument that the Executive violated constitutional guarantees of equal protection protected by the Fifth Amendment's Due Process

[169] Am. Inst. for Int'l Steel, Inc. v. United States, 376 F. Supp. 3d 1335, 1337 (Ct. Int'l Trade 2019), *aff'd,* No. 2019-1727, 2020 WL 967925 (Fed. Cir. February 28, 2020).

[170] 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 (Ct. Int'l Trade July 19, 2018).

[171] *Am. Inst. for Int'l Steel*, 376 F. Supp. 3d at 1344–45.

[172] *Id.* at 1340–41 (citing Fed. Energy Admin. v. Algonquin SNG Inc., 426 U.S. 548, 559–60 (1976)).

[173] *Id.* at 1345 (Katzmann, J., dubitante).

[174] *Id.* at 1352.

[175] Am. Inst. for Int'l Steel, Inc. v. United States, No. 2019-1727, 2020 WL 967925, at *1 (Fed. Cir. February 28, 2020).

[176] Sarah Martinson, "Steel Importers Take National Security Tariff Fight To Justices," *Law360,* March 25, 2020.

[177] Complaint at 1-3, Transpacific Steel LLC v. United States, No.19-00009 (Ct. Int'l Trade January 17, 2019).

[178] Transpacific Steel LLC v. United States, 415 F. Supp. 3d 1267, 1276 (Ct. of Int'l Trade 2019).

[179] *Id.* at 1275–76.

Clause when imposing, without a rational basis, the additional steel tariffs only on imports from Turkey.[180]

The decision in *Transpacific Steel* indicates that courts might scrutinize whether the executive branch has followed the proper procedures, including meeting statutory deadlines, when exercising Section 232 authority.[181] Presidential action that does not follow these statutory procedures may be deemed in excess of the President's authority.[182]

Proclamation Imposing Tariffs on Steel-Derivative Products

As noted, in a January 2020 proclamation, President Trump expanded the steel and aluminum tariffs to cover derivative products (e.g., steel nails, tacks, drawing pins, and stranded wire).[183] On February 4, 2020, a U.S. importer of steel-derivative products sued the United States in the CIT, seeking a temporary restraining order preventing U.S. Customs and Border Protection (CBP) from collecting the additional duties.[184] The company argues that the President's imposition of the tariffs failed to follow required statutory procedures; occurred after the statutory deadline for action; and violated the company's constitutional rights, among other things.[185] On February 13, with the consent of both parties, a judge issued an order enjoining CBP from collecting the additional duties and requiring the plaintiff-company to post a bond for the duties until the CIT reaches a final judgment on the merits of the plaintiff's complaint.[186] The case remains pending before the CIT.[187]

WTO Cases

The President's imposition of tariffs on certain imports of steel and aluminum products,[188] 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

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[180] *Id.* at 1270.

[181] *See id.* at 1276.

[182] *See id.* At least one U.S. importer has challenged the Department of Commerce's exclusion process for Section 232 tariffs. In *JSW Steel, Inc. v. United States*, the plaintiff argues that Commerce's failure to grant the company's products an exclusion from the steel tariffs violated the Administrative Procedure Act because the Agency improperly determined that the U.S. market could furnish the products "in a sufficient quantity or quality on a timely basis to replace the steel slab [the plaintiff] currently imports." Complaint at 13-14, JSW Steel, Inc. v. United States, No. 19-00133 (July 30, 2019). The case remains pending before the court.

[183] Presidential Proclamation 9980 of January 24, 2020, Adjusting Imports of Derivative Aluminum Articles and Derivative Steel Articles into the United States, 85 *Federal Register* 5281 (January 29, 2020).

[184] Motion for Temporary Restraining Order at 1-6, PrimeSource Bldg. Prods., Inc. v. United States, No. 20-00032 (February 4, 2020).

[185] *Id.*

[186] Order at 1-3, PrimeSource Bldg. Prods., Inc. v. United States, No. 20-00032 (February 13, 2020).

[187] Several other companies have also filed cases at the CIT challenging the President's January 2020 Proclamation imposing tariffs on steel- and aluminum- derivative products. *See, e.g.*, Complaint at 19-25, J. Conrad Ltd. V. United States, No. 20-00052 (March 2, 2020); Complaint at 17-23, Aslanbas Nail & Wire Co. v. United States, No. 20-00049 (February 26, 2020).

[188] 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.

consultations with the United States.[189] Under WTO dispute settlement rules, members must first attempt to settle their disputes through consultations. If consultations fail, the member initiating a dispute may request the establishment of a dispute settlement panel composed of trade experts to determine whether a country has violated WTO rules.[190] In October 2018, China requested the formation of such a panel.[191] Other WTO members have requested consultations with the United States, or have joined existing requests, and panels have been composed to hear the cases (see **Figure 7**).

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 rules on international trade in goods.[192] In particular, China alleged that the measures violate 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.[193] 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., the so-called most-favored-nation treatment principle).[194] China also maintained that the Section 232 tariff measures are "in substance" a safeguard measure intended to alleviate injury to a domestic industry from increased quantities of imported steel that compete 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.[195]

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[189] 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.

[190] 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), however that Body stopped functioning as of December 11, 2019, when it lost its quorum, *see* CRS Legal Sidebar LSB10385, *The WTO's Appellate Body Loses Its Quorum: Is This the Beginning of the End for the "Rules-Based Trading System"?*, by Brandon J. Murrill. 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.

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

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

[193] 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).

[194] *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."

[195] *Request for Consultations* at 2.

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[196] 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 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 to evaluate whether the WTO member's use of the exception is proper.[197] 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.[198]

In April 2019, a WTO panel interpreted the national security exception in Article XXI of the GATT for the first time. In *Russia—Measures Concerning Traffic in Transit*, the panel determined that it had jurisdiction to review whether a member's actions were justified under Article XXI's national security exception and whether the member satisfied the requirements for invoking the exception.[199] As of December 11, 2019, however, the WTO's Appellate Body lost its quorum of three members necessary for the Body to decide appeals of WTO dispute settlement panel decisions and issue final reports.[200] Because of this, the Dispute Settlement Body (DSB) (i.e., the committee composed of all WTO members that oversees the dispute settlement mechanism) can no longer adopt panel reports in line with the WTO's Understanding on Rules and Procedures

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[196] 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.

[197] *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]").

[198] *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).

[199] Report of the Panel at ¶¶ 8.1(d)(i)-(iv), *Russia—Measures Concerning Traffic in Transit*, WT/DS512/R (April 5, 2019).

[200] Alan H. Price, Real WTO Reform Now Possible With Demise of Appellate Body, BLOOMBERG LAW (Dec. 20, 2019). For more on this issue, see CRS Legal Sidebar LSB10385, *The WTO's Appellate Body Loses Its Quorum: Is This the Beginning of the End for the "Rules-Based Trading System"?*, by Brandon J. Murrill.

Governing the Settlement of Disputes (DSU).[201] Consequently, unless WTO members agree to consider unadopted dispute reports as final, the DSB cannot oversee the losing member's implementation of a panel ruling or authorize the prevailing member to engage in trade retaliation if the losing member ignores the dispute panel's recommendations. Thus, even if the United States or one of its trading partners prevails in a dispute over the Section 232 or retaliatory tariffs, there are significant doubts as to whether the ruling would be enforceable under WTO procedures.

Prior to December 2019, if one of the WTO panels had rendered 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 be subject to certain countermeasures allowed under the rules.[202] Such countermeasures might include the complaining member imposing higher duties on imports of selected products from the United States.[203] Nonetheless, several trading partners have already imposed retaliatory duties on selected U.S. exports without awaiting the outcome of a dispute settlement proceeding.[204]

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.[205] On July 16, 2018, the United States filed its own WTO complaints over the retaliatory tariffs imposed by five countries (Canada, China, the EU, Mexico, and Turkey) in response to U.S. actions; in late August 2018, it filed a similar case against Russia;[206] and in July 2019, it filed a similar case against India.[207] Canada, Mexico, and the United States withdrew their cases regarding the Section 232 tariffs and corresponding retaliatory measures in May 2019 when the parties agreed to settle the disputes.[208]

[201] WTO Dispute Settlement Understanding art. 16, https://www.wto.org/english/tratop_e/dispu_e/dsu_e.htm#16.

[202] 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 violative 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 a dispute over compliance issues. *Id.* art. 21.5. The WTO Appellate Body hears appeals of these compliance panel reports. *Id.* art. 17.1.

[203] *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.*

[204] 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.

[205] 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.").

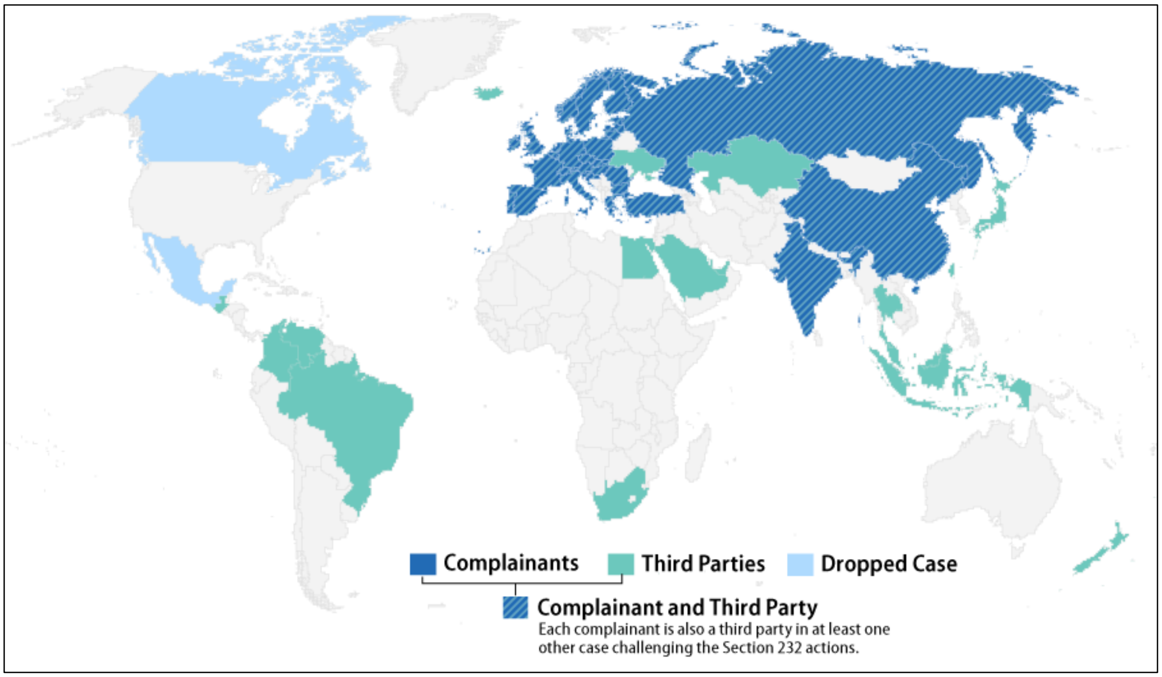
[206] USTR, "United States Challenges Five WTO Members Imposing Illegal Tariffs Against U.S. Products," press release, July 2018, https://ustr.gov/about-us/policy-offices/press-office/press-releases/2018/july/united-states-challenges-five-wto.

[207] *Request for Consultations* at 1-2, *India—Additional Duties on Certain Products from the United States*, WT/DS585/1 (July 4, 2019).

[208] Notification of a Mutually Agreed Solution, *Mexico—Additional Duties on Certain Products from the United States*, WT/DS560/4 (June 3, 2019); Notification of a Mutually Agreed Solution, *United States—Certain Measures on Steel*

Dispute settlement panels have been composed to hear the other cases, but, as noted, there are questions about the viability of the WTO's dispute settlement system because the Appellate Body has suspended its operations.

Figure 7. WTO Cases Challenging the United States' Section 232 Actions



Source: CRS based on WTO filings.

Notes: The UK is included as a member of the EU for cases filed prior to January 31, 2020. Independent of the EU, the UK has not been a complainant or third party in the WTO Section 232 disputes.

Retaliation

As noted, several major U.S. trading partners who are challenging the Section 232 actions on steel and aluminum in the WTO are imposing retaliatory tariffs (**see Figure 8**).[209] Retaliatory tariffs are currently in effect on approximately $9.0 billion of U.S. annual exports (2018 value).[210]

and Aluminum Products, WT/DS551/13 (June 3, 2019); Notification of a Mutually Agreed Solution, *Canada—Additional Duties on Certain Products from the United States*, WT/DS557/4 (May 27, 2019); Notification of a Mutually Agreed Solution, *United States—Certain Measures on Steel and Aluminum Products*, WT/DS550/13 (May 27, 2019).

[209] 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 India 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; India: Ministry of Finance (India), Notification no. 17, June 15, 2019, http://www.cbic.gov.in/resources/htdocs-cbec/customs/cs-act/notifications/notfns-2019/cs-tarr2019/cs17-2019.pdf.

[210] U.S. exports are estimated using partner country import data in order to match trade values with retaliatory tariff

The scale and scope of annual U.S. exports targeted for retaliation declined significantly during the past year (more than 50% by value), however, as Canada and Mexico withdrew their retaliatory tariffs following the Trump Administration's May 2019 decision to exempt both countries from Section 232 steel and aluminum duties. The EU announced it will expand its retaliatory tariffs, effective May 8, in response to the Trump Administration's decision to expand the U.S. steel and aluminum tariffs to derivative products. [211]

Figure 8. Retaliatory Actions by U.S. Trading Partners

2018 Trade

	U.S. Export	Effective Date	(Tariff)	Top U.S. Exports Affected by Retaliation
E.U.	$2.89B	June 22, 2018	(10-25%)	Steel, Whiskies, Beauty Products, Yachts, Motorcycles
China	$2.52B	April 2, 2018	(15-25%)	Aluminum, Pork, Nuts, Ethyl alcohol, Fruits
Turkey	$1.77B	June 21, 2018	(4-70%)*	Coal, Petroleum Coke, Nuts, Kraft Paper, Polymers
India	$1.39B	June 16, 2019**	(10-25%)	Nuts, Apples, Chemicals, Steel
Russia	$431M	July 6, 2018***	(25-40%)	Motor Vehicles (Goods Transport), Dozers/Heavy Equipment, Optical Fibers, Taps, Cocks, Valves, Forklifts
No longer in effect				
Canada	$12.05B	Suspended	(10-25%)	Steel, Aluminum, Sauces, Toilet Paper/Towels, Yachts
Mexico	$3.52B	Suspended	(7-25%)	Pork, Steel, Food Preparations, Cheese/Curd, Apples/Pears

Source: CRS analysis of Global Trade Atlas IHS Markit trade data. Retaliatory tariff lists sourced from WTO notifications and partner country notifications. See footnote 209 for complete sourcing.

Notes: U.S. exports approximated by using partner country import data. Steel and aluminum are among the top exports facing retaliation by several U.S. trading partners as highlighted above.

(*) Turkey temporarily increased its retaliatory tariffs up to 140% in August 2018 in response to the Trump Administration's tariff increase on Turkish steel to 50%, but in May 2019 both countries withdrew the additional increases.

(**) India's retaliatory tariffs were first announced in June 2018, but were repeatedly postponed until June 2019.

(***) 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 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

lists.

[211] European Commission, Commission Implementing Regulation (EU) 2020/502, April 6, 2020, https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32020R0502&from=EN.

and in some cases commensurate tariffs, when one party increases its tariffs above agreed-upon limits.[212] 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.[213]

Retaliatory actions have magnified the effects of U.S. Section 232 tariffs. From an economic perspective, retaliation increases the scope of industries affected by the tariffs. U.S. agricultural exports, for example, are among the largest categories of U.S. exports targeted for retaliation, which may have contributed to reduced sales of certain U.S. farm products.[214] 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 roughly $50 billion of motor vehicles and parts from the EU in 2019,[215] and the EU has announced potential retaliatory tariffs on nearly $40 billion of U.S. exports should the United States decide to impose Section 232 auto tariffs.[216]

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 have initiated WTO dispute settlement proceedings against the United States, while the Trump Administration views the actions within its rights under those same commitments (see "WTO Cases").[217] The retaliating countries notified their retaliation to the WTO pursuant to the WTO Agreement on Safeguards, arguing that U.S. steel and aluminum tariffs are intended to protect U.S. industry and therefore are effectively safeguard tariffs, the tariffs have not been authorized by a WTO dispute settlement panel.[218] The Trump Administration argues, in turn, that the retaliation violates WTO rules and has responded by initiating additional WTO disputes. If the WTO dispute settlement process cannot satisfactorily resolve this conflict, it could lead to further unilateral actions and increasing retaliation.

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212 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.

213 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.

214 For more information, see CRS Report R45903, *Retaliatory Tariffs and U.S. Agriculture*, by Anita Regmi.

215 U.S. Census Bureau and Bureau of Economic Analysis, "FT-900", February 5, 2020, exhibit 18, https://www.census.gov/foreign-trade/Press-Release/current_press_release/exh18.pdf.

216 "Threat of Auto Import Tariffs Remains Despite Lapsed Deadline," *Wall Street Journal*, November 21, 2019.

217 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.

218 For example, see European Union, "United States – Certain Measures on Steel and Aluminum Products Request for the Establishment of a Panel by the European Union," WTO WT/DS548/14, October 19, 2018.

Economic Impacts

The Section 232 steel and aluminum tariffs and resulting retaliation 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.[219] Press reports, company earnings statements, government data, and academic studies to date have suggested the U.S. steel and aluminum tariffs raised the tariff inclusive cost of imports leading to declining demand for U.S. imports of the products subject to the tariffs, and allowing domestic steel and aluminum producers to increase domestic prices and expand output.[220] In turn, downstream domestic industries (e.g., manufacturers using steel and aluminum as inputs) and consumers have faced higher costs. Preliminary data also appears to suggest other countries' retaliatory tariffs have had negative effects on U.S. industry by reducing demand for certain U.S. exports (see "**Retaliation**").

Most studies attempting to measure the overall economic effects of the tariffs estimate a negative impact on U.S. gross domestic product (GDP) as a result of the tariffs. Some groups supporting the tariff actions, however, argue that potential negative effects on the broader economy are exaggerated and that such effects are outweighed by the benefits to the domestic steel and aluminum industries in any case.[221] President Trump's May 2019 decision to exempt Canada and Mexico, which accounted for more than 30% of affected steel and aluminum imports, have likely lessened the effects of the Section 232 tariffs. On the other hand, academic studies suggest that the Administration's broader tariff actions—including Section 301 tariffs on imports from China and China's subsequent retaliation—and increased uncertainty from the Administration's various tariff actions may further depress U.S. and global economic growth, which would have negative implications for U.S. steel and aluminum producers as well as downstream industries.

Industry-Level 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 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.

[219] See, for example, 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. agricultural producers. The Senate Finance Committee also held a hearing during the 115th Congress with Commerce Secretary Ross to discuss the Administration's Section 232 investigations and the potential impacts of Section 232 auto tariffs. In the 116th Congress, the House Committee on Financial Services held a hearing on the impact of recent trade policies on the U.S. economy.

[220] Sources cited throughout this section. For an overview of the estimated effects of the tariffs on the U.S. economy, see Congressional Budget Office, *The Budget and Economic Outlook: 2020 to 2030*, January 28, 2020, p. 33, https://www.cbo.gov/system/files/2020-01/56020-CBO-Outlook.pdf.

[221] See for example: Jeff Ferry, *Steel & Aluminum Tariffs Produce Minimal Impact on Jobs, GDP*, Coalition for a Prosperous America, March 2018, https://www.prosperousamerica.org/steel_aluminum_tariffs_produce_minimal_impact_on_jobs_gdp; and Robert E. Scott, *Aluminum Tariffs Have Led to a Strong Recovery in Employment, Production, and Investment in Primary Aluminum and Downstream Industries*, Economic Policy Institute, December 11, 2018, https://www.epi.org/publication/aluminum-tariffs-have-led-to-a-strong-recovery-in-employment-production-and-investment-in-primary-aluminum-and-downstream-industries/.

Several industry-level dynamics that occurred after the increase in steel and aluminum tariffs are described below. Tariffs, however, are only one of many variables influencing market conditions.

- **Tariffs raise the costs of imports relative to domestic goods, which may have given domestic steel and aluminum producers the ability to raise prices relative to foreign competitors.** Both foreign and domestic producers may respond to increased tariffs. Domestic firms are likely to increase their prices in response to the new tariff protection, while foreign producers may lower their prices and absorb a portion of the tariff increase in order to remain competitive in the U.S. market.[222] Foreign producers' response determines the tariff "pass-through" rate, and most early economic studies of the tariff actions found that the U.S. Section 232 tariffs had largely been passed through to downstream industries and consumers with little effect on foreign export prices.[223] A more recent study, however, found that foreign steel producers absorbed some share of the tariff increases, potentially lowering their export prices by as much as 50%.[224]

  BLS data on domestic producer and import price indices for broad categories of steel and aluminum suggest that price differences between domestic and imported steel and aluminum increased after the Section 232 tariffs took effect in March 2018. For steel, the domestic producer price index increased by 20.5% from January to December 2018, while the price index for imports (excluding tariffs) increased by 8.5% (see Figure 9). By the end of 2019, after Canada and Mexico were exempted from the additional duties, domestic and imported prices became more closely aligned, at 3.5% and 4.7% below their January 2018 values, respectively. For aluminum, both domestic and import prices have drifted lower in 2019 after peaking in mid-2018, but import prices have fallen at a faster rate, declining by 7.9% to December 2019, compared with 2.8% for domestic prices (see Figure 10).

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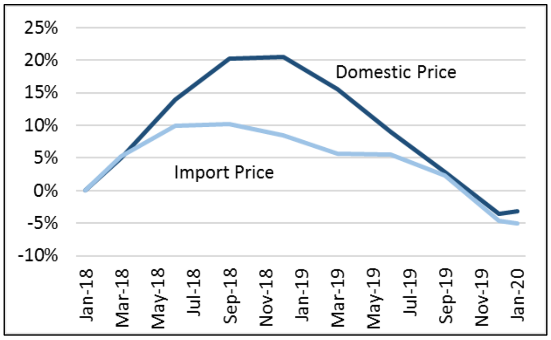
222 Mary Amiti, Sebastian Heise, and Noah Kwicklis, "Will New Steel Tariffs Protect U.S. Jobs?," Federal Reserve Bank of New York, *Liberty Street Economics (blog)*, April 19, 2018, http://libertystreeteconomics.newyorkfed.org/2018/04/will-new-steel-tariffs-protect-us-jobs.html.

223 For example, see Alberto Cavallo, Gita Gopinath, and Brent Neiman, et al., *Tariff Passthrough at the Border and at the Store: Evidence from U.S. Trade Policy*, Becker Friedman Institute, Working Paper No. 2019-124, October 2019, https://bfi.uchicago.edu/wp-content/uploads/BFI_WP_2019124-1.pdf.

224 Mary Amiti, Stephen J. Redding, and David E. Weinstein, *Who's Paying for the U.S. Tariffs? A Longer-Term Perspective*, National Bureau of Economic Research, Working Paper 26610, January 2020, https://www.nber.org/papers/w26610.

Figure 9. Steel Price Indices

(monthly % change from January 2018)

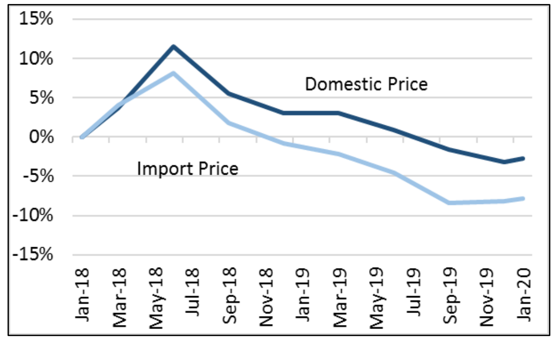


Source: U.S. Bureau of Labor Statistics.

Notes: Based period set to January 2018. Production series ID = PCU3311 and import series ID = EIUIZ3311. Import price index excludes tariffs.

Figure 10. Aluminum Price Indices

(monthly % change from January 2018)



Source: U.S. Bureau of Labor Statistics.

Notes: Base period set to January 2018. Production series ID = PCU3313 and import series ID = EIUIZ3313. Import price index excludes tariffs.

- **U.S. steel and aluminum production expanded and U.S. imports declined as demand for goods produced domestically increased relative to demand for imported goods** (see Figure 11 and Figure 12). Although U.S. steel and aluminum producers increased prices relative to foreign producers in 2018 and 2019, the additional tariff costs on imports, which were largely passed through to downstream firms (as discussed above), put downward pressure on demand for imports. Downstream firms' demand sensitivity to higher import prices (their price elasticity of demand) depends on the degree to which the steel and aluminum products produced domestically are sufficient substitutes for the products facing the tariffs, and the availability of domestic supplies.

  By the fourth quarter of 2019, U.S. imports of steel and aluminum had decreased by more than 30% and 15%, respectively, compared to their average quarterly values in 2017, the year before the tariffs went into effect.[225] Annual domestic U.S. steel and aluminum production meanwhile increased from 2017 levels throughout 2018 and 2019. Steel and aluminum production both peaked in the fourth quarter of 2018 at 13.5% and 9.0%, respectively, above 2017 levels.[226] In an anticipation of higher domestic demand and the ability to charge higher prices on U.S. steel and aluminum, some U.S. producers announced investment and production increases, including a new electric arc furnace (which uses scrap metal to make steel), near Birmingham, AL,[227] and increased capacity at an aluminum facility in Hawesville, Kentucky.[228] As U.S. market conditions weakened in late 2019, U.S. Steel announced plans to scale back operations at a

[225] Import statistics sourced from U.S. Census Bureau.

[226] Production data are from Federal Reserve Economic Data (FRED), Federal Reserve Bank of St. Louis.

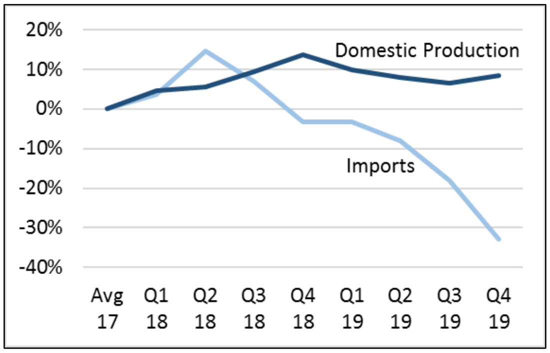
[227] Bob Tita, "U.S. Steel to Expand Under Tariffs," *Wall Street Journal*, February 11, 2019.

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

labor-intensive blast furnace in Michigan, and moved forward with investment in a less labor-intensive electric arc furnace facility in Arkansas.[229]

Figure 11. Domestic Production and Imports: Steel

(quarterly % change from 2017 average)

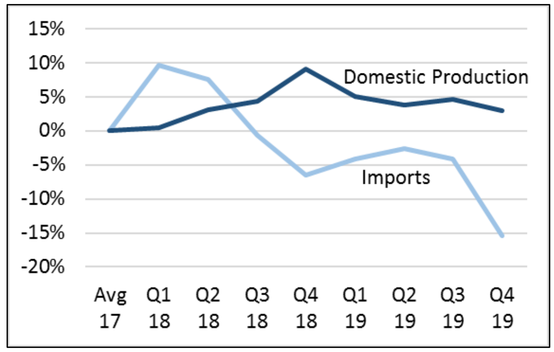


Source: Production data from Federal Reserve Economic Data (FRED) and imports from U.S. Census Bureau.

Notes: Base period set to 2017 average. Production series seasonally adjusted, ID = IPN3311A2RSQ. Import classification = NAICS 3311.

Figure 12. Domestic Production and Imports: Aluminum

(quarterly % change from 2017 average)



Source: Production data from Federal Reserve Economic Data (FRED) and imports from U.S. Census Bureau.

Notes: Base period set to 2017 average. Production series seasonally adjusted, ID = IPG3313S. Import classification = NAICS 3313.

- **The combination of higher domestic prices and the added duties on imports led to higher input costs for some downstream industries.** Domestic industries that use steel and aluminum in their products ("downstream" industries, including auto manufacturers and oil producers) faced higher input costs relative to producers in other markets. Higher input costs led to some combination of lower profits for producers and higher prices for importers and consumers, which in turn may have dampened demand for downstream products, leading to some contraction in these sectors. A study by researchers at the Federal Reserve Board, which examined effects on the manufacturing sector from all U.S. tariff actions in 2018, found that higher input costs from the tariffs were associated with higher prices, employment declines, and reductions in output for affected firms.[230] Another study found that the higher input costs associated with the tariffs may have led to a decrease in U.S. exports for firms reliant on imported intermediate inputs. The study suggests export growth was approximately 2% lower for products made with steel and aluminum or other goods subject to higher U.S. tariffs, relative to unaffected products.[231]

[229] "U.S. Steel's Turnaround Plan Runs Through Big River Mill," *Wall Street Journal*, February 20, 2020.

[230] Aaron Flaaen and Justin Pierce, *Disentangling the Effects of the 2018-2019 Tariffs on a Globally Connected U.S. Manufacturing Sector*, Washington: Board of Governors of the Federal Reserve System, Finance and Economics Discussion Series 2019-086, December 23, 2019, https://www.federalreserve.gov/econres/feds/files/2019086pap.pdf.

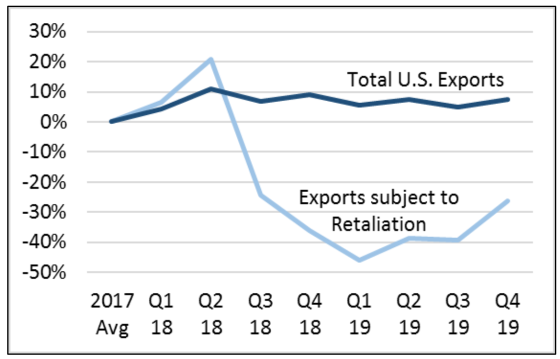
[231] The authors suggest that the U.S. import increases had the equivalent effect of U.S. trading partners applying a 2% tariff on U.S. exports. Kyle Handley, Fariha Kamal, and Ryan Monarch, *Rising Import Tariffs, Falling Export Growth: When Modern Supply Chains Meet Old-Style Protectionism*, National Bureau of Economic Research, NBER Working

Some have also pointed to higher costs for several industries relying on both domestic and imported steel and aluminum. For example, Ford CEO James Hackett suggested the metal tariffs cost the auto manufacturer roughly $1 billion in profits in 2018.[232] The higher input costs for U.S. downstream firms potentially gives their foreign competitors an advantage in the U.S. market and abroad. In January 2020, the Trump Administration expanded the Section 232 tariff actions to certain steel and aluminum derivative products (see **"Presidential Actions"**), arguing that higher input costs had disadvantaged these downstream domestic manufacturers relative to their foreign counterparts, leading to more imports of the downstream products.

- **U.S. exports subject to retaliatory tariffs declined.** Five U.S. trading partners (China, EU, India, Russia, and Turkey) are currently imposing retaliatory tariffs in response to U.S. Section 232 tariffs affecting approximately $9 billion of U.S. annual exports (2018 value). Products targeted include agricultural goods, particularly pork and nuts, as well as steel and aluminum.[233] The retaliatory tariffs have led to decreased demand for these U.S. exports as they lower the competitiveness of U.S. firms relative to other suppliers in foreign markets. In each of the six quarters since the retaliatory tariffs took effect, U.S. exports to China, the EU, Russia, and Turkey subject to the additional duties were roughly 25% or more below their average quarterly value in 2017 (**see Figure 13**).[234] During the same period, overall U.S. exports were as much as 10% higher in each quarter relative to 2017 levels, suggesting the tariffs played a large role in the product-specific export declines.

Figure 13. U.S. Exports Subject to Section 232 Retaliation

(quarterly % change from 2017 average)



Source: CRS analysis with data from the U.S. Census Bureau and partner country customs agencies via Global Trade Atlas.

Notes: Base period set to 2017 average. Includes U.S. exports to China, the EU, Russia, and Turkey subject to retaliation since Q2 2018. Exports estimated using partner country import data. India began imposing retaliatory tariffs in Q2 2019 and is in not included. Total U.S. exports includes all products exported to all countries globally.

Retaliatory tariffs also have given U.S. exporters an incentive to manufacture abroad to avoid the retaliation. Facing retaliatory tariffs on U.S. motorcycle exports to the EU, Harley-Davidson announced its intent to shift some of its

Paper No. 26611, January 2020, https://www.nber.org/papers/w26611.

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

[233] Canada and Mexico removed retaliatory tariffs affecting approximately $15.5 billion of U.S. annual exports after the Trump Administration exempted both countries from Section 232 tariffs in May 2019.

[234] India's retaliatory tariffs were delayed until June 2019.

> production out of the United States to remain competitive in the EU market.[235] In July, the company received approval from the EU to begin importing motorcycles from Thailand, which is to face a 6% tariff, as compared to the 31% tariff applied to motorcycles exported to the EU from the United States.[236]

Aggregate Effects on the U.S. Economy

In addition to industry-level effects, tariffs also have the potential to affect the broader U.S. economy. For example, several academic studies and preliminary accounts of other industry observers appear to suggest the ad hoc nature of the tariffs has increased uncertainty in the business environment placing a drag on investment activity. One study found that uncertainty resulting from U.S. trade policy reduced investment by roughly 1.5% in 2018.[237] U.S. tariffs may also reduce national consumption patterns, as the higher costs of imported goods potentially reduces consumers' discretionary income and therefore aggregate demand. Similarly, retaliatory tariffs may dent U.S. consumption to the extent they cause export declines and lower incomes in affected industries. For example, some research suggests counties most exposed to China's retaliatory tariffs on U.S. agricultural exports saw auto sales decline by 4%-5% relative to unaffected counties after the retaliatory tariffs were imposed.[238] Some groups that support the tariffs, however, argue that estimates of their impact may exaggerate potential negative effects.[239]

Assessing the tariffs overall impact on the U.S. economy is in part a distributional question, given the tariffs varied effects on producers in protected industries, downstream industries, consumers, and exporters subject to retaliation. From a policy perspective some analysts see the Administration's trade actions as addressing long-standing issues of fairness that are intended to provide U.S. steel and aluminum producers with a more level playing field. Research by academic economists, however, generally argues the negative impact of higher prices on consumers and industries using the imported goods outweighs the benefit of higher profits and expanded production in the import-competing industries and the additional government revenue generated by the tariffs, especially if the negative effects of retaliatory tariffs are taken into consideration.[240] Quantitative estimates of the effects vary based on modeling assumptions and techniques, but most suggest a negative overall effect on U.S. gross domestic product (GDP) as a result of the tariffs.

The Congressional Budget Office, for example, estimates that the increased tariffs in effect as of December 2019 would reduce U.S. GDP by 0.5% in 2020, below a baseline without the tariffs, while raising consumer prices by 0.5%, thereby reducing average real household income by $1,277.[241] From a global perspective, the International Monetary Fund (IMF) estimated that the

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

[236] "Harley-Davidson Gets EU Approval for Plan to Dodge $100-million Tariff Hit," *Los Angeles Times*, July 23, 2019.

[237] Dario Caldara, Matteo Iacoviello, and Patrick Molligo, et al., "The Economic Effects of Trade Policy Uncertainty," *Journal of Monetary Economics*, vol. 109 (January 2020), pp. 38-59.

[238] Michael E. Waugh, *The Consumption Response to Trade Shocks: Evidence from the U.S.-China Trade War*, National Bureau of Economic Research, NBER Working Paper 26353, December 2019, https://www.nber.org/papers/w26353.

[239] Robert E. Scott, *Estimates of Jobs Lost and Economic Harm Done by Steel and Aluminum Tariffs Are Wildly Exaggerated*, Economic Policy Institute, March 21, 2018, https://www.epi.org/publication/estimates-of-jobs-lost-and-economic-harm-done-by-steel-and-aluminum-tariffs-are-wildly-exaggerated/.

[240] For example, see Pablo D. Fajgelbaum, Pinelopi K. Goldberg, and Patrick J. Kennedy, et al., "The Return to Protectionism," *The Quarterly Journal of Economics*, vol. 135, no. 1 (January 2020), pp. 1-55.

[241] Congressional Budget Office, *The Budget and Economic Outlook: 2020 to 2030*, January 28, 2020, p. 33,

tariffs would reduce global GDP in 2020 by 0.8%.[242] As these studies examine the effects of all recent U.S. tariffs actions, the impact directly attributable to the Section 232 tariffs on steel and aluminum is likely smaller, although this could grow if the Section 232 tariffs were expanded to U.S. motor vehicle imports.[243] U.S. steel and aluminum imports subject to Section 232 tariffs accounted for less than 10% of imports affected by the Administration's tariff actions—imports from China subject to Section 301 tariffs accounted for more than 90%.[244]

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.

Possible Long-Term Effects

Section 232 tariffs on steel and aluminum imports have now been in place for over two years and have no statutory expiration. Congress may explore the long-term economic consequences of the tariffs on U.S. domestic industry, including steel and aluminum producers, downstream manufacturers, and those sectors targeted by retaliatory tariffs. Impacts may include increased prices and costs for steel and aluminum producers and users, respectively; changes in workforce levels; shifts in global supply chains as firms seek to avoid tariffs; and potential loss of foreign markets for domestic producers facing retaliatory tariffs.

In a 2018 Ways and Means Committee hearing on the Section 232 tariff exclusion process, Commerce stated the "Secretary has directed Commerce Department economists to conduct semi-annual reviews of the impacts of the steel and aluminum tariffs, including on downstream sectors."[245] As part of its own assessment, Congress may request the Administration's analyses.

Some Members, including Senate Finance Chair Grassley, have suggested that the Administration consider immediate tariff relief to help U.S. importers in the wake of the economic downturn of the Covid-19 pandemic.[246] One steel industry group voiced opposition to removal of the Section 232 tariffs noting that "the coronavirus epidemic is exacerbating the global glut in steel production and threatens to unleash a new surge in imports."[247]

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https://www.cbo.gov/system/files/2020-01/56020-CBO-Outlook.pdf.

[242] International Monetary Fund, *World Economic Outlook: Global Manufacturing Downturn, Rising Trade Barriers*, October 2019, pp. 31-33, https://www.imf.org/en/Publications/WEO/Issues/2019/10/01/world-economic-outlook-october-2019.

[243] Motor vehicle and parts imports from Japan and the EU (the two trading partners targeted in the Administration's Section 232 proclamation on motor vehicles) totaled $119 billion in 2018 according to BEA data.

[244] CRS Insight IN10971, *Escalating U.S. Tariffs: Affected Trade*, coordinated by Brock R. Williams.

[245] U.S. Congress, House Committee on Ways and Means, Subcommittee on Trade, *Hearing on Product Exclusion Process for*, 115th Cong., 2nd sess., July 24, 2018, Serial No. 115-TR06, https://docs.house.gov/meetings/WM/WM04/20180724/108591/HHRG-115-WM04-Transcript-20180724.pdf.

[246] Adam Beshudi, "Grassley: White House, Congress should consider tariff easing measures," *PoliticoPro*, March 16, 2020.

[247] American Iron and Steel Institute letter to Members of the U.S. House of Representatives and U.S. Senate, "Please Continue to Support the Section 232 Action on Steel to Preserve the Domestic Steel Industry in the Face of the Coronavirus Shock," March 12, 2020.

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 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
- mandating a transparent exclusion process to limit potential negative domestic effects.

In addition, the 2020 expansion of the steel and aluminum tariffs, initially imposed in 2018, has raised questions about Section 232 authority expiration. Some stakeholders have suggested that Section 232 reform should include new or clarified timelines, deadlines, or expiration dates for any tariffs or quotas imposed or on the authority to impose new or expanded trade actions.

Some Members, including Senate Finance Chair Senator Grassley seek to draft a consensus bill to restore certain 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). The Chairman noted that, "the president's use of tariffs has brought to our attention the shortcomings of the 1962 and 1974 legislation on trade that delegated too much authority from Congress' constitutional power [over trade] to the executive branch."[248]

Others have proposed revisiting the delegation of congressional constitutional authority more broadly, such as by requiring congressional approval of executive branch trade actions more generally. The Tariff Reform Coalition, a cross-sectoral coalition of industry associations, have advocated for "greater Congressional oversight with respect to Presidential use of tariff authority."[249]

For a list of proposals in the 116th Congress, see **Appendix C**.

Legislative Responses to Retaliatory Tariffs

Several major U.S. trading partners are currently imposing retaliatory tariffs in response to the U.S. actions. In the 116th 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

[248] Megan Cassella, "Grassley Still Hopes to Craft 232 Reform Bill with Wyden," *PoliticoPro*, March 4, 2020.

[249] Tariff Reform Coalition, letter to Chair and Ranking Members of Senate Finance and House Ways and Means Committee, September 19, 2020, http://www.nftc.org/default/trade/Tariff%20Reform%20Coalition%20Letter.pdf.

harmed by foreign retaliation.[250] The Administration announced an assistance program for farmers harmed by foreign retaliation to Section 232 and other tariffs through the U.S. Department of Agriculture.[251] Others have suggested broader trade adjustment assistance reform to help U.S. workers and firms harmed by globalization, supply chain shifts, and global over-capacity in certain sectors. For a list of proposals from the 116th 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, H.R. 940).

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 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.[252]

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, H.R. 940). Congress could also consider changing the investigative authority from Commerce to Defense to provide more weight to the military perspective or interpretation as to what constitutes a national security threat.

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[250] 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.

[251] For more information see CRS Report R45310, *Farm Policy: USDA's 2018 Trade Aid Package*, by Randy Schnepf et al.

[252] 10 U.S.C. §148.

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. In addition to the international efforts discussed, 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 continuation of the OECD discussions or the trilateral proposals 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 the U.S. use of 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 often seen as undermining WTO rules.[253] 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 for Section 232 investigations, 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. 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 and U.S. credibility in future trade negotiations.

[253] 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.

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.[254] In 1955, the provision was amended to also allow the President to increase trade restrictions, in cases where national security may be threatened.[255]

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.[256] 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.[257]

Section 232: Joint Disapproval Resolution Provision for Petroleum Products

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.[258] Congress included the joint disapproval resolution provision in the Crude Oil Windfall Profit Tax Act of 1980. The bill was signed into law on April 2, 1980, the same day that President

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254 P.L. 83-464, §2.

255 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.)

256 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.

257 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.

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

Carter proclaimed a license fee on crude oil and gasoline pursuant to Section 232 in Proclamation 4744.[259]

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.[260] 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.[261] 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.[262]

On June 19, 1980, the President formally rescinded Proclamation 4744 "in its entirety, effective March 15, 1980."[263]

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

[260] H.J.Res 531.

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

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

[263] "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, 1962-2019

	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	-[a]
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.[b]
18	Antifriction bearings	1987	Anti-Friction Bearing Manufacturers Association	Negative	-
19	Petroleum	1987	National Energy Security Committee (an industry group)	Positive	No action taken.[c]
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.[c]
25	Crude Oil	1999	Secretary of Commerce	Positive	No action taken.[c]
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 (Proclamation 9705).
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 (Proclamation 9704).
29	Automobiles, including SUVs, vans and light trucks, and automotive parts	2018	Secretary of Commerce	Positive	Directed USTR to negotiate with European Union (EU), Japan, and others to resolve national security threat (Proclamation 9888).
30	Uranium ore and products	2018	U.S. uranium mining companies (UR-Energy and Energy Fuels)	Positive	President did not concur with Commerce findings. Established U.S. Nuclear Fuel Working Group to develop recommendations to revive domestic industry.[d]
31	Titanium Sponge	2019	Titanium Metals Corp.	Positive	President concurred with Commerce findings but did not restrict imports. Established working group with Japan to ensure access to titanium sponge.[e]

Source: CRS compiled from the Bureau of Industry and Security's "Section 232 Investigations Program Guide," June 2007, 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. 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 (49 FR 21391).

b. 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).

c. 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.)

d. President Donald Trump, "Memorandum on the Effect of Uranium Imports on the National Security and Establishment of the United States Nuclear Fuel Working Group," July 12, 2019.

e. President Donald Trump, "Memorandum on the Effect of Titanium Sponge Imports on the National Security," February 27, 2020.

Appendix C. Proposals Concerning Section 232

Table C-1. Select Proposals on Section 232: 116th Congress

(Through January 2020)

Legislation	Title	Brief Description
Select Proposals on Congressional-Executive Powers		
H.R. 3673	Promoting Responsible and Free Trade Act of 2019	To require congressional approval of certain trade remedies, including a joint resolution for approval of Sec. 232 investigation report; and to change investigatory authority to the Secretary of Defense, and recommendation authority to the Secretary of Commerce.
S. 899 / H.R. 3477	Reclaiming Congressional Trade Authority Act of 2019	To require congressional approval of duty rate changes under Sec. 232 and IEEPA, and to allow for congressional disapproval of actions under Section 301 of the Trade Act of 1974.
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 / S. 1284	Global Trade Accountability Act of 2019	To amend Sec. 232 and other trade authorities to require congressional approval of unilateral trade actions. Both measures would require the President to report to Congress on the proposed trade action and provide an analysis of its economic impact, and Congress would need to pass a resolution before the action would go into effect. H.R. 723 provides the President 90-day temporary authority to act for national security reasons, after which congressional approve would be required.
Select Proposals on the Auto Investigation		
H.R. 1158	Consolidated Appropriations Act, 2020 **(P.L. 116-93)**	Requires the Administration to publish the Sec. 232 report on automotive imports publically, and to provide any classified information from the report to Congress.
S. 121 / H.R. 1710	Automotive Jobs Act of 2019	To require a study of the U.S. auto industry by USITC and to stall the Sec. 232 investigation into auto imports until such a study is complete.
Select Proposals on Tariff Exclusions and Tariff Revenue		
S. 2551	Tariff Rebate Act	To establish the Tariff Rebate Program to disburse revenues from tariffs to certain eligible individuals.

Legislation	Title	Brief Description
S. 2362	American Business Tariff Relief Act of 2019	To establish a process for U.S. businesses to obtain exclusions from certain duties imposed under Sec. 301 of the Trade Act of 1974 and Sec. 232 of the Trade Expansion Act of 1962, and for other purposes.
Select Proposals to Mitigate the Impact of Retaliatory Tariffs		
H.R. 2690 / S. 1453	Assistance for Farmers Harmed by Tariffs on Exports Act	To provide trade adjustment assistance to farmers affected by retaliatory tariffs on U.S. exports in response to Sec. 232 actions.
H.R. 6124	Assistance for Firms Harmed by Tariffs on Exports Act	To provide trade adjustment assistance to firms affected by retaliatory tariffs on U.S. exports in response to Sec. 232 actions.
H.R. 2362	American Agriculture First Act	To prioritize the purchase of agricultural commodities from domestically owned enterprises, and for other purposes. The bill cites trade damage from retaliation by foreign nations, as primary determining factor.

Source: CRS, compiled from Congress.gov

Notes: Sec. 232 = Section 232 of the Trade Expansion Act of 1962; USITC = U.S. International Trade Commission; IEEPA = International Emergency Economic Powers Act.

Appendix D. 2019 U.S. Steel and Aluminum Imports

Table D-1. Top U.S. Import Suppliers of Steel and Aluminum Products

(2019, millions of U.S. Dollars)

Steel				Aluminum			
Trading Partner	**Import Value**	**Import Share**	**Change since 2017**	**Trading Partner**	**Import Value**	**Import Share**	**Change since 2017**
Permanently Exempted				**Permanently Exempted**			
Canada	4,461.5	18.7%	-14.0%	Canada	5,611.7	35.8%	-19.8%
*Brazil	2,701.5	11.3%	10.2%	Australia	573.6	3.7%	170.2%
Mexico	2,642.0	11.1%	5.9%	*Argentina	412.0	2.6%	-24.6%
*South Korea	2,250.1	9.4%	-19.3%	Mexico	172.7	1.1%	-26.0%
Australia	239.3	1.0%	20.5%	Total Exempted	6,770.0	43.1%	-15.3%
*Argentina	234.7	1.0%	5.9%	**Not Exempted**			
Total Exempted	12,529.2	52.5%	-6.1%	EU	1,819.8	11.6%	50.1%
Not Exempted				U.A.E.	1,256.6	8.0%	-9.7%
EU	5,093.3	21.4%	-14.9%	Bahrain	704.6	4.5%	20.5%
Japan	1,491.5	6.3%	-10.0%	China	688.2	4.4%	-60.7%
Germany	1,262.4	5.3%	-17.1%	Germany	610.9	3.9%	64.6%
Taiwan	885.0	3.7%	-29.9%	Russia	607.1	3.9%	-62.8%
China	738.3	3.1%	-25.7%	India	547.7	3.5%	48.0%
Italy	700.4	2.9%	-4.0%	Qatar	414.9	2.6%	35.1%
Russia	601.4	2.5%	-57.5%	South Africa	387.2	2.5%	13.7%
Vietnam	488.0	2.0%	-8.2%	Saudi Arabia	294.7	1.9%	99.2%
Netherlands	423.8	1.8%	-17.3%	South Korea	290.5	1.9%	161.5%
**Total Nonexempted	11,326.1	47.5%	-27.6%	**Total Nonexempted	8,919.9	56.9%	-2.7%
U.S. Total (All Countries)	23,855.2	100.0%	-17.7%	**U.S. Total (All Countries)**	15,689.9	100.0%	-8.5%

Source: CRS compiled from U.S. Census Bureau data (via Global Trade Atlas) on HTS products included in the Section 232 proclamations. (These data do not include derivative products. For derivative products see **Table D-2**.)

Notes: Percentage change comparisons are made to 2017 annual data, as a baseline before tariff actions took effect. European Union (EU) includes 28 member states. U.A.E. refers to the United Arab Emirates. The table includes both the EU as a whole and individual member states.

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

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

Table D-2. Top U.S. Import Suppliers of Steel and Aluminum Derivative Products

(2019, millions of U.S. Dollars)

Trading Partner	Import Value	Import Share	Change since 2017	Trading Partner	Import Value	Import Share	Change since 2017
Bumpers				**Steel Nails**			
Exempted				**Exempted**			
Canada	162.8	38.2%	-16.7%	South Korea	33.1	9.4%	19.6%
Mexico	45.9	10.8%	5.8%	Mexico	16.4	4.7%	80.2%
Australia	1.3	0.3%	-22.4%	Canada	9.5	2.7%	-28.8%
South Korea	1.2	0.3%	-53.0%	Australia	0.03	0.0%	n/a
Brazil	0.4	0.1%	50.6%	*Total exempted*	59.1	16.8%	17.7%
Total exempted	211.5	49.6%	-13.0%	**Not Exempted**			
Not Exempted				Oman	61.8	17.6%	95.8%
Taiwan	94.6	22.2%	-5.0%	Taiwan	33.0	9.4%	-14.9%
Japan	44.9	10.5%	-23.4%	Turkey	30.5	8.7%	43.4%
China	42.6	10.0%	-0.1%	Thailand	28.0	8.0%	178.2%
EU	19.6	4.6%	-12.5%	India	26.3	7.5%	18.1%
Germany	12.4	2.9%	7.0%	Sri Lanka	24.1	6.8%	503.6%
South Africa	4.9	1.1%	12.3%	China	21.4	6.1%	-16.8%
Italy	4.0	0.9%	108.5%	EU	19.6	5.6%	-16.3%
Thailand	3.9	0.9%	29.1%	Liechtenstein	13.9	4.0%	95.3%
United Kingdom	1.8	0.4%	-47.1%	Malaysia	13.1	3.7%	58.1%
India	1.3	0.3%	586.7%	Austria	10.4	3.0%	19.2%
[a] *Total Nonexempted*	215.0	50.4%	-8.0%	[a] *Total Nonexempted*	292.9	83.2%	43.7%
U.S. Total (All Countries)	426.5	100%	-10.6%	***U.S. Total (All Countries)***	352.0	100%	38.6%

Trading Partner	Import Value	Import Share	Change since 2017	Trading Partner	Import Value	Import Share	Change since 2017
Aluminum Wire				**Body Stampings for Tractors**			
Exempted				**Exempted**			
Canada	9.6	20.3%	182.6%	Mexico	1.4	23.4%	647.7%
Mexico	7.6	16.2%	72.3%	Canada	1.4	23.3%	-5.0%
Total exempted	17.2	36.5%	120.1%	South Korea	0.1	1.7%	77.6%
Not Exempted				Brazil	0.02	0.3%	-5.8%
Turkey	9.2	19.5%	101.6%	*Total exempted*	3.0	48.7%	68.3%
India	7.6	16.1%	288.4%	**Not Exempted**			
China	5.6	11.9%	92.0%	EU	1.6	25.8%	59.4%
EU	3.8	8.1%	656.0%	Italy	0.7	11.7%	278.4%
Indonesia	1.6	3.3%	124.5%	Germany	0.6	9.8%	-6.1%
Italy	1.5	3.3%	267.4%	Vietnam	0.5	8.8%	8265.0%
Belgium	1.5	3.1%	20123.2%	Turkey	0.3	4.3%	185.2%
Colombia	1.0	2.1%	n/a	China	0.2	4.0%	-66.0%
Austria	0.5	1.0%	n/a	Dominican Rep.	0.2	3.4%	n/a
South Korea	0.4	0.9%	-37.5%	Japan	0.2	2.8%	-21.4%
Japan	0.3	0.6%	-86.8%	France	0.1	1.9%	16.6%
Vietnam	0.2	0.4%	n/a	UK	0.1	1.0%	305.8%
Poland	0.1	0.3%	n/a	Taiwan	0.1	0.9%	49.9%
[a]*Total Nonexempted*	30.0	63.5%	104.3%	[a]*Total Nonexempted*	3.1	51.3%	43.2%
U.S. Total (All Countries)	47.2	100%	109.8%	***U.S. Total (All Countries)***	6.1	100%	54.4%

Source: CRS compiled from U.S. Census Bureau data (via Global Trade Atlas) on HTS products included in Presidential Proclamation 9980 (January 24, 2020), concerning steel and aluminum derivative products.

Notes: Percentage change comparisons are made to 2017 annual data, as a baseline before tariff actions took effect. European Union (EU) includes 28 member states. (The table includes both the EU as a whole and individual member states.) UK is the United Kingdom. Steel nails consist of HTS codes: 73170030, 7317005503, 7317005505, 7317005507, 7317005560, 7317005580, 7317006560. Bumpers consist of HTS 87081030. Body stamping for tractors consist of HTS 87082921, and Aluminum wire consists of HTS 76141050, 76149020, 76149040, 76149050.

a. Total nonexempted includes additional countries not listed.

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