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Ongoing Section 232 Steel and Aluminum Investigations

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The Department of Commerce is currently conducting two investigations to determine the national security implications of U.S. imports of steel and aluminum under Section 232 of the Trade Expansion Act of 1962 (19 U.S.C. § 1862, as amended). Section 232, sometimes called the "national security clause," provides the President with the ability to impose restrictions on imports, such as tariffs or quotas, if the Secretary of Commerce, in consultation with the Department of Defense and other government officials, determines such imports threaten to impair the national security of the United States. The Commerce Department has 270 days from the initiation date to prepare a report and recommendations. The President then has 90 days to accept the findings and determine what actions, if any, to take.

There are diverse views on the investigations among steel and aluminum producers, manufacturers that use steel and aluminum as inputs into their final products, and other stakeholders. To date, the Commerce Department has held public hearings on the steel and aluminum investigations, Members of Congress have raised the issue with U.S. Trade Representative (USTR) Robert Lighthizer, including during House Ways and Means and Senate Finance committee hearings, and Commerce Department officials privately have briefed each of the committees.

Steel Industry Stakeholder Views

Steel industry stakeholders along the supply chain are not united in support or in opposition to the ongoing investigation, as demonstrated by testimony at the Commerce Department hearing. U.S. steel producers and the Congressional Steel Caucus support the 232 investigation and measures to further limit imports. Industry representatives voice concern about the low utilization rate and recent closure of U.S. steelmaking plants and related employment losses. On the other hand, steel purchasers, including manufacturers who use domestic and foreign steel as inputs into their products (e.g., auto makers and builders), along with certain downstream industry representatives, oppose new restrictions on imports, warning that such actions could increase manufacturing and consumer costs, put jobs at risk, and lead to potential retaliation by U.S. trading partners.

Other sectors of the U.S. economy dependent on the global steel supply chain include ports that handle imports and exports. For example, in testimony, the Port of New Orleans noted that 45% of imported cargo and 35% of cargo-related related revenue is from imported steel shipments. Additionally, other industries, such as agriculture, may face higher transportation costs for their own goods to reach the port downriver if fewer barges are moving imported steel upriver.

Aluminum Industry Stakeholder Views

Aluminum stakeholders are similarly mixed in their view of the 232 investigation as to the national security risk and need for potential remedies as demonstrated by a recent survey of international supply chain representatives. At the Commerce Department hearing, the Aluminum Association, representing aluminum producers, and some companies voiced support for the investigation. However, they advocated a targeted response, such as a negotiated agreement with China.

The Congressional Aluminum Caucus Members support U.S. action to restrict aluminum imports, whereas other Members favor a more directed response or exemptions for certain segments, such as rolled-can sheets used for food and beverage products.

According to a June U.S. International Trade Commission report, competitiveness of the U.S. industry varies across segments and, globally, the production costs are affected by government policies.

Selected Policy Implications

The Section 232 investigations and potential actions raise multiple policy issues. These include:

- **Global overcapacity**. Global overcapacity in steel and aluminum is at the root of many industry concerns. Fostered by government policies, China is the world's leading manufacturer of steel and aluminum, and its excess capacity has driven down global prices. While the Trump Administration raised the overcapacity issue during the recent meeting of the U.S.-China Comprehensive Economic Dialogue, no agreement was reached. The G-20 reached an agreement that aimed to resolve the issue multilaterally through the OECD Global Forum on Steel Excess Capacity. The Forum's report with specific policy recommendations is due in November. Separately, as both Mexico and Canada are top U.S. steel suppliers, the United States may raise the issue during negotiations with Mexico and Canada to update the North American Free Trade Agreement (NAFTA), in addition to working through the North American Steel Trade Committee (NASTC), which has identified potential impediments to intra-NAFTA steel trade.
- **Consistency with World Trade Organization (WTO) commitments**. Questions have been raised about whether trade restrictive action under Section 232 would be consistent with U.S. WTO obligations. U.S. trading partners could challenge potential U.S. action under WTO dispute settlement, as China stated it would do. If challenged, the United States may very likely invoke Article XXI of the General Agreement on Tariffs and Trade (GATT), which allows WTO members to take measures in order to protect "essential security interests." Whether actions to protect a specific industry constitute an essential security interest is subject to debate. While some state that the national security definition should include defense and critical infrastructure needs, others warn that U.S. actions could create a slippery slope as to what products are considered to have "national security" implications. For example, some have raised concerns that countries may increase tariffs on agricultural products in the name of food security.
- **Retaliation by U.S. trading partners**. Some observers, including former chairs of the President's Council of Economic Advisers, note the possibility of trade retaliation by affected trading partners. The president of the European Commission, for example, has indicated that the European Union (EU) is prepared to impose counter-measures to U.S. potential actions, which could possibly lead to increased tariffs or other barriers on certain U.S. exports.
- **Scope and impact of U.S. actions**. Should the President act to restrict imports, the scope and impact on domestic constituencies and U.S. allies is unclear. On the one hand, domestic producers may see higher prices for their goods, but costs may rise for consumers and manufacturers using steel inputs. The President has discretion to exclude specific product categories, countries, or provide other exemptions from any import restrictions. Some U.S. allies, such as Canada and Australia, have asked to be exempt from any potential action.
- **Implementation**. Should the President impose tariffs or quota under Section 232, Commerce, USTR, and U.S. Customs and Border Protection would oversee implementation and enforcement. One question is whether the agencies have the necessary resources to effectively administer the 232 trade enforcement action or to defend challenges to it.