# COMMERCE SECRETARY ROSS

## HEARING

BEFORE THE

## COMMITTEE ON WAYS AND MEANS
## U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED FIFTEENTH CONGRESS

SECOND SESSION

MARCH 22, 2018

**Serial No. 115–FC09**

Printed for the use of the Committee on Ways and Means

U.S. GOVERNMENT PUBLISHING OFFICE

33–808 WASHINGTON : 2019

## COMMITTEE ON WAYS AND MEANS

KEVIN BRADY, Texas, *Chairman*

SAM JOHNSON, Texas
DEVIN NUNES, California
DAVID G. REICHERT, Washington
PETER J. ROSKAM, Illinois
VERN BUCHANAN, Florida
ADRIAN SMITH, Nebraska
LYNN JENKINS, Kansas
ERIK PAULSEN, Minnesota
KENNY MARCHANT, Texas
DIANE BLACK, Tennessee
TOM REED, New York
MIKE KELLY, Pennsylvania
JIM RENACCI, Ohio
PAT MEEHAN, Pennsylvania
KRISTI NOEM, South Dakota
GEORGE HOLDING, North Carolina
JASON SMITH, Missouri
TOM RICE, South Carolina
DAVID SCHWEIKERT, Arizona
JACKIE WALORSKI, Indiana
CARLOS CURBELO, Florida
MIKE BISHOP, Michigan
DARIN LAHOOD, Illinois

RICHARD E. NEAL, Massachusetts
SANDER M. LEVIN, Michigan
JOHN LEWIS, Georgia
LLOYD DOGGETT, Texas
MIKE THOMPSON, California
JOHN B. LARSON, Connecticut
EARL BLUMENAUER, Oregon
RON KIND, Wisconsin
BILL PASCRELL, JR., New Jersey
JOSEPH CROWLEY, New York
DANNY DAVIS, Illinois
LINDA SÁNCHEZ, California
BRIAN HIGGINS, New York
TERRI SEWELL, Alabama
SUZAN DELBENE, Washington
JUDY CHU, California

DAVID STEWART, *Staff Director*
BRANDON CASEY, *Minority Chief Counsel*

# CONTENTS

# COMMERCE SECRETARY ROSS

**THURSDAY, MARCH 22, 2018**

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON WAYS AND MEANS,
*Washington, DC.*

The Committee met, pursuant to notice, at 9:04 a.m., in Room 1100, Longworth House Office Building, Hon. Kevin Brady [Chairman of the Committee] presiding.

[The advisory announcing the hearing follows:]

# *ADVISORY*

## FROM THE COMMITTEE ON WAYS AND MEANS

FOR IMMEDIATE RELEASE
Thursday, March 22, 2018
FC–09

CONTACT: (202) 225–3625

# Chairman Brady Announces Hearing with Commerce Secretary Ross

House Ways and Means Chairman Kevin Brady (R–TX), announced today that the Committee will hold a hearing with Secretary of Commerce Wilbur Ross on trade matters within Commerce's purview, particularly the section 232 determinations on steel and aluminum. **The hearing will take place on Thursday, March 22, 2018, in room 1100 of the Longworth House Office Building, beginning at 9:00 a.m.**

In view of the limited time to hear the witness, oral testimony at this hearing will be from the invited witness only. However, any individual or organization may submit a written statement for consideration by the Committee and for inclusion in the printed record of the hearing.

**DETAILS FOR SUBMISSION OF WRITTEN COMMENTS:**

Please Note: Any person(s) and/or organization(s) wishing to submit written comments for the hearing record must follow the appropriate link on the hearing page of the Committee website and complete the informational forms. From the Committee homepage, *http://waysandmeans.house.gov*, select "*Hearings*." Select the hearing for which you would like to make a submission, and click on the link entitled, "*Click here to provide a submission for the record*." Once you have followed the online instructions, submit all requested information. ATTACH your submission as a Word document, in compliance with the formatting requirements listed below, **by the close of business on Thursday, April 5, 2018**. For questions, or if you encounter technical problems, please call (202) 225–3625.

**FORMATTING REQUIREMENTS:**

The Committee relies on electronic submissions for printing the official hearing record. As always, submissions will be included in the record according to the discretion of the Committee. The Committee will not alter the content of your submission, but we reserve the right to format it according to our guidelines. Any submission provided to the Committee by a witness, any materials submitted for the printed record, and any written comments in response to a request for written comments must conform to the guidelines listed below. Any submission not in compliance with these guidelines will not be printed, but will be maintained in the Committee files for review and use by the Committee.

All submissions and supplementary materials must be submitted in a single document via email, provided in Word format and must not exceed a total of 10 pages. Witnesses and submitters are advised that the Committee relies on electronic submissions for printing the official hearing record.

All submissions must include a list of all clients, persons and/or organizations on whose behalf the witness appears. The name, company, address, telephone, and fax numbers of each witness must be included in the body of the email. Please exclude any personal identifiable information in the attached submission.

Failure to follow the formatting requirements may result in the exclusion of a submission. All submissions for the record are final.

The Committee seeks to make its facilities accessible to persons with disabilities. If you are in need of special accommodations, please call 202–225–1721 or 202–226–3411 TDD/TTY in advance of the event (four business days' notice is requested). Questions with regard to special accommodation needs in general (including availability of Committee materials in alternative formats) may be directed to the Committee as noted above.

**Note:** All Committee advisories and news releases are available at *http://www.waysandmeans.house.gov/*

Chairman BRADY. The Committee will come to order. Good morning. Today our Committee is honored to welcome Commerce Secretary Wilbur Ross to testify on recent trade actions, particularly section 232 determinations on steel and aluminum.

Mr. Secretary, thank you for joining us. And we look forward to your testimony, which is very timely, with tariffs set to take effect on aluminum and steel tomorrow.

Congress takes our constitutionally-mandated oversight role over trade policy very seriously. I have had the opportunity to exchange views with you, with President Trump, and other Administration officials recently on our shared urgent priority of addressing global over-capacity in aluminum and steel.

Several Members of this Committee addressed that point in our hearing with Ambassador Lighthizer yesterday. We applaud the President for his leadership in insisting that we address this problem, and we know you have a key role. We are committed to working closely with you and the President to make sure we hit the target by dealing with the root problem of China's persistent distortive policies, while minimizing collateral damage to our economy.

Mr. Secretary, your vast experience in international business, and particularly in the steel sector, have prepared you well. You understand the complexity of modern supply chains we must take into account when considering how any enforcement action will affect every part of our economy.

As you know 108 House Republicans joined Chairman Reichert and me in writing President Trump shortly before the Presidential proclamations were issued to urge him to take a targeted approach on any tariffs.

We continue to highlight several priorities: Keeping tariffs targeted so they don't affect fairly traded products or products that don't pose a national security threat; using a process to allow U.S. companies to petition for and promptly obtain exclusions for imports unavailable from U.S. sources or that don't pose a national security threat; grandfathering existing contracts so we don't unfairly drive up costs of projects underway; reviewing tariffs on a short-term basis to consider if a different approach would better serve the U.S. national interest; and, of course, setting a termination date.

I welcome the President's commitment to flexibility and cooperation to our allies that trade fairly. The exclusion of Canada and Mexico is an important first step in such flexibility, and one that we strongly support. We can't jeopardize our ability to incentivize other countries to cooperate on addressing our shared concerns with China. And we don't want to encourage other countries to restrict our American exports. Instead, we have to tailor these tariffs so Americans have certainty as they continue to trade fairly, sell American-made products to customers all over the world, and hire more workers here at home.

I know you will be hearing from many Committee Members today about specific improvements they want to the product exclusion process to avoid risking jobs in their districts. In particular, as these tariffs go into effect tomorrow, I urge you to allow consolidation of petitions; retroactive application of exclusions to the date the petition was filed; and an exclusion period beyond the 1 year set out in your rules.

I also oppose increasing tariffs on other products or countries as exclusions are made. These tariffs should be in place for the absolute minimum period, their effectiveness should be constantly studied. They should be sunset after a year. If they are not having the effect you intend, you should assess whether another policy would be more effective than continuing them.

Tariffs are taxes, plain and simple, on American job traders and consumers. Their scope and their duration should never exceed what is needed to accomplish their goal.

Along those lines I also want to address the potential for section 301 tariffs. I am just as frustrated—I think we all are—just as the Administration is, with China's blatant theft of America's intellectual property, and increasingly devious ways in which it steals or otherwise obtains our very best technology.

But we need the right remedy, not one that punishes American family, workers, and small businesses by putting new taxes on the products they buy. We don't want to punish Americans for China's misbehavior. At the very least, I urge the Administration to provide a strong opportunity for public comment, so the effect of tariffs on our economy can be properly assessed. That would allow us to design our policies to hit the right target, China, not Americans, who are dependent on us to look out for them.

In 2015 Congress passed strong new trade enforcement tools. I am very encouraged to see the President's dedication to strict enforcement of trade rules by putting into action these new enforcement tools passed by Congress, including by ensuring U.S. industries can benefit from trade remedy laws, and we can address circumvention and evasion of trade remedy orders.

Secretary Ross, I look forward to continuing our work together on a pro-growth agenda that creates jobs and grows paychecks. We have already had great success in improving the lives of all Americans through tax cuts and balanced regulation. We have to build on this success with an ambitious pro-growth agenda that doesn't merely buy American; it allows us to sell American all throughout the world.

Mr. Secretary, we look forward to your testimony.

And I will yield to the distinguished Ranking Member, Mr. Neal, for the purposes of his opening statement.

Mr. NEAL. Thank you, Mr. Chairman.

Welcome, Secretary Ross. Today's hearing is an opportunity for us to hear from you directly about the steel and aluminum tariffs that are scheduled to go into effect tomorrow, and details about the processes for exclusions and exemptions that are still ongoing.

We know that the steel and aluminum industries in the United States have been struggling for many years. We also know that the situation is the direct result, in many instances, of unfair practices from trading partners. China has been the most flagrant bad actor. Many of their steel and aluminum companies are really just extensions of the Chinese government that benefit from massive government subsidies.

In 2000 China's steel capacity was just over 100 million tons, roughly the same as the United States. Today, it is 1.2 billion tons, more than 10 times as high as U.S. capacity, and more than the total capacity of the United States, European Union, Japan, and Russia, combined.

Chinese industrial policies have led to massive amounts of overcapacity in both steel and aluminum industries. Global markets have been flooded and the price of both commodities has dropped so low that firms playing by the rules can hardly compete. The situation has put our workers and firms in an unsustainable position. They deserve strong action and support from our government.

In response to these issues, the Administration has announced that it will impose a 25 percent tariff on steel imports and a 10 percent tariff on aluminum products. These tariffs are set to take effect tomorrow. I understand why our steel and aluminum producers and workers are excited about the tariffs. The tariffs represent relief that they have been waiting for, in some instances, for years. We hope that it will allow them to rebuild, restart, and, indeed, rehire.

I am also concerned, however, that the relief promised by the tariffs will be watered down to the point of not being effective. And I am concerned that the way this action was rolled out will discourage cooperation from the international partners that we need in the fight over China's capacities.

We have a lot of questions about how the Administration will proceed in coming weeks and months. We posed many of them already to Ambassador Lighthizer yesterday, and we understand that you and your Department have a different role in these investigations and in the administration of the exemption and exclusion processes.

We are particularly interested in when the country exemptions and product exclusion decisions will be made, and when and where and how they will be made effective.

Once exemptions and exclusions are applied, we want to know how the tariffs will be able to provide the promised relief, and whether the tariff levels will be adjusted upward to account for exemptions and exclusions.

I would also like to know what the Administration's plan is for monitoring whether the tariffs are working, and how the Administration would modify the relief to adjust for real world effects.

We also would like to have you focus on what the Administration's vision is for how the steel and aluminum tariffs will contribute to a multilateral, coordinated strategy for counteracting the global overcapacity crisis and, certainly, how long the Administration envisions these tariffs would need to be in place to address the national security threat that your Department has found.

I hope you can provide, Mr. Secretary, clarity on these issues over the course of our hearing this morning.

Thank you, Mr. Chairman.

Chairman BRADY. Thank you. Without objection, other Members' opening statements will be made part of the record.

Today's sole witness is Secretary Ross.

Mr. Secretary, the Committee has received your written statement. It will be made part of the formal hearing record. You have reserved 5 minutes to deliver your oral remarks. Mr. Secretary, you are welcome. We are pleased and honored that you are here. You may begin when you are ready.

**STATEMENT OF HONORABLE WILBUR L. ROSS, SECRETARY, DEPARTMENT OF COMMERCE**

Secretary ROSS. Thank you very much, Mr. Chairman, Mr. Ranking Member, and Members of the Committee. I thank you very much for the opportunity to speak with you today, and for your input as we implement bipartisan trade policies that protect and defend American families, American workers, and American businesses.

This President has made it clear that his first priority is keeping the American people safe. He has also made it clear that he will not tolerate unfair trading practices that weaken our internal economy to the point where they threaten to impair our national security.

I initiated the steel and aluminum 232 investigations in April 2017, and the President signed two memorandums that month directing me to proceed expeditiously to conduct these investigations and report my findings. I submitted my reports to the President in January. The reports found that high levels of import penetration are adversely impacting the economic welfare of our domestic steel and aluminum industries. We have seen plants closed or idle, with attendant loss of jobs, skilled workers, and research and development.

The reports also found that global excess capacity is a circumstance that makes it likely that continued high level of imports would cause further closures. This all would place the United States at risk of being unable to produce sufficient steel and aluminum to meet demands for national defense and critical infrastructure in an emergency.

For example, there is only one remaining U.S. producer of steel used in electric transformers, a type of critical infrastructure, and only one high-volume producer of armor plate used in military vehicles and ships. Similarly, there is only one high-volume producer of the high-purity aluminum needed for defense and aerospace applications.

The problem is that products with national security and critical infrastructure applications account for only a small part of overall steel and aluminum consumption, and therefore are not enough on their own to sustain healthy, innovative steel and aluminum industries. Thus, I recommended that the President take one of several different actions to curb imports, and thus ensure the long-term viability of our Nation's steel and aluminum industries.

On March 8th, President Trump exercised his authority under section 232 of the Trade Expansion Act of 1962, as amended, to impose a 25 percent tariff on steel imports, and a 10 percent tariff on aluminum imports. The tariff actions taken by the President are necessary to defend America's essential steel and aluminum industries against imports that harm our domestic industry to the point that they threaten to impair our national security.

The President's 232 decisions are the result of a long and well thought-out inter-agency process led by the Commerce Department, where we studied the causes of the current circumstances and the impacts of our actions. On March 23rd, tomorrow, the U.S. Customs and Border Protection will begin implementing the tariffs.

So where do we go from here? We have already announced a process whereby domestic industry can be excluded from the tariffs, based on national security concerns or a lack of domestic supply of a quality product. Our intention is to implement these tariffs in a way that minimizes undue negative effect on downstream industries, while also weighing the national security needs of our military and our critical infrastructure.

The President has also announced that he is suspending the tariffs for products from Canada and Mexico pending negotiations that would yield satisfactory alternative means to address the threatened impairment to U.S. national security.

We also intend to enter discussions with the EU on behalf of their member countries and any country wishing to make such an arrangement. The President also maintains further authority to alter the tariffs at any time, based on national security and other considerations.

As I said in the beginning, our top priority is the security and safety of every American. And that will continue to guide us, going forward.

That was just a brief overview, but I look forward to getting into more specific questions and more detail as I respond to your inquiries. Thank you.

[The prepared statement of Secretary Ross follows:]

**Statement of**
**Wilbur L. Ross**
**Secretary of Commerce**
**Before the**
**Committee on Ways and Means**
**U.S. House of Representatives**
**March 22, 2018**

Chairman Brady, Ranking Member Neal, and Members of the Committee:

On March 8, President Trump exercised his authority under Section 232 of the Trade Expansion Act of 1962, as amended, to impose a 25 percent tariff on steel imports and a 10 percent tariff on aluminum imports, with exemptions for Canada and Mexico, in order to protect our national security. The President's Section 232 decisions are the result of a long and well-thought-out process led by the Commerce Department, after review and comment through the usual Administration clearance process. On March 23, the U.S. Customs and Border Protection (CBP) will begin collecting the tariffs.

Today the United States has only one steel mill that can produce the advanced alloys used in armored vehicle plating; one aluminum smelter that makes the high grade aluminum needed for defense aerospace applications; and one steel mill that makes certain material needed for certain critical infrastructure, like electrical transformers. The tariff actions taken by the President are necessary to protect America's essential steel and aluminum industries which have been harmed by imports to the point that allowing imports to continue unchecked threatens to impair our national security. These imports stem from a variety of reasons, including industrial export policies of our trading partners, unfair trade practices, and massive global excess production, particularly by China.

I initiated the steel and aluminum Section 232 investigations in April 2017 and the President signed two memorandums that month directing me to proceed expeditiously to conduct these investigations and report my findings. Section 232 investigations include consideration of: domestic production needed for projected national defense requirements; domestic industry's capacity to meet those requirements; the existing and anticipated availabilities of human resources, products, raw materials, production equipment and facilities, and other supplies and services essential to the national defense; the growth requirements of domestic industries to meet national defense requirements and the supplies and services, including the investment, exploration and development necessary to assure such growth; the impact of foreign competition on the economic welfare of individual domestic industries; and any substantial unemployment, decrease in revenues of government, loss of skills or investment, or other serious effects resulting from the displacement of domestic products by excessive imports, without excluding other factors, in determining whether such weakening of our internal economy may impair the national security. In January 2018, I delivered two reports to the President on the effects of imports of steel and aluminum on the national security. The Commerce Department recommended that President Trump take action to protect the long-term viability of our nation's steel and aluminum industries.

We concluded that steel import levels and global excess capacity are weakening our domestic economy and therefore threatens to impair our national security. The level of foreign steel imports threatens to impair the national security by displacing domestic production. Six basic oxygen furnaces and four electric arc furnaces have closed since 2000 and employment has dropped 35 percent since 1998. Global excess capacity will cause U.S. producers to face more and more competition from foreign imports as other countries increase their exports to further their own economic objectives. China is by far the largest producer and exporter of steel, and the largest source of excess steel capacity. China's excess capacity alone exceeds the total U.S. steel-making capacity by at least three times.

We also concluded that the quantities and circumstances of aluminum imports are weakening our economy and threaten to impair national security. Rising levels of foreign imports put domestic producers at risk of losing the capacity to produce aluminum needed to support critical infrastructure and national defense. Aluminum imports have risen to 90 percent of total domestic demand for primary aluminum, up from 66 percent in 2012. From 2013-2016, aluminum industry employment fell by 58 percent, six smelters shut down, and only two of the remaining five smelters are operating at capacity, even though demand has grown considerably. The report found that excess production and capacity, particularly in China, has been a major factor in the decline of domestic aluminum production. We concluded that if no action were taken, the United States could be in danger of losing the capability to smelt primary aluminum altogether.

The tariffs on steel and aluminum are anticipated to reduce imports to levels needed for these industries, in combination with good management, to achieve long-term viability. As a result, these industries will be able to re-open closed mills, sustain a skilled workforce, invest in needed research and development, and maintain or increase production. The strengthening of our domestic steel and aluminum industries will reduce our reliance on foreign producers.

It is true that higher steel and aluminum costs could mean price increases for American consumers. However, any increases should be small for individuals and families. According to Commerce Department estimates, monthly payments for a typical mass-market automobile may increase by $4 because of the tariffs. We believe that is a fair price to pay for protecting national security.

The United States is not the only country that has expressed concern about the types of unfair trade practices and excess capacity that are prevalent in the steel and aluminum industries. Countries like China have provided massive subsidies to their companies and this is harming markets worldwide. As described in the Presidential proclamations announcing these actions, the President welcomes any country with which we have a security relationship to discuss alternate ways to address the threatened impairment of the national security caused by imports from that country. The President has left open an avenue for potentially modifying or removing a tariff under certain conditions for individual countries.

In addition, the President authorized the establishment of a mechanism for U.S. parties to apply for exclusions of specific products based on demand that is unmet by domestic production or for specific national security considerations. This process is being managed by the Commerce Department in consultation with other Federal agencies. We published an interim final rule in the *Federal Register* on March 19 establishing the procedures for the exclusion process.

Only individuals or organizations using steel and aluminum articles subject to the tariffs in business activities (e.g., construction, manufacturing, or supplying steel or aluminum to users) in the United States may submit exclusion requests. This limitation recognizes the close relation of the economic welfare of the nation to our national security, by affording those who contribute to that economic welfare through business activities in the United States, the opportunity to submit exclusion requests based on particular economic and national security considerations. Allowing individuals or organizations not engaged in business activities in the United States to seek exclusion requests could undermine the adjustment of imports that the President determined was necessary to address the threat to national security posed by such imports. Any individual or organization in the United States may file objections to steel and aluminum exclusion requests, but the Commerce Department will only consider information directly related to the submitted exclusion request that is the subject of the objection. The review period for exclusion requests will normally not exceed 90 days.

The Commerce Department will also continue to monitor imports of steel and aluminum in accordance with the President's March 8 proclamations.

We will not hesitate to continue standing up for American families, American businesses, and American workers.

Thank you for allowing me to testify on this vital national security matter and I look forward to answering questions from members of the committee

Chairman BRADY. Thank you, Mr. Secretary, for your testimony. We will now proceed to questions. Due to the time constraints this morning, we have agreed to limit questions to 3 minutes. And I will begin.

Mr. Secretary, we have to get the exclusion process right for both products and countries. So we make sure our remedies are narrowly tailored and U.S. jobs aren't harmed. If these exclusions aren't provided in a workable and timely way, this could cost us U.S. jobs.

So, in my district, there is a big impact on energy. And just one example, Grant Prideco is this great manufacturing success in my district in Navasota, Texas, population 7,500. They make premium drill pipe that is used in some of the most technically demanding oil field applications in the world.

They send steel briquettes from Corpus Christi, Texas to Austria, which creates green tubes that meet exacting technical specifications that aren't available here from U.S. suppliers. Those steel tubes come back to Navasota, and those 500 workers thread them and improve them. They sell them, about 60 percent of them, to American energy companies so they can compete. And 40 percent they compete with and sell around the world. They have fierce global competition.

So Grant Prideco was planning to increase their workforce from 500 to 1,000 employees, as the energy market improves. But now those plans are on hold, due to these tariffs and the exclusion process. Worse, because they could, under a 25 percent tariff, lose half of their sales and potentially face shrinking that workforce.

So I did a town hall recently in their manufacturing plant. These are great workers who do an amazing job, and this plant is so important to that community. So if that—their product isn't excluded, what do I tell them? Do I——

Secretary ROSS. Well——

Chairman BRADY. Well, just a second. Do I tell them China is cheating, so you need to lose your job? That just doesn't seem right.

I know you care about these manufacturing jobs. I know President Trump is just passionate about protecting those jobs. So will the exclusion process protect American workers like that?

Secretary ROSS. I believe so. And, as you know, we have posted the basis for product exclusions on the Commerce website. We did that the other day, and we have already gotten in 100 or 200 inquiries, and are literally processing them as we sit here this morning.

As to eligibility, any individual or organization that uses steel or aluminum products identified in the proclamations may submit requests for exclusion. Those parties must use the steel or aluminum articles in business activities in the United States, as was the case with the parties you identified in your opening remarks. And those could be construction, they could be manufacturing, or they could be supplying those products to end users.

A foreign-owned entity with a facility here with U.S. employees is also eligible to petition for an exclusion. A 90-day intergovernmental review period will encompass the 30-day comment period. And we hope not to take 90 days for the intergovernmental review.

The way that the mechanics will work is there is a 30-day comment period followed by 15 days for agencies to have—to go through the interagency process and comment, and then up to 45 days for Commerce to analyze and make a final determination. So we anticipate no more than 90 days, and hopefully a good deal less.

If a product is excluded, the exclusion request will be made case by case, based on the information specific to the individual or organization. It may include a single or multiple foreign source. However, a total volume of imports will be authorized for a specific time period. We do have the discretion to make broader exclusions available to all importers of those particular products if we find the circumstances warrant it.

We will be looking for a—in order to not grant an exclusion, we will be looking for demonstrated manufacturing capability meeting the technical parameters for the specific article in question. This could include idle capacity that is being brought back online as a committed thing—not as a prospect, not as a possibility, but as a commitment by the U.S. company, as well as we will include new expanded capabilities.

The determination as to whether to accept or deny an exclusion will be made public, and on a rolling basis. There will also be a process for companies to file confidential information that will not be made public. There will be an appeal process if a company is denied an exclusion.

So that is a brief summary of the basic terms of the product exclusion process. Yesterday you had Ambassador Lighthizer here. I believe that he gave you a real description as to how he visualizes the country exclusion process to be done. We also are playing a supportive role in that, so I could address that if you wanted.

Chairman BRADY. Thank you. Mr. Secretary, you have the discretion, if a product is excluded, to make those tariffs retroactive so there is not a harm on those U.S. companies. Will you consider that as part of the process?

Secretary ROSS. Yes, sir. We have actually made a formal request to the Customs and Border Protection that they do what we call an escrow account.

Chairman BRADY. Yes.

Secretary ROSS. This is quite commonplace between us and the Customs and Border Protection in the context of anti-dumping and countervailing duties. So, while the volume here might be a little more, that is a process with which they are familiar. We think it is only fair, because it shouldn't be that, just because there is a 90-day process, any manufacturer who is granted relief should not be stuck for the tariff during that 90 days.

Chairman BRADY. And I agree, Mr. Secretary. Thank you.

Mr. Neal.

Mr. NEAL. Thank you, Mr. Chairman.

Mr. Secretary, details as to how the tariffs and exemptions for countries and exclusions for company-specific products and how they are to be determined is really going to be critical.

Diversified Metals, as a Department of Defense supplier with a facility located in my constituency, has raised concerns about the impact of these tariffs on its business. Diversified Metals provides key alloys used by the U.S. Navy in its submarine program. The

Navy has only approved one hot-rolled bar mill, which currently is located in England.

It is important for you to know that there is currently a good deal of uncertainty and confusion as to how the tariffs will affect the Department of Defense contracts. Companies are concerned that they will be required to pay tariffs, even if the Department of Defense mandates that they source their steel or aluminum from a foreign facility.

Now, this is where I think that there is an opportunity for more clarification, and it relates to multilateral strategy. How will the announced tariffs, after exclusions and exemptions, ultimately provide relief to U.S. workers and industries? And I think I am picking up on a point the Chairman made on that.

And what is the Administration's vision for achieving a multilateral, coordinated strategy for counteracting the global over-capacity crisis that has harmed the steel and aluminum industries?

Secretary ROSS. Well, those are several questions. I will try to respond to the ones that I can recall. And if my memory is faulty, perhaps you can remind me.

As you have seen, the UK—and, for that matter, the whole EU—I believe you have seen the release that Commissioner Malmstrom from the European Commission and I put out jointly yesterday. We have had very constructive discussions not just on steel and aluminum, but on potentially a broader range of topics. And our hope is that, just as we are in the midst of negotiation with Canada and Mexico on steel and aluminum and on other topics, our hope is that, for the first time, this will bring collective action on the part of the world community to deal with the ultimate problem, which is the over-capacity, particularly in China, but not exclusively in China.

So, we are hoping that there will be extensive negotiations, bilateral or multilateral, as a result of this.

Mr. NEAL. Mr. Chairman, I just would emphasize as you close, the multilateral aspect of this is really going to be critical. Thank you. Thanks, Mr. Chairman.

Chairman BRADY. Thank you, Mr. Neal.

Mr. Johnson, you are recognized.

Mr. JOHNSON. Thank you, Mr. Chairman.

Secretary Ross, welcome.

Secretary ROSS. Thank you, sir.

Mr. JOHNSON. Let me begin by saying that I strongly oppose the tariffs on steel and aluminum imports. You know my home State of Texas leads all States when it comes to importing steel and aluminum products. So it is a big deal for Texas.

As a combat veteran who fought in two wars, I am deeply troubled that section 232, which is intended to protect our national security, is being misused to advance a protectionist agenda.

Mr. Secretary, there is simply nothing to suggest that the imports pose a risk to our national security. Instead, these tariffs pose a serious risk to our economy, they could trigger a trade war, and they may damage our relations with key allies.

In the Department of Defense memo that Secretary Mattis sent to you, he said—and I quote—"DoD does not believe that the findings in the reports impact the ability of DoD programs to acquire steel or aluminum necessary to meet national defense requirements."

Mr. Chairman, I would like to submit that memo for the record.

Chairman BRADY. Without objection.

[The submission for the Record of Hon. Sam Johnson follows:]

SECRETARY OF DEFENSE
1000 DEFENSE PENTAGON
WASHINGTON, DC 20301-1000

MEMORANDUM FOR SECRETARY OF COMMERCE

SUBJECT: Response to Steel and Aluminum Policy Recommendations

This memo provides a consolidated position from the DoD on the investigation of the effect of steel mill imports and the effects of imports of aluminum on national security, conducted by the Department of Commerce under Section 232 of the Trade Expansion Act of 1962 (hereinafter "Section 232 Report").

Regarding the December 15, 2017 reports on steel and aluminum, DoD believes that the systematic use of unfair trade practices to intentionally erode our innovation and manufacturing industrial base poses a risk to our national security. As such, DoD concurs with the Department of Commerce's conclusion that imports of foreign steel and aluminum based on unfair trading practices impair the national security. As noted in both Section 232 reports, however, the U.S. military requirements for steel and aluminum each only represent about three percent of U.S. production. Therefore, DoD does not believe that the findings in the reports impact the ability of DoD programs to acquire the steel or aluminum necessary to meet national defense requirements.

DoD continues to be concerned about the negative impact on our key allies regarding the recommended options within the reports. However, DoD recognizes that among these reports' alternatives, targeted tariffs are more preferable than a global quota or global tariff. In addition, we recommend 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.

If the Administration moves forward with targeted tariffs or quotas on steel, DoD recommends that the management and labor leaders of the respective industries be convened by the President, so that they may understand that these tariffs and quotas are conditional. Moreover, if the Administration takes action on steel, DoD recommends waiting before taking further steps on aluminum. The prospect of trade action on aluminum may be sufficient to coerce improved behavior of bad actors. In either case, it remains important for the President to continue to communicate the negative consequences of unfair trade practices.

This is an opportunity to set clear expectations domestically regarding competitiveness and rebuild economic strength at home while preserving a fair and reciprocal international economic system as outlined in the National Security Strategy. It is critical that we reinforce to our key allies that these actions are focused on correcting Chinese overproduction and countering their attempts to circumvent existing antidumping tariffs – not the bilateral U.S. relationship.

cc:
Secretary of the Treasury
Secretary of State
Chief of Staff to the President
Assistant to the President for National Security Affairs
Chairman, National Economic Council
United States Trade Representative

Mr. JOHNSON. Thank you.

Mr. Secretary, in light of this statement from the Secretary of Defense, why did you and the Administration ignore the view of Secretary Mattis and still go ahead with the tariffs?

Secretary ROSS. Thank you, sir. The letter has many more words than were described in the brief excerpt you made from it. Let me read the part of it that is in the second paragraph: "Regarding the December 15, 2017, reports on steel and aluminum, Department of Defense believes that the systematic effect of unfair trade practices to intentionally erode our innovation and manufacturing industrial base poses a risk to our national security. As such, DoD concurs with the Department of Commerce's conclusion that imports of foreign steel and aluminum based on unfair trading practices impair the national security."

Then he goes on to say about the immediate request that—the difference in the paragraph you read and the paragraph I read is simply this: The threshold under section 232 is whether or not the imports threaten the national security. The threshold is not that it actually impinges right now on national security, sir. And that is why the Department of Defense specifically said it concurred with our conclusion.

Chairman BRADY. The time has expired. Thank you, Mr. Johnson.

Mr. Levin, you are recognized.

Mr. LEVIN. Welcome, Mr. Secretary. Welcome. I want to review quickly what seems clear. There has been a steel glut, also aluminum. China, the main source of it. China has used steel and aluminum as an export platform. State-owned enterprises, subsidization, has been the failure of action in this country and abroad.

As far as I know, there has not been a single hearing since the Republicans took over on steel. We wrote letters urging action and the Administration in the past also settled for talk.

Anti-dumping and countervailing duty—I went to Geneva to save them years ago. They were saved, but they are not enough.

So the main victim has been the United States, our companies, our workers. And there has been an impact—potentially, at least—on national security.

So I want to press you. What, in view of these clear facts, including inaction by so many of our colleagues on the Republican side, what is the strategy? What is the main objective? Is it the tariffs, or is it the tariffs to force global action?

I assume it isn't NAFTA. As we have discussed, you have to step up to the plate on NAFTA, and they are allowing Mexico to use suppressed wages as a weapon to attract industry.

So briefly, with all these exceptions, is it a global response that is your aim, essentially?

Secretary ROSS. It is, indeed. The reason that we need to take this kind of action is several. As you may be aware, in the normal course of events, the Commerce Department imposes anti-dumping and countervailing duty actions on a variety of products from a variety of countries. We, in fact, have 424 such orders outstanding right now, half of which, 212, relate to steel. And of the 87 pending investigations, 38 also refer to steel. A lot of the steel actions have been directly against China.

And the end result of that is not quite what you might have expected. Our direct imports from China have gone way down. They are a fraction of what they were before all of these actions were put in. But it is a little bit of a whack-a-mole situation in that it suddenly appears from another country, with or without some further transformation. And it appears, either directly, or it appears because their over-production dislodges domestic production from its own domestic market, and that material is dumped independently by the other country into world markets.

Chairman BRADY. Mr.——

Mr. LEVIN. So it is a global response that you are after?

Secretary ROSS. Yes, it is. Yes, it is.

Mr. LEVIN. Thank you.

Chairman BRADY. Thank you. Mr. Levin, time has expired.

Mr. Reichert, you are recognized.

Mr. REICHERT. Thank you, Mr. Chairman.

I thank you for being here, Mr. Secretary. I appreciate you taking time to be with us today. I also appreciate the fact that you have in your statement mentioned that you have considered the undue negative effects downstream. But I know you are hearing and I am hearing that businesses continue to be worried about the negative impact of these tariffs on their bottom line, and the timing and complexity of the exclusion process.

And there is another issue, too. In sharing information as they apply for the exclusions, they are concerned about proprietary information that they are going to be sharing on their applications that are too sensitive to share publicly.

Consumers are also worried, as you know. Families are worried, who buy everyday goods and—that require steel and aluminum, because they are anticipating that costs are going to go up.

So there are a lot of issues I know that you are considering.

These tariffs also set up the potential for retaliation by our trading partners. And while I am especially concerned about Washington State, I am concerned about the entire country. While I agree that we must combat unfair trade practices, we need to take a targeted approach and work in a partnership with the global community on a solution.

And I want to touch on the question that Mr. Neal touched on and give you the last minute and 30 seconds to hopefully go into more detail. How does the Administration plan to strengthen that relationship with countries now who are going to be imposed with these tariffs that are not real pleased about this process to create a coalition that is working together to address the—really, the big problem is the tariffs or—China over steel and aluminum.

So what is your plan, globally?

Secretary ROSS. Well, first, on the confidentiality question, we do have our normal process. Any company that wishes to submit proprietary information, it will be treated as such and will not be disclosed publicly. So that is a normal thing in AD and CVD that will apply equally here.

Second, as I believe Ambassador Lighthizer probably alluded to yesterday, part of the discussion that we will be having with countries for their exclusion is the very topic what will they do to be cooperating with us against the global overcapacity problem.

The problem is enormously severe. I will give you two data points. China's excess capacity exceeds our total capacity. China produces in 1 month about as much steel as we produce in a year. So it is way, way out of proportion, when you consider that they are the second-largest economy, but vastly the dominant producer of steel in the entire world.

Chairman BRADY. Mr. Secretary——

Secretary ROSS. So it is a global problem, and it is also illustrated as a global problem by the fact that, of our steel orders, they are not all against China. They are against 34 different countries. So it is——

Chairman BRADY. Mr. Secretary, I apologize. The 3 minutes goes so fast and we have so many Members who want to question.

Secretary ROSS. Sorry.

Chairman BRADY. Thank you.

Mr. Doggett, you are recognized.

Mr. DOGGETT. Thank you very much, Mr. Secretary. If I understand correctly, you presented President Trump with three alternatives to implement this policy on aluminum. One of them was global, one of them was targeted. Is that correct?

Secretary ROSS. Yes, that is.

Mr. DOGGETT. Okay——

Secretary ROSS. The targeted one encompassed just China, Hong Kong, Russia, Venezuela, and Vietnam.

Mr. DOGGETT. Right. And if that alternative had been adopted, Russia, for example, would be paying three times as much tariff as it will under the approach that was accepted.

Secretary ROSS. Yes. The targeted approach, had it been adopted in its original form——

Mr. DOGGETT. And that is——

Secretary ROSS [continuing]. Would have put very high tariffs on a very——

Mr. DOGGETT. Although five countries——

Secretary ROSS [continuing]. Small number of countries.

Mr. DOGGETT. And that really goes to a broader concern that I have. That would have permitted other countries, our allies, to maintain the quota of aluminum that they had last year.

Secretary ROSS. Yes, sir.

Mr. DOGGETT. Instead, President Trump rejected that alternative that would have imposed higher tariffs on Russia and these other four countries. Russia, of course, has the second-largest aluminum producer in the world. That is headed by someone who has repeatedly been denied visas to come to the United States because of his connections to criminal organizations.

And I just have to, frankly and respectfully, question your comment that the President made clear that his first priority is to keep America safe. I don't see anything indicating that he is particularly interested in keeping our country safe from Russia. Indeed, I have to concur with the comments that I am sure you are familiar with that Barry McCaffrey, a decorated four-star United States Army General, combat veteran from Vietnam, recipient of three Purple Hearts, said within the last few days: "Reluctantly, I have concluded that President Trump is a serious threat to U.S. national security. He is refusing to protect vital U.S. interests from active

Russia attacks. It is apparent that he is, for some unknown reason, under the sway of Mr. Putin."

Now, I know you don't agree with that, but we have had—since he made that very powerful statement from someone who is clearly an American patriot, we have had President Trump respond to the attempted murder in Great Britain and to the continued Russian assault on our election system by calling and congratulating President Putin. He has insulted people all over this country, but the one person he has never a bad word about, a questionable word about, is Vladimir Putin.

And it appears that Mr. McCaffrey, General McCaffrey, has summed it up rather well, and that, if anything, the approach taken with these aluminum and steel tariffs is very consistent with the approach of always coddling Russia and never calling it out for its attempt to steal our democracy.

Chairman BRADY. Thank you. The gentleman's time has expired.

Mr. Roskam, you are recognized.

Mr. ROSKAM. Thank you, Secretary Ross. Getting back to the 232 process, it is my understanding that the product exclusion request only allows an exclusion for one product at a time, even if the only difference in that product is size, such as the different diameters of steel wire.

I represent suburban Chicago, and we have a lot of small manufacturers. And they will have—you know, one company, as you know, will have hundreds and hundreds of products. How do you contemplate that? That seems foolish, as it is presented now. I would assume that there is more to this story, and that you are not requiring a company to submit hundreds of petitions.

Similarly, maybe you could also answer this. Surely there is a way for industry groups to join together, you know, just in terms of expediting this. Could you speak to that?

Secretary ROSS. Right. Well, first of all, we can grant blanket requests, in that if it is pretty obvious from the request that we have received that a particular item is generally regarded as being unavailable, we can grant blanket requests.

Now, that won't be the rule, but there will be situations where we will. And we could do that based on the submission of an individual company. So in the normal course, we think that a lot of the requests will be extremely specific products that are peculiar to a particular end use, and maybe one or two companies needing the material. Ones that have broader impact we do have the ability to deal with in a broader way.

But we need specificity, because in order to tell Customs and Border Protection how to implement, we need the Harmonized Code number of the individual product. That is the only way that they can track it. So while I would have preferred a somewhat less bureaucratic system, it is not an alternative that we really have. It is the only mechanical way that we can implement.

Mr. ROSKAM. I think that is something to take in. I mean, the burden locally will be enormous if that is not spoken to and remedied in some way. I am sure that is not lost on you, but there were ashen-faced looks around the room recently at a company that

I was visiting not long ago when they were thinking about this process. And it just seemed completely overwhelming.

I have made my point; I yield back.

Secretary ROSS. Well, it is the best we could do, sir.

Chairman BRADY. Thank you. To balance this out, we are going to go to two-to-one questioning.

Mr. Buchanan, you are recognized.

Mr. BUCHANAN. Thank you, Mr. Chairman, and thank you, Mr. Ross, for being here today. And thank you for your leadership.

Let me ask you, talking about other topics, Florida, it is about a $12 billion industry in terms of the economic impacts—fruits and vegetables. I talked to a grower yesterday. You know, in the last 2 years—I know we put an agreement in place on anti-dumping. I think we are looking at another one. It has impacted us, our business. The industry is down 22 percent. Yes, we are down 22 percent, Mexico is up 14. That's a 34-point spread. It has a huge impact, I will tell you, on jobs and a lot of businesses throughout Florida. Fruits and vegetables, but I am—in terms of tomatoes in my region, it is one of the largest—we are one of the largest growers in that. And many of them are going to have to close up—or that is what they claim, anyway.

I was interested in your thoughts about what we are doing on anti-dumping. I know we are talking about steel and aluminum, my colleagues, but I am interested in this aspect of it while we have you here today. And I will mention we have the same growing season as Mexico, so we are very concerned as we work through this NAFTA deal.

Secretary ROSS. Right. Well, as you know, before moving to Washington, I was a Florida resident, and I met extensively with the tomato growers and other growers there.

And it was partly at my suggestion that we included in the NAFTA talks the question about seasonality of measurement, as opposed to just annual measurement of the import situation of those products. I don't know that that has been resolved yet in the NAFTA discussions, but we are keenly aware of the problem of seasonality, and the potential that that has to lead to very, very disruptive end results for the growers. So we are focusing on it.

Mr. BUCHANAN. Are you working on an additional anti-dumping requirement or something? Do you know where that might be? I know something got put in place a couple of years ago, but people are concerned what was put in place is not working. And under the current negotiation, is that something that is being considered?

Secretary ROSS. Yes, at the request of the growers in the States, particularly the Florida growers, we have initiated a reset of discussions of the present arrangement with the Mexicans.

Mr. BUCHANAN. Thank you, I yield back.

Secretary ROSS. And that is underway as we sit here.

Mr. BUCHANAN. Thank you.

Chairman BRADY. Thank you.

Mr. Kind, you are recognized.

Mr. KIND. Thank you, Mr. Chairman.

Mr. Secretary, thanks for being here with us today. I am sure we are going to learn more—I am over here.

Secretary ROSS. Oh, sorry.

Mr. KIND. I am sure we are going to learn more about the Administration's 301 decision against China later today, when you make that announcement. And there is no question China has not been a good actor in many of the rules of trade.

My problem, however, has been the unilateral approach. I am not convinced that China, when they are mis-practicing trade and not abiding by the rules, is only doing that to discriminate against U.S. interests or U.S. companies. This is on a global basis. And there is an opportunity for you, this Administration, to work with us to try to build a multilateral coalition to isolate China, which I think would have a more meaningful impact, from China's perspective, rather than just this Administration, this country taking action. So I encourage you to explore that with us and work with us in order to do that.

But back to the 232 national security decision on steel and aluminum, you know, many of us have been concerned about the whole process from the beginning, that it was ill-considered, chaotic, confusing, the classic case of shoot, fire, aim. Now we are trying to backfill exemptions for products and for countries that are still ill-defined and confusing.

The one thing businesses in America hate most is uncertainty. Many of them are complaining that the process is going to be very narrow and tedious. Our friends and allies that this may apply to are scratching their heads, wondering why they potentially could be singled out.

And, again, it is the unilateral basis that this Administration has decided to pursue with trade policy that is very troubling. We do need friends and allies around the globe. We need to be a leader in developing a rules-based global trading system. Leading, rather than following or isolating, as the case may be.

As an example, on 232 and the national security reason, I and Representative Mike Coffman sent you, along with 44 other bipartisan Members of Congress, a letter last year talking about certain aluminum that has absolutely no national security application to be exempted. The rolled can sheet, the primary aluminum, I even had a conversation with you following up with a letter, and I feel we didn't get an adequate response, even though it is currently on the list.

And if this is the type of feedback or the type of partnership that we are going to get from the Administration, coming to us asking for a 3-year extension on TPA is going to be a pretty heavy lift because of the lack of responsiveness.

And if we are going to go down this road of invoking 232 for national security implications, especially with products that have absolutely no application, what is to prevent other countries from invoking their own national security reasons to exclude our exports?

I mean, I have heard arguments from Europe all the time to justify trade barriers to our agriculture products because of the food security system that they were trying to protect. And this is an area of the world that knew massive starvation during two world wars. So that is problematic, that other nations now will see a door open to them to invoke national security to erect protectionist measures. And it is something many of us are deeply concerned about.

Secretary ROSS. Well, I——

Chairman BRADY. Thank you.

Mr. Secretary, I apologize. Time is expired.

Mr. Smith, you are recognized.

Mr. SMITH OF NEBRASKA. Thank you, Mr. Chairman.

Thank you, Mr. Secretary, for being here. I represent the number-one agriculture district in the Nation, so it certainly stands to reason that I would share the concerns of my constituents on the tariffs, and the various impacts that may take place.

As you know, Secretary Perdue has said—or he mentioned that agriculture and ag products are always the tip of the spear in any type of retaliatory action. And I—let me just suggest that our agriculture economy is certainly not in a position to absorb any spears at this point, given the sensitive nature of and kind of the downturn in the ag economy that has been in place for longer than we would prefer, certainly.

Can you reflect a bit on assurances you can give us that the Administration has considered rural communities, rural economies, and their—and our interests in considering what impact the tariff moves might have?

Secretary ROSS. Well, as you know, I work very, very closely with Secretary Perdue, and worked very hard on getting the beef exports going again to China, worked very hard on trying to open up some of those markets in South America, and worked hard to deal with the sugar problem from Mexico. So it is not that there is any lack of focus on trying to help agriculture.

I will also mention, in the context of the question of your colleague from Florida, the work that we have done trying to work on the seasonal, as opposed to annual, measurement of agricultural imports.

We have also put a lot of pressure on about sanitary and phytosanitary non-science-based constraints that other countries put on our products.

So it really wouldn't be fair to say that the Administration has neglected agriculture. Agriculture has been a very important part of our activity——

Mr. SMITH OF NEBRASKA. Sure, and I would reflect—I mean, I would agree that the Administration, I think, has worked hard for agriculture. I am wondering if there is any sort of analysis that exists that could point to that recent action or actions to come which will not actually harm or set us back on some of the advances we have made more recently?

Secretary ROSS. Right. Well, in terms of retaliation, there is no way to forecast exactly what a given party would do. But what I would say is—the rest of the world cannot feed itself. We have—we all know that. They really need imports from those countries like the United States that are very good at agriculture.

What that means, if a country tried to impose restrictions on a particular crop from the United States, it probably would raise their own cost, because there isn't a country in the world who pays us one penny more for any of our produce than the lowest price that it could get from somewhere else. Nobody does us a favor.

Chairman BRADY. Thank you. The time has expired.

Mr. SMITH OF NEBRASKA. Thank you.

Chairman BRADY. Ms. Jenkins, you are recognized.

Ms. JENKINS. Thank you, Mr. Chairman, and thank you, Mr. Secretary, for being here this morning.

Last spring, in a similar hearing to this one, I voiced my concern to Ambassador Lighthizer about using national security as a basis for trade restrictions, since this action could lead to retaliation if another nation follows suit and restricts its imports of U.S. products, like sorghum and soybeans, using the same rationale.

While it is a good step to implement an exemption process that many Members here requested for our allies and trading partners following the proposed steel and aluminum tariffs, my concerns have only grown, especially since other nations are indeed preparing a retaliation list targeting farm products.

Secretary ROSS. Right.

Ms. JENKINS. Now, Mr. Secretary, you have made comments recently about farm families and ranchers who—I quote—"scream and yell when their nerves get rattled by the Administration," and you mentioned that they even go so far as to write to their Member of Congress. You may not be aware, however, that the State of Kansas just last week declared a statewide drought emergency for all 105 counties, or that blizzards roll through at a moment's notice, or that we have had multiple years of large wildfires, some which have blazed an area many times larger than the entire District of Columbia.

Kansans depend on selling their products abroad. The value of all Kansas ag exports total $3.7 billion, even with a State with a population of fewer than 3 million Kansans. Ag represents 7 of the top 10 exported products from our State. This includes wheat, which is one of the second-most valuable international exports from Kansas, trailing only our plane manufacturing. And prior to NAFTA, Mexico imported an average of 11.5 million bushels of wheat from the United States. After NAFTA, we have seen a nearly tenfold increase to 110 million bushels.

And on the national scale, half of the wheat grown in the United States is exported, so half of growers' market is foreign consumers.

So my constituents' livelihoods depend on both Mother Nature and foreign markets. So I am just curious. Why do you think American farmers and the ag industry are so nervous when it comes to NAFTA or sudden tariffs? And do you know how many American agriculture heartland—how much they depend on these exports?

Secretary ROSS. I will answer very briefly. First of all, there is no sign that any of these other countries have practiced restraint before we invoke national security. They are doing what they wish to do. Every other country that I am aware of is much more highly protectionist than the United States. They all talk free trade, and they all practice very protectionist activities.

Chairman BRADY. Mr. Secretary, the—I am sorry. Again, the 3 minutes goes quickly. The time is expired.

Mr. Pascrell.

Mr. PASCRELL. Thanks for coming today, Mr. Secretary. When you look at any chart of how close we are linked with China, it becomes quite obvious. The G20 countries, they—with China as the top five export destination, this is something we can't ignore. When you look at the relationship between the—our S&P 500 and the

Shanghai Stock Exchange composite, they are not going to get rid of us and we are not going to get rid of them.

We know that the central problem here, in many countries besides China, is subsidizing their production.

Secretary ROSS. Right.

Mr. PASCRELL. No question about it. And we have to zero in on that. I think you would agree with that.

Secretary ROSS. Yes, I do.

Mr. PASCRELL. The over-capacity and the flood of cheap imports from countries sometimes like China needs to be addressed very, very closely.

I and many Democrats in Congress have a strong record on calling out China for their trade cheating. It is on the record. And we have passed bills to hold them accountable on currency and on steel dumping. Republicans have not done much of anything up to now to confront this issue. In fact, what we have done is paid corporations and subsidized the corporations to get out of the country. It is written in our budgets. That is unacceptable.

They, the Republicans, passed a tax bill that promotes off-shoring. So we are talking out of both sides of our mouths here. We want to defend the American worker, and at the same time we are making it easier for companies and corporations to move. I don't think that this works at all.

I strongly support enforcement of U.S. trade laws. There has been a lot of discussion about how the 232 steel and aluminum tariffs that the President imposed may start a trade war. No one wins a trade war. But I know one thing. Under article 1, section 8, this Congress and the very people in this room should have the most to say about what direction we go in in trade. It is very, very clear.

Can you please explain whether these tariffs could trigger a trade war, as you perceive it?

Secretary ROSS. Well, as I indicated before, there is no indication that the other countries have practiced any restraint before we did the action that we are about to take. Whether they will respond and, if they do, in what form, no one really knows. But I don't think that, whether we call it national security or something else, is going to have any impact whatsoever on the nature of their response. They are going to respond in whatever they think will be the most politically hurtful way to us.

Mr. PASCRELL. Thank you, Mr. Secretary, for your forthrightness.

Thank you, Mr. Chairman.

Chairman BRADY. Thank you, Mr. Pascrell.

Mr. Paulsen, you are recognized.

Mr. PAULSEN. Mr. Chairman, just to follow up on my colleague, Sam Johnson, when he had his interaction with you, if you read further on the memo—the Secretary of Defense—it is very clear that the Department of Defense is concerned about the approach that is being taken here. It says, "Therefore, DoD does not believe that the findings in the reports impact the ability of DoD programs to acquire the steel or aluminum necessary to meet national defense requirements. DoD continues to be concerned about the negative impact on our key allies regarding the recommended options within the reports."

But let me go this way, Mr. Chairman and Mr. Secretary. Look, I don't believe this is the right approach to implement these tariffs. I can't stress enough, though, the importance of making sure we are limiting the impact of these tariffs on metal-consuming companies and their workers who, you know, in the end could be very less competitive globally by higher prices. And having an exclusion process that is fair, and grandfathering in existing contracts, is critical.

I am hearing from small manufacturers in my State of Minnesota. I have Harvey Vogel Manufacturing Company. They are located in Minnesota. They specialize in metal stamping and fabrication. And they say they are already seeing pretty big price increases from their suppliers because of the threats of these tariffs coming into place.

And they also say their customers now are worried about what the future holds. And for them, they are a company that says the tariffs are now even probably the top trade issue, aside from the uncertainty that they have had around NAFTA. We are a border State and we have a lot of trade with Canada and Mexico, obviously.

And then, as I mentioned yesterday when Ambassador Lighthizer was here, R&M Manufacturing, which is also a Minnesota small business, they have set contracts. They clearly say they will not be able to re-negotiate with their larger customers, regardless of material costs, which are going up.

So I just have a strong concern about lost manufacturing jobs, just as happened historically, if history is our guide, back in the early 2000s, when this was done before.

But, Mr. Secretary, can you just briefly dive into this a little bit about—and explain maybe? Has the Department really analyzed the broader supply chain economic effects that the tariffs could have in terms of job loss downstream in other industries, or on consumer prices, in general?

Secretary ROSS. Yes, we have. In fact, we handed out, I believe, to each of the Committee Members a series of charts showing the interaction between steel prices and aluminum prices, historically, on auto production, on recreational vehicles, on construction, on a whole variety of industries.

And we also have done our own analysis and have studied analytical reports by various other parties and have come to the conclusion that there, in the aggregate, will not be material damage inflicted. Indeed, this is a very small segment of the economy. The total tariffs that we were originally talking about before any exclusions for countries or products is less than one-half of 1 percent of the economy.

Chairman BRADY. Mr. Marchant, you are recognized.

Mr. MARCHANT. Thank you, Mr. Chairman. Thank you for being here, Secretary Ross. There have been quite a few press reports about the pending section 301 action. And I was hoping that you could shed some light on the process within the Commerce Department with regard to that investigation.

Secretary ROSS. The Commerce Department supplied a lot of the analytical materials, as well as specific comments on specific aspects of the 301 to Ambassador Lighthizer. The U.S. Trade Rep, as you are aware, is the lead on 301 investigations. But we put in endless hours on various of these specific remedies that you will hear being announced, and participated extremely actively in the inter-agency process with Ambassador Lighthizer and with other parts of the Administration.

Mr. MARCHANT. So has Commerce conducted an analysis of the supply chains that will be affected by those tariffs?

Secretary ROSS. By the 301s? Yes, sir.

Mr. MARCHANT. And——

Secretary ROSS. We have looked at—and you will hear when the announcement is made—I think you will get a flavor for what it is—the remedies that are being sought. And then we can have a very fulsome discussion.

Mr. MARCHANT. Okay. So we will be—at some point we will be able to get those studies.

Secretary ROSS. Well, at some point the tariff—the 301 action will be announced, and it wouldn't be very surprising if this Committee and others would request that we come and explain it.

Mr. MARCHANT. Did the analysis include an evaluation of available capacity in other markets?

Secretary ROSS. Well, I can't answer that in detail without getting ahead of the President and his announcement. But I can promise you there is a huge amount of analysis that went into it.

Mr. MARCHANT. I am assuming that Commerce believes that the proposed tariffs will have the effect of pressuring China to change its policies.

Secretary ROSS. Our—the hope always in tariff imposition is to modify people's behavior, yes.

Mr. MARCHANT. Okay. Thank you, Mr. Secretary.

Chairman BRADY. Thank you, Mr. Marchant.

Mr. Higgins, you are recognized.

Mr. HIGGINS. Thank you, sir. The United States produces two-thirds of the steel it uses. Steel production today is no longer labor-intensive, it is capital-intensive. It is through innovation. Steel is being made that is cheaper, lighter, stronger, and cleaner. China produces only about 2 percent of the steel used in the United States. So I think this debate is a small piece of a much larger problem.

Mr. Secretary, you are known throughout all the financial journals as being a big global thinker. You are one of the most influential global thinkers in America. And when you look at the United States-Chinese economic relationship, it is a $600 billion relationship, annually. There are 275 Chinese students who are studying in America, 25,000 American students studying in China.

Last year, Chinese investment in the United States for the first time exceeded United States investment in China. China is number one in patent production, which is an important indicator of future economic growth. But it is a place that America held for over a century. We got overtaken by China. We got overtaken by China.

China is moving from a manufacturing assembly economy to a knowledge-based economy.

People here are always whining about China, Democrats and Republicans. They cheat on their currency, they treat their people poorly, they have a horrible human rights record. Their water and air quality is deplorable. But you know what they do? They invest in the growth of their own economy.

China just invested or is investing $1 trillion to open up the Chinese economy to 60 countries in Europe, in Africa, in Asia, and Latin America, $1 trillion. They are positioning themselves for future economic growth. We have an infrastructure bill that is $200 billion over 10 years. It is equivalent to the amount that American taxpayers financed for the rebuilding of Iraq and Afghanistan.

Sir, you have a global vision. Please admonish this President and this Administration to do better to position the United States to compete, because the United States can compete effectively with any country in the world, so long as there is a level playing field. What are your thoughts?

Secretary ROSS. It is not quite correct, sir, to say that Chinese exports of steel and aluminum are as limited as you indicated. As I mentioned before, they dislocate a lot of production from other countries to us. They also veil the exports to us through transshipment with or without additional——

Mr. HIGGINS. Respectfully, sir, it is still a small part of a much larger problem. But I respect your——

Secretary ROSS. Well, it is. The problem is huge. And the 232 actions are only part of a mosaic for dealing with it. You will hear more about China—a lot more—in the 301.

Chairman BRADY. Time has expired.

Mr. HIGGINS. I yield back, thank you.

Chairman BRADY. Mrs. Black, you are recognized.

Mrs. BLACK. Thank you, Mr. Chairman.

And thank you for being here, Mr. Secretary. So much has already been said about China, we all feel that way, that we must—it is past time that we must do something about their operation and the way in which they operate, unfairly subsidizing state-owned enterprises and throwing barriers up for American products.

And so I want to go back again to what has already been talked a little bit about, and that was—or talked a lot about, and that is the tariffs on steel and aluminum. In particular, in my district, Electrolux has a plant in the district of Springfield, which produces kitchen products. And this is a rural part of Tennessee. The plant employs over 2,500 full-time employees, which are drawn from all over the area. And the type of manufacturing plant—jobs that this plant provides really are sought not only by communities here in our country, but also all over the world. So, in short, this plant is very important to Springfield and the region that I represent in Tennessee.

Earlier this year, Electrolux had announced that they were investing $250 million into a Springfield plant. That $250 million represents a huge investment in our community. They now, because of their concerns over the steel, have held up that investment and are not moving forward.

So my question is what can I say to them, what can I say to the leaders of Electrolux to help to allay the fears that they have so they will once again invest in the community? And what should be the process that I tell them, moving forward, could help them allay those fears?

Secretary ROSS. Well, I certainly agree with you that fear of the unknown is one of the worst fears that people can have. And uncertainty about environment, the regulatory environment, the tariff environment, is a huge concern to business people.

I think when you see the actual details of the President's announcement, both on 232s and on the 301s, then you will be able to see a much more clear picture of what is actually going to happen. And I think it will clear the air a lot.

Mrs. BLACK. Well, that makes me feel a lot better because I can tell you in these little rural communities it is very important. And 2,500 full-time jobs is a huge loss in our community.

Secretary ROSS. Surely.

Mrs. BLACK. Thank you, and I yield back the remainder of my time.

Chairman BRADY. Thank you.

Mr. Kelly, you are recognized.

Mr. KELLY. Thank you, Mr. Chairman.

Mr. Ross, thank you so much for being here. In addition to that, thank you for stepping out of a very successful and comfortable life to come and serve your country. This is incredible. Listen, I have great respect for everybody on the dais, but there is nobody that has more depth and experience and knowledge when it comes to steel and aluminum than you do.

One of the questions I do have for you—you referenced in your opening remarks electrical steel, and we are down to one producer of electrical steel in the country. I am very close to that, and I mean within a half-mile of AK Steel. We produce the finest electrical steel in the world and have thousands of employees.

And the question comes up that, while that—the last producer, in the product codes—and this is where I am trying to understand them. You can help me with this, I am sure. You know, AK is really—they are very supportive of the 232 remedy that the President put in place, but they feel it has submitted several product codes that are basically just allowing electrical steel to be stacked, wound, and slit, and that allows foreign producers to easily circumvent the 232 remedy. So I know you are aware of these things, I just call it to your attention. We would love to work with you on that.

The other point that I think we need to make is in addition—many of us support the action the President took to give Canada and Mexico special treatment. However, we can't allow them or any future exempt country, for that matter, to become a conduit for transshipment.

One of the other things—I know you are going to answer, we have so little time to talk—thank you. I have sat here for 8 years and listened to everybody talk about what we should be doing about this trade imbalance. You and the Administration are the only ones that have actually done something. So actions speak louder than words. Thanks for what you are doing. And I really welcome any type of work we can do together to protect that plant and make sure that we have electrical steel produced in this country.

Secretary ROSS. Thank you. As you are aware, AK supports our program.

Mr. KELLY. Absolutely, yes. I am. The only question I think they have is on the stack steel, the electrical steel stack——

Secretary ROSS. Yes.

Mr. KELLY [continuing]. That can be slit and wound and somehow put into the core of transformers.

Secretary ROSS. And that raises a good question. One of our intentions is, as we locate potential sources of circumvention, to bring separate actions against those. Because, as you know, we have waged a lot of wars against circumvention already.

I am well aware it isn't just the steel, it is the end product——

Mr. KELLY. Right.

Secretary ROSS [continuing]. Of the transformers that can be the big problem, and subcomponents within it. And I promise you we will not ignore that.

Mr. KELLY. Okay. And anything we can do to help, please let me know. And I will give you the data that AK has given me, but you probably had it long before I did.

But thank you so much for your service. Again, this is very refreshing to have somebody that actually knows something about this product and what is going on in the world, as opposed to people who run for office who don't have a clue of what is happening. Thank you.

Secretary ROSS. Thank you, sir.

Chairman BRADY. Ms. DelBene, you are recognized.

Ms. DELBENE. Thank you, Mr. Secretary, for being with us today. I have an aluminum smelter in my district that almost had to close, so I am definitely well aware of the issues of Chinese over-capacity and how that has depressed global—the global market and prices and undercut American workers and businesses.

It is clear that something needs to be done to address the problem of over-capacity. But, as many of my colleagues have noted, it is extremely important that any action the Administration takes is targeted specifically to the source of the problem—in this case, definitely China.

In order to truly address the problem of Chinese over-capacity, we need to work with our allies like the EU, Japan, and Korea, and use multilateral fora such as the G20, the G7, and the OECD, to develop a coordinated strategy. Do you agree with that?

Secretary ROSS. I believe we do have a coordinated strategy. I believe I have tried to describe it. The exclusion process is intended to do the fine-tuning that is necessary to make sure that we minimize any unintended consequences.

Ms. DELBENE. But you met with Commissioner Malmstrom from the EU recently. And would they feel like there is a coordinated strategy happening?

Secretary ROSS. Yes. I think the actions we have taken will produce coordination with other countries. You probably saw the press release that she and I put out after our meeting and the one that we put out the day before, jointly with my counterpart from Germany. We think that the EU, in a whole variety of different ways, is part of the problem.

Steel that comes in in the form of an automobile from Germany is every bit as much a problem as steel that comes in as steel.

Ms. DELBENE. A couple of quick questions. I have a technical question for you. The President ultimately decided on tariffs at 25 percent for steel and 10 percent for aluminum. Will the Administration be updating those numbers, based on the number of country and product exclusions that might come out, and the impact that those have?

Secretary ROSS. As it becomes more clear what is the extent of exclusions, both country and exemptions and product exclusions, we will present to him the consequences of those exclusions for the steel and aluminum industries, and he will decide whether it warrants imposing further tariffs on the countries that are still hit and on the products that are still hit.

Ms. DELBENE. Thank you. And one quick question. Will there also be an exclusion process on 301, similar to 232?

Secretary ROSS. I really don't want to get ahead of the President on 301. He will be making an announcement in the relatively near future, very near future. And that is the time when we should have discussion.

Ms. DELBENE. Thank you.

Thank you, Mr. Chairman.

Chairman BRADY. Thank you, Ms. DelBene.

Mr. Renacci, you are recognized.

Mr. RENACCI. Thank you, Mr. Chairman, and Secretary Ross, thank you for being here and for your testimony today. I would like to tell you about one of the many great companies in my district and their specific concern.

The MK Morse Company is a family business that consumes steel in its manufacturing of saw blades. All of the manufacturing is done in Canton, Ohio, by their 485 employees. When possible, they source their raw materials domestically because of freight costs, currency risk, lead time, and their commitment to U.S. manufacturing. However, in many cases they must rely on foreign sources for their high-speed, steel-edged wire, steel strip back, or carbon steel strip, and hardened and tempered steel.

Morse is one of the few saw blade manufacturing companies remaining in the United States, but they do not produce enough volume to attract the interest of U.S. steel companies. So they are required to source some of their steel from our foreign allies, whose steel mills focus on the saw blade industry, and therefore are capable of producing materials to exacting quality requirements.

Secretary Ross, my question for you is President Trump's steel proclamation includes reference to chapters 72 and 73 of the Harmonized Code, which are steel only. Saw blades are in chapter 82, and are not referenced. This is why Morse believes their competitors manufacturing outside the country will not incur the tariff when they export their steel-based product to the United States. And, frankly, I am concerned that companies and positions similar to Morse may be incentivized to move their manufacturing operations outside the country.

So, in your conversation with U.S. manufacturers, how are you addressing the effect that these downstream implications could have on U.S. manufacturers?

Also, what steps might the United States take to prevent the potential issue from becoming a real problem?

And, finally, is there any message you would like to relay to all the concerned manufacturers back in Ohio who make up the State's largest sector by GDP?

Secretary ROSS. Well, as you know, I have been in a variety of manufacturing businesses during my private-sector life. So I am keenly aware of the problems at the various different levels of the chain of supply. And those that are in the kind of circumstance that you describe probably are the ideal candidates, in concept, for exclusion.

I also mentioned that we are mindful that taking product to another level of manufacture is one of the favorite ways that people circumvent our activities. We intend to deal with those in separate proceedings, anti-dumping and CVD proceedings.

So this is not the last that you will hear about our solutions to the steel and aluminum problems, or any other problem.

Mr. RENACCI. Well, thank you, Secretary Ross. And I, too, want to thank you for stepping out of the private sector and taking the position you are in. Thank you for your service.

Secretary ROSS. Thank you, sir.

Chairman BRADY. Thank you.

Mr. Meehan, you are recognized.

Mr. MEEHAN. Thank you, Mr. Chairman.

Mr. Secretary, I give you credit for taking on the issue of Chinese dumping. But, of course, the implications of how you do that affect a lot of American-based businesses. American Keg is a developer of steel kegs, or aluminum kegs, the last in the United States. It competes against foreign imports. The problem is that its finished goods are not subject to tariffs, it is just the raw materials coming in. So they are now at a competitive disadvantage.

I was intrigued by your comment about an automobile that comes in with finished steel or manufactured steel as another way of getting into the country. Are we going to be able to deal with companies that are going to be impacted like this, like American Keg, who will—are looking at laying off workers because a foreign keg can come in now at a disproportionate, you know, cost?

And let me ask, as well—one more that is just industrywide. I have Ball Manufacturing, another steel company in my district that uses the sheet aluminum to make beer cans. Now, they will be one of a number of companies, but that industry alone could be looking at 1,500 applications to you just for can manufacturers.

How can we simplify it so we can do it by industries or things like that, so that you have the capacity to be able to contemplate these and help create a level playing field for all?

Secretary ROSS. Well, as I mentioned in response to an earlier question, we have to go by Harmonized Codes, because that is the only way the Customs and Border Protection can implement. So, unfortunately, we have to go number by number. And, literally, some of these codes are 10 digits long. But that is what they need for their computer system to be able to implement.

On the specific question of——

Mr. MEEHAN. Well, can trade associations and others talk for similarly situated businesses, so a determination could be made that then could be applicable to other kinds of similar businesses?

Secretary ROSS. Well, as I mentioned, if we get an individual request from an individual company that is truly representative of an industrywide problem, we can deal with it on a broader basis. The powers delegated under the proclamation are quite broad.

As to beverage cans themselves, as you are aware, it is my view that these tariffs, even forgetting the exclusions and exemptions, will have a trivial effect, a fraction of one penny on a can of Campbell's soup, on a can of Budweiser, on a can of Coca Cola. And it is similarly small increments on many other things.

So that doesn't answer all the problems, but I think we need to put it into perspective. The total metal content of a can is two or three pennies, depending on the can size and the particular material used. So putting a tariff on a portion of that, it really is relatively small in the overall scheme of things.

Chairman BRADY. Thank you, Mr. Meehan.

Ms. Chu, you are recognized.

Ms. CHU. Secretary Ross, I am going to drastically change the topic here, and ask a question that has been asked of my office nearly every day, and that is about the census.

The Census Bureau, of course, is under your purview, but it has been reported that the Department of Commerce is considering asking—adding a citizenship question to the 2020 Census. And there is a lot of worry by immigrant stakeholders that adding this question will create a lot of fear, that many immigrants will fail to respond to the entire questionnaire, fearing that their legal status will come under scrutiny. There are many that argue that the numbers reported from the census will be more inaccurate, and that it will be more difficult to provide benefits and resources for low-income communities who are afraid to be counted.

In fact, I have heard from many entities, including the LA County Board of Supervisors who unanimously wrote to Congress, urging opposition to the inclusion of the citizenship question, highlighting that LA County already faces great challenges in counting minorities, immigrants, and hard-to-survey populations.

And in the 2010 Census, more than 113,000 Latino children in California and 47,000 Latino children in LA County were not counted, according to one survey that was done.

So these inaccuracies make it hard and difficult for our government to administer important Federal safety net programs, such as WIC, SNAP, and TANF. Can you tell me whether the Department of Commerce plans to include the citizenship question in the 2020 Census?

Secretary ROSS. The Department of Justice, as you know, initiated the request for inclusion of the citizenship question. We have been talking on the phone and received written correspondence from quite a lot of parties on both sides of that question. There are many, many subquestions about accuracy, about suppression of responses that we are taking into account.

We have not made a final decision as yet, because it is a very important and very complicated question. We will make a decision by March 31st, which is the date on which we are required to report to the Congress the final questions for the 2020 decennial census.

Ms. CHU. And I understand that this question has not been tested, which is usually the tradition with the Census Bureau also. I wanted to know whether you have factored in the additional cost of adding this question, this untested question.

Secretary ROSS. The cost is one of the considerations. The comparison with the American Community Survey and annual sampling, which does ask the question, is another consideration. There are probably 15 or 20 different, very complicated issues involved in the request. Because it is from the Department of Justice, we are taking it very seriously, and we will issue a fulsome documentation of whatever conclusion we finally come to.

Chairman BRADY. Thank you. Mr. Secretary and Members, we have 2 minutes left in the first of four votes. This is an important hearing. We will reconvene, Mr. Secretary, immediately after votes. Thank you for your patience.

The Committee stands recessed until immediately after votes.

[Recess.]

Chairman BRADY. The Committee will come to order.

Thank you, Mr. Secretary, for your patience during the vote series. We will resume with the questioning by Mrs. Noem.

You are recognized.

Mrs. NOEM. Thank you, Mr. Chairman, and thank you, Mr. Secretary, for taking the time to be with us today.

In South Dakota we have a lot of pride in handling tough situations. We are pretty remote, so our transportation costs are pretty high. We consume a lot of energy, because we don't have a lot of options. And we also deal with a lot of tough weather. And so we know, when it comes to agriculture, which is our number-one industry in this State, that it provides 20 percent of our State's jobs. And it explains why so many of my constituents are really concerned about the tariffs in section 232, and what retaliatory measures could be taken against our American goods.

But, Mr. Secretary, their biggest concern—because I am a lifelong farmer and rancher, and so these are my people and my family and my community members, everybody across the State—what concerns them is what appears to be a lack of concern on your part about what these measures—how they could impact the ag economy.

And just this last week you said that we should judge results, instead of looking at theories. But I want to point to an example which proves that my constituents aren't just scared of theories.

On January 22nd the Administration announced new tariffs on washing machines and solar panel technology. Then, on February 4th, less than 2 weeks later, after the Administration's announcement, China launched an anti-dumping and anti-subsidy investigation into imports on American sorghum.

Also, the *Wall Street Journal* reported yesterday that China is already targeting soybean and live hog exports for their next action. And it is not just happening with China. The European Union also is featuring agriculture in its draft retaliation measure list for the section 232 tariffs.

And with soybeans being 27 percent of my State's economy, we also know that it is $1.3 billion of exports out of South Dakota in 2016, but Brazil and Argentina, they had less than 15 percent of the export market worldwide back in 1980. Now they have over half. We know they are ready and standing, waiting to take up any kind of market space that opens up. And that is what the big concern is for a lot of my producers.

So with all of these new tariffs that are being put into place, I would really like to know whether or not there is a lot of time being spent by the Administration, by you, and by your individuals that are—serve under you on what kind of impacts this could have on agriculture, considering we are already in a devastating commodity market, we are already facing huge challenges in agriculture. And now, if we have some of these measures going forward from other countries, I don't know if we will survive.

Secretary ROSS. Well, we are well aware of the potential problem. It is something we are giving great consideration to. And you will be hearing a little bit later today more about the actual exemptions, the exemption process for countries from 232, and you will be hearing later today more details about the 301. So pretty soon some of those questions will be answered.

Mrs. NOEM. Okay. I would encourage you to keep agriculture in the forefront of your consideration, considering——

Secretary ROSS. We certainly are——

Mrs. NOEM [continuing]. They are in such tough times.

Secretary ROSS [continuing]. And if I lapse at all in thinking about it, Sonny Perdue is very aggressive at making sure I pay attention.

Mrs. NOEM. Thank you. I appreciate that, and I yield back.

Chairman BRADY. Thank you.

Mr. Holding, you are recognized.

Mr. HOLDING. Mr. Secretary, thank you for being here, and thank you for your service.

We all know there are products that are unfairly traded, and the Administration is right to target those unfairly traded products. On the other hand, there are products that are traded fairly, and which pose no national security risk. And I would hope the process is as efficient as possible in exempting these products. And I commend the Administration for trying to tackle unfairly-traded goods, but we need to be careful in that fairly-traded goods aren't caught up in the mix and subject to increased tariffs.

And there was one particular instance on a product that you and I have spoken about before. We get some specialty steel from the United Kingdom that is used in our nuclear submarine program. And even though the 232 investigation was initiated under a national security argument, this is a case, this UK steel nuclear submarine case, where it would actually, I believe, harm our national security to have that product subjected to higher tariffs.

So, I just call upon you to comment on this case. I believe you are familiar with the factory in the United Kingdom that produces this specialized steel, and I believe you are aware of how it is used in our submarine program. And if you can, comment how the process that you have envisioned, that you are laying out, could possibly apply to a situation like this.

Secretary ROSS. I am quite familiar with the steel situation in the UK. As you may be aware, when I was in the private sector I tried to buy the company——

Mr. HOLDING. Yes, sir.

Secretary ROSS. I am quite familiar with its product line.

I think you are also aware I issued a joint press release with Commissioner Malmstrom yesterday outlining that we had had very constructive discussions, and I am optimistic that the EU will turn out to be a negotiated solution. And you will hear more about that a little later on today.

Mr. HOLDING. Well, I thank you. And the—I appreciate the—working with the EU. And I would also like you to keep in mind that once the United Kingdom leaves the EU, that it will be our finest and best bilateral relationship on every level, from economic to military.

Secretary ROSS. Well, we are keenly aware of the special relationship between the United Kingdom and the United States, and it is not my intention to do anything to disadvantage them in the context of Brexit.

Mr. HOLDING. Thank you, Mr. Secretary.

Chairman BRADY. Thank you.

Mr. Smith, you are recognized.

Mr. SMITH OF MISSOURI. Thank you, Mr. Chairman.

Secretary Ross, thank you for being here, and thank you for your thorough—your great deal of work on the 232 investigations.

As you may remember, I was with you back in the spring of last year, when the President signed the Executive order to look into the 232 investigations for aluminum. And after looking through your report, it followed through with what I had been asking for a couple years. And the Obama Administration refused to even look at it.

In 2000, as your report also noted, we had 22 aluminum smelters, 22. And just here recently, we have two fully operational ones, and only one of those uses the high purity aluminum that is needed for our defense, for our naval vessels, for our aircraft, to protect Americans. And that is what your report provided, and I appreciate that.

But I also want to tell you that, the day after that, our President issued these protections. I was able to stand in the Bootheel of Missouri, where an aluminum smelter had closed in March of 2016, and where we lost hundreds of jobs because they couldn't compete with the illegal practices of China, to announce that, because of the President's actions and other actions, 450 new jobs—with the possibility of up to 900—in a district that the median household income is $40,000, and the jobs will average $64,000 a year.

So thank you, Secretary Ross, for doing what is right.

And I don't want to operate like some other Members of Congress by broadcasting my biggest concerns of how other countries may retaliate against us. That is the worst possible thing that we can do. But what I will ask you to do is to look into some countries, such as India, where they over-subsidize their agriculture products, like rice and other grains, that definitely is to the detriment of our farmers. I believe in free trade, but it has to be fair trade. And in order to make sure we have free trade, we have to punish those people who are in breach of contracts.

And I appreciate your Administration in working forward, and I just want to say thank you. I am not going to target you, I just want to say thank you, Secretary Ross.

Secretary ROSS. Well, thank you. I am pretty familiar with the Indian situation. I had an office there for 6 or 8 years in Mumbai. So I understand quite a bit about India.

Chairman BRADY. Thank you.

Mr. Rice, you are recognized.

Mr. RICE. Mr. Secretary, again, thank you for being here today. And thank you, sir, for taking on this job. Your experience and your intelligence in pursuing this is certainly to the benefit of our country and to the American middle class.

You see, I focus on American competitiveness and on the middle class. And it is obvious, when you look at the numbers, that the American middle class has shrunk, and makes about the same amount of money today as they did in 1990. And I think that a lot of that problem is because we allowed our country to become a competitive—our tax code. We have worked on that. Our trade policy, and you are working on that. And so I applaud you for it.

I know there are people who are concerned about the effects of these tariffs, and they should be. And it is complicated. But I am glad you have taken it on, because nobody denies that the American middle class hasn't suffered because of unfair trade practices.

So I just wanted to give you the floor to talk about how you think, in the big picture, that this will affect the American middle class. I have two steel mills in my district. One of them closed, and they are reopening partially because of these proposed tariffs. And I have other people who are affected in other ways. Uncertainty, as you said, is a big fear. So it is important to clear that up. I wanted to give you the floor to talk about those things and how you think this will affect the American middle class.

Secretary ROSS. Well, a lot of the purpose of our trade practices has been to encourage companies to stay in the United States or come back, or foreign companies to come in. And when I was in Davos, the finance ministers of a number of the European countries were actually complaining about our new tax thing, saying they think maybe it is an unfair trade practice that we are cutting our taxes.

And I said, "Well, maybe you should follow suit." And it was not well greeted, because the particular ministers were not of a mind to cut taxes.

The Administration is doing everything it can to reassure and to assure current American manufacturers. And I am heartened by the fact that, while there was a lot of controversy over the solar panel 301 decision, reality is plants are reopening here, the sky has not fallen, and we have to take some risks in order to change the terrible practices from before.

Many of these other countries have been able to victimize us for too many years, and it is taking a little while to adjust to the fact that it is not the same relationship anymore.

Chairman BRADY. Time has expired.

Mr. Schweikert, you are recognized.

Mr. SCHWEIKERT. Thank you, Mr. Chairman.

Mr. Secretary, the joys of trying to do this in 3 minutes. So my first item is just an inherent concern—and you see it in the *Wall Street Journal* and others—is that as tariffs move toward the bulk commodity side, that the fabrication side gets done offshore. And being from Arizona, where we do lots of very specialized fabrication for aerospace, for technology, allay my concerns.

Secretary ROSS. Right. Well, I handed out some charts to the Committee showing the trends in commodity prices of steel and aluminum versus output in the consuming industries. And I think you will see there is relatively little correlation between the two.

Mr. SCHWEIKERT. Mr. Secretary, in having looked at the charts, I respect the concept saying, hey, the input cost did not change much, but that does not change the incentive for the country that we believe is cheating by central planned over-capacity, or what it may—saying, fine, we will just do the finished product here, instead of shipping the bulk product.

I mean, it is a legitimate concern. I would love to just find a much more elegant way to allay that concern that cheating doesn't change to we will just finish the product and send it to you that way.

Secretary ROSS. Right. Well, as I mentioned in response to a question earlier, we are fully prepared, if someone circumvents this by upgrading the product to a higher state of manufacture, we will bring trade actions against it. We have been very vigilant against circumvention.

Mr. SCHWEIKERT. And you just moved to my—in a brilliant way, my second question. We are party to a number of bilateral trade organizations, some that have authority over a pursuit of over-capacity, you know, industrial policy, and we have international agreements to dial that back and penalize that. We have the WTO.

What is happening in our bilateral trade agreements also as coupled with what we are doing unilaterally?

Secretary ROSS. Well, the WTO—there is the global steel forum that has now met, I think, something like seven times. But, unfortunately, as is so often the case with big public fora, it has become a debating society without reaching any conclusion. We think that, historically, a lot of time has been wasted debating, rather than acting. This Administration will be activist.

Mr. SCHWEIKERT. I will beg of you, even though it—the system doesn't completely allow it—maximize transparency to avoid disruptions and—in pricing and commodities. And my fear is I spend a lot of time looking at futures, and I have seen a lot of weird things. Whether it be individual profiteering, it does create a cascade effect——

Secretary ROSS. Right.

Mr. SCHWEIKERT [continuing]. Throughout the—we will call it the specialized fabricators.

Secretary ROSS. Well, the last way to help the steel and aluminum industries would be to destroy their customers. So we are very, very mindful of that.

Mr. SCHWEIKERT. Thank you, Mr. Secretary.

Chairman BRADY. Thank you. Time has expired.

Mrs. Walorski, you are recognized.

Mrs. WALORSKI. Thank you, Mr. Chairman. It is an honor, Mr. Secretary, to have you here. I want to talk about the graph that you referenced earlier. And I am grateful that you included the RV industry in this.

You say this chart says that the RV industry will be fine. With all due respect, this chart cannot speak. But the RV manufacturers in my district can. What they and other manufacturers in my district have been telling me over the last year is that, while tariffs take effect tomorrow, the mere threat of tariffs has been felt already.

One RV manufacturer told me the same model is 8.5 percent more expensive, compared to last year. A trailer manufacturer has had to raise prices 25 to 30 percent. He told me on the phone, "I am livid. We are getting destroyed." He said the tariffs haven't started, but they have been felt.

I can tell you how many manufacturers have told me about steel and aluminum shortages already. I can't tell you how many manufacturers who already source their steel and aluminum domestically, who we shouldn't want to hurt, but have seen the price of their inputs increase, anyway.

Again, the tariffs start tomorrow, but they have already been felt in these industries. I have heard from manufacturer sources from— I have heard from manufacturers that source from abroad not because they want to, it is because they are forced to. The domestic suppliers simply refuse to make the input for their specifications. Whatever happened to the customer is always right?

Well, those business owners are now worried that the very same supplier that refused to make their product to specs in the last year now only needs to say that they could make it to prevent an exclusion, hurting these industries further.

Here is the thing. The RVs, boats, and trailers manufactured in my district are price-sensitive. An 8.5 percent increase in the price of an RV is real money to real people. A couple looking at that increase may say, "Well, we are going to wait," or, "We will simply go spend the money on something else." For pontoon boats, a $.10 increase in aluminum increases the boat cost by $750. So a company that normally sells 2,000 pontoons would only be able to sell 400 with that increase, and pontoons are already on the EU retaliation list.

Elkhart County saw 20 percent unemployment during the financial crisis. It was devastating for workers, families, companies, and communities. But they have rebounded. And unemployment is around 2 percent right now. But they are worried that the momentum that they worked so hard to claw back is about to be reversed.

What your chart does show, Mr. Secretary, is that steel and aluminum prices have spiked in the last year, and what RV manufacturers are telling me that means for them is that where they once expected 10 percent growth this year, they are now hoping for flat growth.

So I appreciate your charts that are trying to educate me on what is happening in my district, but I am telling you that simply is not the case.

Secretary ROSS. I think it is unfortunate that there has been a lot of speculation on the part of people withholding inventory, people jacking up prices. If you look at the price movement, it actually is well in excess of any possible impact that the tariffs might have. So there has been a lot of speculation going on.

I think you will see things adjusting, once people understand what the real situation is. I think it is very unfortunate that speculators tried to take advantage of the consuming industries during recent months.

Mrs. WALORSKI. This is about jobs in my district. And we have seen the price increases in the last year. So what starts tomorrow I would have to see proven wrong pretty quickly, because this is a danger to jobs.

Chairman BRADY. Thank you. All time has expired.

Mrs. WALORSKI. Thank you, Mr. Chairman.

Chairman BRADY. You bet.

Mr. LaHood, you are recognized.

Mr. LAHOOD. Thank you, Mr. Chairman, and welcome, Secretary Ross.

I have to tell you, Secretary Ross, I disagree with your—the Administration's approach when it comes to trade and tariffs. And what is a bit frustrating is last year we passed once-in-a-lifetime tax reform. We hadn't done that in 31 years. It is having real effects on the economy. You look at regulatory relief, and in almost every sector of our economy we have had tremendous regulatory relief.

And then I look at what the Administration is doing on trade, the tariffs, what is going on with NAFTA, the fact that we are 14 months into this Administration and we don't have one bilateral trade agreement. We talked about having a lot of those. And I think we are shooting ourselves in the foot when it comes to the economy as it begins to take off, with the low unemployment we have in this country.

So I tell you that. And then I will just tell you a little bit about the district that I represent. Agriculture is the number-one industry in the State of Illinois. Many of the constituents in my district supported the President. Many in rural America did. And I look at what is going to happen because of your policies when it comes to trade, comes to tariffs. And the word that comes up all the time with my farmers is retaliation.

You look at what has happened in the past. And the largest importer to China of soybeans is the United States. And that is—farmers are worried about that, and that retaliation. What can you tell my farmers to assure them that they are going to be okay?

Secretary ROSS. Well, I think the real fear is the fear of the unknown. They all know that there is a potential vulnerability. I believe that the actual outcome of all this will be far less severe than things that people are worried about.

The substitution of products from other countries into China, for example, displacing us will, for the most part, reopen those markets to American exports. So it will not be a one-to-one match, and it will not necessarily be simultaneous. But it is not an easy thing to substitute.

I promise you, if China thought they could get the material as cheaply from Brazil or Argentina, they would be doing it right now.

Mr. LAHOOD. And let me just switch subjects. I want to quote something from the Tax Foundation. The title of this article is "*Lessons from the 2002 Bush Steel Tariffs.*" "The effects of higher steel prices, largely a result of steel tariffs, led to the loss of nearly 200,000 jobs in the steel consuming sector, a loss larger than the total unemployment of 187,000 in the steel-producing sector at the time." Can you comment on that?

Secretary ROSS. Yes. Those jobs that were lost were mostly lost in the months before the steel tariffs were put in by President Bush. So it is an inaccurate total, it is not due to that.

Second, a large portion of the reasons why the steel industry didn't gain more jobs is we worked a new contract with the Steel Workers Union. We cut 32 job descriptions down to 5. We made changes in work rules, so that people could be running more efficiently.

I would be happy on another occasion to go into much greater detail, but the ITC in fact found that the ultimate effect of steel range is somewhere between 65 million positive to the economy and 135 negative, and that it was such small numbers relative to the economy that you really couldn't pinpoint the difference.

Chairman BRADY. The gentleman's——

Secretary ROSS. So those alarmist things that you have seen in the paper do not have statistical support.

Mr. LAHOOD. I look forward to——

Chairman BRADY. All time has expired.

Mr. LAHOOD [continuing]. A followup conversation. Thank you, Mr. Secretary.

Chairman BRADY. Thank you, Mr. LaHood.

Mr. Bishop, you are recognized.

Mr. BISHOP. Thank you, Mr. Chairman, and thank you, Mr. Secretary, for your time today.

You faced a myriad of questions and issues. I would like to take this opportunity, as a Michigander, to sound the alarm on behalf of the American manufacturing industry.

I represent Michigan. Our tool and die makers face every day Chinese tool and die makers who continually dump their product and undercut American prices, and now dominate the market for tools used by American automakers to produce major body sheet metal stamping. These companies in Michigan are desperate. They face extinction.

And they personally told me the problem with competing China is more than just low wages. The Chinese government subsidizes stamping and die shops in many other ways. They have export credits, which refund up to 30 percent of the cost of tools. Their government builds elaborate, state-of-the-art tool and die shops filled with modern machinery and equipment before the company even moves in, and then they never ask for repayment. The government also subsidizes all kinds of training and—for their die makers. As a result of all of this, the business is going away.

Prices for Chinese—Chinese prices are so low that American suppliers cannot afford to buy their major dies from anywhere else. Since no work exists here, in the United States, the industry has lost approximately 70 percent of the companies, and 80 percent of its skilled jobs.

One Michigan company, before the Chinese onslaught, advises me that they employed 350 people—this is a major company, one of the last remaining—they now only have 127 employees left in the arsenal of democracy.

There is clearly a long-term component to Chinese strategy. The—when China controls the cost and delivery of the tools needed to produce major automotive parts, they will exert control over the world's production of major equipment, tools, automotive supplies, even defense equipment. So this issue is far bigger than the economy. It goes all the way to national defense.

I know we only have 3 minutes, but I would be remiss in not raising this issue to your attention. I hope that I can work with you and your Department to address this issue on behalf of not just the American automakers, but on behalf of our country, who are—we are caught flat-footed right now in a world that is stealing our manufacturing industry. And it behooves all of us to do whatever we can to work together to find a solution.

So thank you for being here, and any thoughts you might have in your—sorry—you have only 24 seconds. I appreciate it.

Secretary ROSS. Thank you very much. We are trying very hard to fix these problems. And the tragedy is that they weren't dealt with sooner. It would have been a lot easier to do it sooner, because these malefactors have been spoiled by getting away with it for far too long. We intend to stop that.

Mr. BISHOP. Thank you, sir.

I yield back.

Chairman BRADY. Thank you.

Mr. Curbelo, you are recognized.

Mr. CURBELO. Thank you, Mr. Chairman.

Mr. Secretary, thank you so much for your time here today. I want to commend the Administration's efforts to hold the Chinese accountable. I think it is clear to everyone that they undermine our economy, they undermine our workers. And holding them accountable is certainly the right thing to do.

I would also ask the Administration to try to do right by our friends and allies throughout the world: The Europeans; here in the Americas, the Argentinians are concerned. These are countries that are trying to do right by the United States and by their own people, and I strongly encourage you to do everything you can to accommodate them so that we can continue building those important alliances and friendships.

And I agree, I think trade is best conducted—business is best conducted with people with whom we share values. And I think, as long as the Administration's policy fits that idea, I think it can be successful. But there are some very obvious risks that you have heard repeated here numerous times today.

I want to bring a separate issue, but one that is very important to the farmer community in my district. South Florida is home to the largest ag—is one of the largest ag-producing areas in the State of Florida. The warm weather in South Florida allows our farmers to grow crops there, year-round.

Despite a long-standing suspension agreement designed under U.S. trade laws to eliminate the injurious effect of the dump imports, Mexican tomatoes, Mr. Secretary, continue to surge into the

U.S. market, impacting the domestic tomato industry. Lack of enforcement and circumvention of these agreements since put in place in 1996 has intensified, as within that period—one of the most recent suspension agreements alone—2014 to 2016, imports from Mexico have risen 21.5 percent, while U.S. production has fallen 14 percent.

This comes on the heels of a 303 percent increase in Mexican tomato imports over the last 25 years, with Mexico supplanting the United States as a dominant supplier in the U.S. market, all with supposed anti-dumping trade remedies in place. This is threatening the future of Florida and the larger domestic tomato industry.

So, Mr. Secretary, I understand you were negotiating for a new anti-dumping suspension agreement with Mexican tomato exporters. Can you assure the Committee that you will work with the U.S. tomato industry to get an agreement that will eliminate the injury dumped Mexican tomatoes are inflicting on the domestic tomato industry?

Secretary ROSS. Well, I have spent a lot of time, as you know, with the Tomato Growers Association in Florida, and at their request we reopened, with the consent of the Mexicans, the suspension agreement. It really has not worked the way that it was intended to. And that is, unfortunately, true of many of the trade agreements this country has had. We are trying to fix it.

Mr. CURBELO. Thank you, Mr. Secretary. I yield back.

Chairman BRADY. The gentleman yields back.

Mr. Secretary, clearly, there is a pretty consistent message here: Support for cracking down on China's theft of intellectual property and our technology, and strong support to make sure that American workers and families aren't punished for China's misbehavior. Your exclusion process is key to that. We encourage you to use all your resources and thoughtfulness in applying that exclusion process in a good, positive way.

I also want to echo what other Members have said, which is we thank you for your service, your experience, your insight. It will make you the perfect person for this discussion at this time.

With that, I would like to note Members of the Committee have 2 weeks to submit written questions to be answered later in writing. Those questions and your answers, Mr. Secretary, will be made part of the formal hearing record.

With that, the Committee stands adjourned.

[Whereupon, at 11:43 a.m., the Committee was adjourned.]

[Questions for the Record follow:]

**Wilbur L. Ross**
**Secretary of Commerce**
**Responses to Questions for the Record of a March 22, 2018, Hearing Before the U.S. House of Representatives, Committee on Ways and Means**

**Questions from Ranking Member Neal:**

**1. Rationale for Final Decision on Tariffs**

**In your reports to the President, you recommended three options: a global tariff, a global quota, and targeted tariffs. Under the global tariff option, you recommended a 24 percent tariff on steel imports and a 7.7 percent tariff on aluminum imports. The President ultimately decided to impose a 25 percent tariff on steel imports and a 10 percent tariff on aluminum imports. What explains the difference between your recommendations and the tariff levels that the President decided to impose?**

**Answer:** On March 8, 2018, the President took action under section 232 of the Trade Expansion Act of 1962, as amended, to adjust imports of aluminum and steel by imposing a 10 percent ad valorem tariff on aluminum articles and a 25 percent ad valorem tariff on steel articles imported from all countries except Canada and Mexico, effective March 23, 2018 (Proclamations 9704 and 9705). The President concurred with my Department's findings that aluminum and steel articles are being imported into the United States in such quantities and under such circumstances as to threaten to impair the national security of the United States. In the President's judgment, these tariffs are necessary and appropriate in light of the many factors considered, including the Department of Commerce's reports, updated import and production numbers for 2017, the failure of countries to agree on measures to reduce global excess capacity, the continued high level of imports since the beginning of the year, and special circumstances that exist with respect to Canada and Mexico.

In the subsequent proclamations of March 22, April 30, and May 31, the President exempted certain countries from the tariffs after reaching agreements to pursue satisfactory long-term alternative means to address the threatened impairment to U.S. national security. The President also allowed the exemptions for Canada and Mexico to expire in light of the failure to reach an agreement with those countries for satisfactory long-term alternative means to address the threatened impairment to U.S. national security. When the President determined to exclude countries on a long-term basis, he considered whether it was necessary and appropriate in light of our national security interests to make any corresponding adjustments to the tariff as it applies to other countries. The President determined that, in light of the agreed-upon measures with the exempted countries, and the fact that the tariff will now apply to imports of aluminum and steel articles from additional countries, it is necessary and appropriate at this time to maintain the current tariff level as it applies to other countries.

**2. Measuring Success**

**Your reports provided that the goal of the tariffs is to allow the domestic aluminum and steel industries to reach 80 percent of their production capacity. Who will determine when**

**the domestic industries have met this goal? How long do you anticipate the Administration will have the tariffs in place? What happens once the industries reach the desired capacity targets?**

**Answer:** Proclamations 9704 and 9705 signed by the President on March 8, 2018, provide that the Secretary of Commerce shall monitor imports of aluminum and steel, and from time to time, review the status of such imports with respect to the national security, in consultation with the Secretaries of State, the Treasury, and Defense, the United States Trade Representative, the Assistant to the President for National Security Affairs, the Assistant to the President for Economic Policy, the Director of the Office of Management and Budget, and other senior Executive Branch officials as the Secretary deems appropriate.

The proclamations provide that the Secretary of Commerce shall inform the President of any circumstances in the Secretary's opinion that might indicate the need for further action under Section 232 by the President. The proclamations also provide that the Secretary of Commerce shall inform the President of any circumstance that in the Secretary's opinion might indicate that the increase in duty rates provided in the proclamations is no longer needed.

The President considered a variety of factors in deciding to impose the tariffs, including the Department's report. It will take months or even a year for U.S. steel and aluminum producers to fully restart idled capacity and regain long-term financial health. We believe the tariffs will need to be in place for a number of years to enable the goals of the tariffs to be achieved in protecting our national security.

**3. Impact on China & Coordination with Trading Partners**

**Do you believe the proposed tariffs will have the effect of pressuring China to change its policies? If you do believe that, why? Is the Administration considering how it can work with like-minded partners to address the ongoing issues in China? What role do you envision the OECD Global Forum on Steel Excess Capacity having in this process?**

**Answer:** The Administration supports the need for effective policy solutions that enhance market function and reduce excess capacity. We are actively engaged with steel producing nations, including China, to address the systemic issues that led to the creation of steel excess capacity, particularly government subsidies and other support measures. We work closely to coordinate efforts with like-minded trading partners, , to press for the elimination of subsidies and other government supports for steel and for the overall healthy functioning of market mechanisms in the steel sector. The Administration supports bilateral and multilateral engagement on solutions to the excess capacity problem and is working with trading partners to address its root causes, for example in the Global Forum on Steel Excess Capacity. At the same time, the Administration values meaningful results and will not hesitate to continue to use the tools available to it to firmly respond to the causes and consequences of steel excess capacity.

**4. Impact of Country Exemptions on Tariff Levels**

**In your report to the President, one option you recommended was a targeted tariff**

**approach that would have imposed a higher tariff on a smaller number of countries and allowed the countries exempted from the tariffs to import at the same levels as they had in 2017. At the time I am submitting this question, USTR has already announced that Korea will receive a permanent exemption. The Administration has noted that it is negotiating exemptions with numerous other countries as well. Is the Administration considering raising the 25 and 10 percent tariff levels as the number of countries exempt from those tariffs increases? If so, what methodology will the Administration use to determine how much higher the tariffs would need to be in order to maintain their effectiveness?**

**Answer:** The President stated in Proclamations 9710 and 9711 signed on March 22, 2018, that if there is a decision to exclude on a long-term basis a particular country from the tariffs proclaimed in Proclamations 9704 and 9705, the President would consider whether it is necessary and appropriate in light of U.S. national security interests to make any corresponding adjustments to the tariffs as they apply to other countries. The President also directed in Proclamations 9710 and 9711 that the United States Trade Representative, in consultation with the Secretary of Commerce and the Assistant to the President for Economic Policy, advise him on the appropriate means to ensure that imports from countries exempt from the tariffs do not undermine the national security objectives of such tariffs. The President also noted he would consider directing U.S. Customs and Border Protection to implement aluminum and steel quotas, if necessary and appropriate.

On April 30, the President signed a proclamation stating that the United States had successfully concluded discussions with South Korea on a satisfactory alternative means to address the threatened impairment of our national security posed by steel article imports from South Korea (including a steel quota). South Korea's quota is expected to have a comparable impact on its steel exports to the United States as the tariff's impact.

On May 31, the President signed proclamations stating that the United States had successfully concluded discussions with Argentina and Australia on a satisfactory alternative means to address the threatened impairment of our national security posed by aluminum imports from these countries and with Argentina, Australia, and Brazil on a satisfactory alternative means to address the threatened impairment of our national security posed by steel article imports from these countries. When the President determined to exclude countries on a long-term basis, he considered whether it was necessary and appropriate in light of our national security interests to make any corresponding adjustments to the tariff as it applies to other countries. The President determined that, in light of the agreed-upon measures with the exempted countries, and the fact that the tariff will now apply to imports of aluminum and steel articles from additional countries, it is necessary and appropriate at this time to maintain the current tariff level as it applies to other countries. The tariff on imports of aluminum from South Korea went into effect on May 1. The tariffs on steel and aluminum went into effect on June 1 for Canada, Mexico, and the member countries of the EU.

**5. Country Exemptions**

**The Administration has provided temporary exemptions to a number of allies (Canada, Mexico, S. Korea, the EU countries, Australia, Brazil, and Argentina) as discussions to**

**negotiate terms for permanent exemptions for those countries are under way. Notably, Japan has not been granted a temporary exemption. Why is this the case and what is the status of discussions, if any, with Japan?**

**Answer:** As the President stated in Proclamations 9710 and 9711, we welcome any country with a security relationship with the United States not currently exempted to discuss with us a possible exemption based on a shared commitment to addressing global excess aluminum and steel capacity and production as an alternate means to address the threatened impairment to U.S. national security. Decisions about exemption are made by the President, based on his assessment of the factors described in his proclamations.

**6. Product Exclusions**

**The product exclusions process has been in place now for a few weeks and we have been hearing from stakeholders with concerns and questions about how the product exclusion process is working in practice and how the Department of Commerce will handle certain situations. Please help to provide clarity and resolve some of the confusion by addressing the following:**

- **A. How will Commerce manage information that an applicant designates as business confidential? Will potential objectors have access to such information? If so, subject to what protections?**
- **B. What criteria will Commerce apply to determine whether a given product is available in the United States in sufficient quantities?**
- **C. What tools will Commerce use to take into account allegations made by objectors that, although adequate capacity may not exist today, capacity can be increased or re-purposed to meet particular demands in the near future?**
- **D. In a situation where an applicant asserts that a product is effectively not available in the United States because specifications for a particular project concerning safety or other product qualities cannot be met domestically, how will Commerce determine whether the applicant's representations about product quality and availability are accurate?**

**Answer:** (A) The Department requested that parties applying for or objecting to an exclusion request include only public information in their submissions. The exclusions and objections forms include an area where parties can indicate if they have additional proprietary or business confidential information that is relevant to their exclusion request or their objection. In some cases, the Department of Commerce may determine that additional information of a propriety nature is necessary in order to make a determination. In that case, the Department will provide instructions to the affected parties and will protect this information from public disclosure.

(B) The Secretary of Commerce, in consultation with other federal agencies, has the authority to grant exclusions based on a demonstrated lack of sufficient U.S. production capacity of comparable products or specific national security-based considerations. On March 19, the Department published in the Federal Register procedures for the requests for exclusion and for submitting objections to exclusion requests. The review period for exclusion requests will normally not exceed 90 days.

(C) The Bureau of Industry and Security (BIS) is reviewing exclusion applications from domestic industry, and related objections, on a case-by-case basis in a fair and transparent process. As part of this process, BIS is also working closely with subject matter experts in enforcement and compliance within Commerce's International Trade Administration, and with other interagency partners. The Department will assess whether manufacturing capability can meet the technical parameters for the specific article in question, including if idle capacity being brought back online as well as new capacity.

(D) The procedures published in the March 19 Federal Register set forth the requirements for submitting requests for exclusion and for submitting objections to such exclusion requests during a 30-day comment period. After the 30-day comment period, a 15-day period for interagency review and comment will follow, and then up to 45 days for the Department of Commerce to analyze and make a final determination. We are confident that these procedures will allow us to make well informed determinations on exclusion requests and any related objections.

**Questions from Trade Subcommittee Ranking Member Pascrell:**

1. **Budget and TAA for Firms**

**Can you explain this Administration's commitment to manufacturing jobs given the Department of Commerce FY 19 budget request included slashing millions of dollars in funding for programs that promote exports, support local manufacturing communities, and provide trade adjustment (TAA) to firms?**

**Answer:** The Administration is creating manufacturing jobs through broad regulatory reform, unleashing energy resources, trade reform and enhanced enforcement against unfair trade practices, and tax cuts to unleash capital. From January 2017 through May of 2018, manufacturing employment has increased by 304,000 jobs or 2.5%.

2. **232 Steel and Aluminum**

**Your report recommended three options for tariffs and quotas to address the national security threat from our reduced aluminum and steel supplies. But the highest tariffs the report recommended were 7.7 and 24. The President ultimately decided on tariffs of 10 and 25. What explains the difference? Did he just round up?**

**Answer:** On March 8, 2018, the President took action under section 232 of the Trade Expansion Act of 1962, as amended, to adjust imports of aluminum and steel by imposing a 10 percent ad valorem tariff on aluminum articles and a 25 percent ad valorem tariff on steel articles imported from all countries except Canada and Mexico, effective March 23, 2018 (Proclamations 9704 and 9705). The President concurred with my Department's findings that aluminum and steel articles are being imported into the United States in such quantities and under such circumstances as to threaten to impair the national security of the United States. In the President's judgment, these tariffs are necessary and appropriate in light of the many factors considered, including the Department of Commerce's reports, updated import and production numbers for 2017, the failure of countries to agree on measures to reduce global excess capacity, the continued high level of imports since the beginning of the year, and special circumstances that exist with respect to Canada and Mexico.

In the subsequent proclamations of March 22 and April 30, the President exempted certain countries from the tariffs after reaching agreements to pursue satisfactory long-term alternate means to address the threatened impairment to U.S. national security. The President also allowed the exemptions for Canada and Mexico to expire in light of the failure to reach an agreement with those countries for satisfactory long-term alternative means to address the threatened impairment to U.S. national security. When the President determined to exclude countries on a long-term basis, he considered whether it was necessary and appropriate in light of our national security interests to make any corresponding adjustments to the tariff as it applies to other countries. The President determined that, in light of the agreed-upon measures with the exempted countries, and the fact that the tariff will now apply to imports of aluminum and steel articles from additional countries, it is necessary and appropriate at this time to maintain the current tariff level as it applies to other countries.

**Considering the countries so far exempted from tariffs, will the tariffs announced by the President deliver the promised relief to domestic steel and aluminum industries? What is the Administration's plan for monitoring whether tariffs are working and how will the Administration modify the relief to adjust for real-world effects?**

**Answer:** Proclamations 9704 and 9705 signed by the President on March 8, 2018, provide that the Secretary of Commerce shall monitor imports of aluminum and steel, and from time to time, review the status of such imports with respect to the national security, in consultation with the Secretaries of State, the Treasury, and Defense, the United States Trade Representative, the Assistant to the President for National Security Affairs, the Assistant to the President for Economic Policy, the Director of the Office of Management and Budget, and other senior Executive Branch officials as the Secretary deems appropriate.

The proclamations provide that the Secretary of Commerce shall inform the President of any circumstances in the Secretary's opinion that might indicate the need for further action under Section 232 by the President. The proclamations also provide that the Secretary of Commerce shall inform the President of any circumstance that in the Secretary's opinion might indicate that the increase in duty rates provided in the proclamations is no longer needed.

The President stated in Proclamations 9710 and 9711 signed on March 22, 2018, that if there is a decision to exclude on a long-term basis a particular country from the tariffs proclaimed in Proclamations 9704 and 9705, the President would consider whether it is necessary and appropriate in light of U.S. national security interests to make any corresponding adjustments to the tariffs as they apply to other countries. The President also directed in Proclamations 9710 and 9711 that the United States Trade Representative, in consultation with the Secretary of Commerce and the Assistant to the President for Economic Policy, advise him on the appropriate means to ensure that imports from countries exempt from the tariffs do not undermine the national security objectives of such tariffs. The President also noted he would consider directing U.S. Customs and Border Protection to implement aluminum and steel quotas, if necessary and appropriate.

On April 30, the President signed a proclamation stating that the United States had successfully concluded discussions with South Korea on a satisfactory alternative means to address the threatened impairment of our national security posed by steel article imports from South Korea (including a steel quota).

On May 31, the President signed proclamations stating that the United States had successfully concluded discussions with Argentina and Australia on a satisfactory alternative means to address the threatened impairment of our national security posed by aluminum imports from these countries and with Argentina, Australia, and Brazil on a satisfactory alternative means to address the threatened impairment of our national security posed by steel article imports from these countries. The tariff on imports of aluminum from South Korea went into effect on May 1. The tariffs on steel and aluminum went into effect on June 1 for Canada, Mexico, and the member countries of the EU.

**3. China 301: Textiles and Apparel**

**Noting that China ships the US nearly $40 billion a year in textile and apparel goods, and that they were the overriding driver behind the loss of one million US jobs in that sector over the past twenty years, why did the Administration fail to put a single textile/apparel product on the 301 retaliation list?**

**Answer:** The list of products was developed by trade analysts from several U.S. Government agencies reviewing, first and foremost, technology products that benefit from Chinese industrial policies. The list was refined by removing specific products identified as likely to cause disruptions to the U.S. economy. Products that made the list were ranked according to likely impact on U.S. consumers based on available trade data involving alternative country sources for each product.

**Questions from Rep. Jenkins:**

**1. Sec. 232 Steel & Aluminum Tariffs & Agriculture**

**Secretary Ross, last Spring in a similar hearing to this one I voiced my concern to Ambassador Lighthizer about using national security as the basis for trade restrictions since this action could lead to retaliation if another nation follows suit and restricts its imports of U.S. products- like sorghum or soybeans- using similar rationale. While it is a good step to implement an exemption process that many Members here requested for our allies and trading partners following the proposed steel and aluminum tariffs, my concerns have only grown especially since other nations are indeed preparing retaliation lists targeting farm products. Now, Secretary Ross, you have made comments recently about family farmers and ranchers who "scream and yell" when their nerves get rattled by the administration and you mentioned they even go so far as to write to their Member of Congress. You may not be aware, however, that the State of Kansas just last week declared a statewide drought emergency for all 105 counties, or that prairie blizzards roll through at a moment's notice, or that we have had multiple years of large wildfires, some of which blazed an area many times larger than the entire District of Columbia. So, with my constituents' livelihoods dependent on both Mother Nature and foreign markets, why do you think America's farmers and the agriculture industry are so nervous when it comes to NAFTA or sudden tariffs?**

**Answer:** U.S. agriculture plays a critical role in the economic growth of our country and it is undeniable how important foreign markets are to your constituents. The President recognizes the ever-increasing importance of agriculture for economic growth and international trade and is fully committed to opening foreign markets to farmers and ranchers. This commitment was underscored by the creation of the Undersecretary for Trade and Foreign Agricultural Affairs at the U.S. Department of Agriculture and the recent appointment of the Chief Agricultural Negotiator in the Office of the U.S. Trade Representative.

The Administration is working diligently on renegotiating NAFTA to protect our farmers, ranchers, manufacturers, and service providers from unfair and unbalanced trade practices. In addition, we are using other tools at our disposal, such as tariffs, to help ensure free, fair, and reciprocal treatment.

I can fully appreciate the concern that comes along with the Administration renegotiating NAFTA and implementing tariffs but we must continue to fight for free, fair, and reciprocal trade with our trading partners for the long-term benefit of our country and use all tools at our disposal.

**2. Softwood Lumber**

**Secretary Ross, we know from the National Association of Home Builders that their members and ultimately home buyers, are paying the price for tariffs imposed last summer on imports of Canadian softwood lumber. Buyers are paying over $6,000 more for an average new home because of their lumber costs than they were in early 2016. American workers in the home building industry are paying, too. As I understand it, the effects of these lumber tariffs for 2018, will be a *net loss* of over 9,000 jobs and just over $576 million in wages and salaries.**

**Additionally, a constituent of mine, named Steve, who owns and operates a pallet business in Topeka has also been caught up in having to pay higher prices for his pallet kits. He then has to pass these costs down the supply stream to his clients, like Futamura, a large manufacturer of cellophane in my district that needs Steve's pallets to ship out their product. And now, with incoming tariffs on steel and aluminum, the price of Steve's nails are going up. Are negotiations continuing toward a settlement that would help stabilize softwood lumber prices?**

**Answer:** The potential loss of any jobs concerns me. However, under U.S. law, the Department must initiate an antidumping duty (AD) and/or countervailing duty (CVD) investigation if a petition filed by a producer or worker in the United States meets the statutory criteria for initiation. Let me emphasize that the Department's administration of the trade remedy laws is by far the most transparent of our trading partners. As such, in all of our trade cases we provide an opportunity for all parties to submit comments and legal arguments pertaining to our investigation. I can assure you that the Department carefully considered the positions and comments raised by all parties before issuing our final determinations in the lumber investigations. As for an analysis of the impact of potential duties on an industry, under U.S. law, the Department must determine the level of dumping and/or subsidization that is occurring, which is separate from the issue of the impact of any potential duties on downstream industries. The U.S. International Trade Commission (ITC) conducts a concurrent investigation for injury that is independent of the Department's decision on duties and addresses separate criteria – specifically, whether dumping and/or subsidies are causing, or threatening to cause, material injury to a domestic industry. Only if both the Department's and the ITC's final determinations are affirmative will an order be issued.

**Questions from Rep. Paulsen:**

**1. GTAP Usage**

**In your 232 report on steel products, you made different remedy recommendations based in large part on the results of a specific economic model. This economic model, known as the Global Trade Analysis Project (GTAP) Model, is well known for producing results covering dozens of industries, not just import volumes in the steel sector.**

a. **Generally when an economic model is used in an official report, the report includes an appendix that provides an explanation of that model and the assumptions used. For example, the U.S. International Trade Commission's 2003 report on the steel safeguard measures includes a technical appendix on the model they used. Your report does not include such an explanation. Can you please provide the Committee with an explanation of the GTAP model and the specific assumptions that you used within your modeling?**

**Answer:** The 232 steel analysis was conducted using the standard version of the Global Trade Analysis Product (GTAP) Computable General Equilibrium (CGE) model of global trade.[1] CGE models unite economic theory and empirical data to create practical tools for the evaluation of economic policies and their impact on the economy by employing mathematical representations based on economic theory to represent the optimizing behaviors of the different agents (households, firms, and government) in the economy. The mathematical behavioral representations are combined with an accounting system which ensures that the resource constraints confronted by an economy (or economies, in the case of multi-regional models) are accounted for by the model. Since a CGE model contains representations of all elements of an economy, it can trace all the feedback and flow-through effects of a policy change.

The standard GTAP model assumes that economies are characterized by perfect competition and that there are constant returns to scale. Like all CGE models, the GTAP model makes assumptions with respect to the behavior of the macro economy. These assumptions regarding variables such as the government budget, aggregate employment, and interest rates are referred to as the closure of the model. In our analysis, we employed a full employment closure, that is, the real wage is assumed to be flexible so that there is no change in the total employment level of an economy although employment in the individual industries can rise or fall depending on whether they are positively or adversely impacted by the policy shock. This closure can be thought of as representing the long-run outcome in which the economy has had sufficient time to fully adjust to the event being modeled.

The standard GTAP model was used in conjunction with pre-release version 10 of the GTAP database. In its completely disaggregated form, the GTAP database contains data on 57 sectors and 141 regions for the year 2014. For our analysis we aggregated some of the GTAP database

[1] The standard model is documented in Erwin L. Corong, Thomas W. Hertel, Robert McDougall, Marinos E. Tsigas, and Dominique van der Mensbrugghe. 2017. "The Standard GTAP Model, Version 7." Journal of Global Economic analysis 2 (1): 1-119

to 27 sectors (see below) and 49 regions.[2]

In addition to the GTAP database, supplemental U.S. and United Nations trade data accessed using the Trade Policy Information System were also analyzed. In conducting the analysis shown below, the Department fixed the imports of iron and steel from Argentina, Australia, Brazil, Canada, Korea, Mexico, and the European Union[3] at their baseline levels. A 25 percent tariff was applied to imports from all other regions.

Sector List for 232 Steel Analysis

| 232 Model Sectors | GTAP Sector Numbers | GTAP Sector Descriptions |
|---|---|---|
| Crops | 1-8 | Vegetables, fruits, nuts; Sugar cane, sugar beet; Plant-based fibers; Crops (not elsewhere considered), Oil seeds |
| Extraction & Natural Resources | 13-18 | Forestry; Fishing, Coal, Oil, Gas, Minerals (not elsewhere considered) |
| Animal Products | 9-12, 19, 20 | Bovine cattle, sheep and goats, horses; Animal products (not elsewhere considered); Raw milk, Wool, silk-worm cocoons; Bovine meat products; Meat products (not elsewhere considered) |
| Processed Foods | 21-26 | Vegetable oils and fats; Dairy products; Processed rice; Sugar; Food products (not elsewhere considered); Beverages and tobacco products |
| Textiles | 27 | Textiles |
| Wearing apparel | 28 | Wearing apparel |
| Leather products | 29 | Leather products |
| Wood products | 30 | Wood products |
| Paper products, publishing | 31 | Paper products, publishing |
| Petroleum, coal products | 32 | Petroleum, coal products |
| Chemical, rubber, plastic products | 33 | Chemical, rubber, plastic products |
| Mineral products | 34 | Mineral products (not elsewhere considered) |
| Iron & steel | 35 | Ferrous metals |
| Non-ferrous metals | 36 | Metals (not elsewhere considered) |
| Metal products | 37 | Metal products |
| Motor vehicles and parts | 38 | Motor vehicles and parts |

[2] More information regarding the GTAP database can be found in Aguiar, Angel, Badri Narayanan, and Robert McDougall. 2016. "An Overview of the GTAP 9 Data Base." Journal of Global Economic Analysis 1 (1): 181–208.
[3] These countries are consistent with potential exemptions under discussion with these partners, as described in Proclamation 9711 of March 22, 2018.

| | | |
|---|---|---|
| Other transportation equipment | 39 | Transport equipment (not elsewhere considered) |
| Electronic equipment | 40 | Electronic equipment |
| Machinery and equipment | 41 | Machinery and equipment (not elsewhere considered) |
| Other manufactured products | 42 | Manufactures (not elsewhere considered) |
| Construction | 46 | Construction |
| Utilities | 43, 44, 45, 46 | Electricity; Gas manufacture, distribution; Water; Construction |
| Transportation & Communication | 47, 48, 49, 50, 51 | Trade; Transport (not elsewhere considered); Water transport; Air transport; Communication |
| Financial Services | 52 | Financial services (not elsewhere considered) |
| Insurance | 53 | Insurance |
| Other Business Services | 54 | Business services (not elsewhere considered) |
| Other Services | 55-57 | Recreational and other services; Public Administration, Defense, Education, Health; Dwellings |

**b. I understand that the GTAP model produces results for a variety of economic indicators, including output, import volumes, price levels, and net economic welfare. It would be helpful for us to see this information for both the steel sector and all of the downstream and other sectors included in that model, as well as the overall U.S. economy. Can you provide that to us?**

**Answer:** The model results indicate that real GDP, a commonly used measure of welfare, will be mostly unchanged from its baseline level, declining by less than 0.008 percent. Aggregate imports will decline by 0.444 percent by volume while the average price of steel in the US market will rise by approximately 4.5 percent.

At the sector level, downstream sectors such as metal products, motor vehicles and parts, and construction that use steel relatively intensively (either directly or indirectly), see their output contract slightly because of higher steel prices.

**Sector Level Import & Output Changes**

| **232 Model Sector** | **Change in U.S. Import Volume (%)** | **Change in U.S. Output (%)** |
|---|---|---|
| Crops | -0.05 | 0.05 |
| Extraction & Natural Resources | 0.09 | 0.01 |
| Animal Products | -0.19 | 0.03 |
| Processed Foods | -0.11 | 0.01 |
| Textiles | -0.22 | 0.04 |

| | | |
|---|---|---|
| Wearing apparel | -0.15 | 0.09 |
| Leather products | -0.10 | 0.20 |
| Wood products | -0.18 | -0.15 |
| Paper products, publishing | -0.21 | 0.02 |
| Petroleum, coal products | 0.04 | 0.02 |
| Chemical, rubber, plastic products | -0.13 | 0.07 |
| Mineral products | -0.10 | 0.03 |
| Iron & steel | -21.90 | 6.36 |
| Non-ferrous metals | 0.21 | -0.26 |
| Metal products | 1.22 | -0.41 |
| Motor vehicles and parts | -0.07 | -0.25 |
| Other transportation equipment | -0.12 | -0.13 |
| Electronic equipment | -0.15 | -0.08 |
| Machinery and equipment | 0.13 | -0.24 |
| Other manufactured products | -0.04 | -0.16 |
| Construction | -0.26 | -0.19 |
| Utilities | -0.11 | 0.09 |
| Transportation & Communication | -0.11 | 0.00 |
| Financial Services | -0.22 | -0.01 |
| Insurance | -0.16 | 0.01 |
| Other Business Services | -0.14 | 0.01 |
| Other Services | -0.14 | -0.01 |

c. **Did the Department of Commerce use the GTAP model, or any other model, in making its recommendations on aluminum? If so, can you provide us with those details?**

**Answer:** The Department used a partial equilibrium analysis to estimate the impact of an aluminum tariff on aluminum imports, with no modeled effects on domestic demand or price, and an assumption that domestic production would replace all imports removed due to a tariff or quota. In the partial equilibrium analysis, the difference between production at 80 percent capacity utilization and current capacity utilization is set equal to the amount of imports that must be eliminated (as the entirety of the reduction in imports is estimated to be replaced by domestic production). The percentage reduction in imports determines the quota level or, combined with a price elasticity of demand (change in demand over change in price) of -1.72 for primary (unwrought) aluminum (-1.77 for all aluminum), the equivalent tariff level.

**2. 232 Impact on Medical Device Industry**

**Has the Administration considered the extent to which the decision to impose tariffs on steel and aluminum could have a detrimental impact on the ability of the U.S. medical device industry to continue developing innovative and life-saving technology?**

**Answer:** Components made of steel or aluminum are not covered under the President's Proclamations and not subject to the tariffs. Component manufacturers using steel or aluminum imports subject to the tariffs may request exclusions from the tariffs using the publicly available forms.

**3. 232 Impact on Minnesota Steel Industry**

**Aluminum and steel prices have increased by 40% since October; local manufacturers in my home state of Minnesota are unable to provide accurate quotes to consumers and some have had to absorb these additional costs due to fixed price contracts. These companies are seeing an increase in overbuying because consumers are trying to avoid both potential shortages and the even higher prices that will occur as a result of the 232 tariffs. Sec. Ross, how do you explain this tariff is in the best interest of not only our economy, but our national security, given the fact that prices will increase dramatically and our U.S. mills are unable to meet the current demand of materials?**

**Answer:** U.S. consumers of steel and aluminum products should expect that prices will stabilize in the months ahead as production in underutilized U.S. steel plants and aluminum smelters ramps up and injects high volumes of American-made steel and aluminum into the market. Beyond increasing utilization in operating plants, mothballed steel and aluminum production facilities are now being restarted.

**4. Downstream Analysis of 232 Tariffs**

**Did the Department of Commerce conduct any kind of downstream analysis on the announced steel and aluminum 232 tariffs? Can you quantify the impact that the tariffs will have on steel and aluminum consuming industries?**

**Answer:** Regarding the impact of tariffs on steel[4], the model results indicate that real GDP, a commonly used measure of welfare, will be mostly unchanged from its baseline level, declining by less than 0.008 percent. Aggregate imports into the US will decline by 0.444 percent by volume while the average price of steel in the US market will rise by approximately 4.5 percent.

At the sector level, downstream sectors such as metal products, motor vehicles and parts, and construction that use steel relatively intensively, (either directly or indirectly), see their output contract because of slightly higher steel prices.

**Sector Level Import & Output Changes**

| 232 Model Sector | Change in U.S. Import Volume (%) | Change in U.S. Output (%) |
|---|---|---|
| Crops | -0.05 | 0.05 |

[4] These results take into account those countries being considered for exclusion, as described in Proclamation 9711 of March 22, 2018.

| | | |
|---|---|---|
| Extraction & Natural Resources | 0.09 | 0.01 |
| Animal Products | -0.19 | 0.03 |
| Processed Foods | -0.11 | 0.01 |
| Textiles | -0.22 | 0.04 |
| Wearing apparel | -0.15 | 0.09 |
| Leather products | -0.10 | 0.20 |
| Wood products | -0.18 | -0.15 |
| Paper products, publishing | -0.21 | 0.02 |
| Petroleum, coal products | 0.04 | 0.02 |
| Chemical, rubber, plastic products | -0.13 | 0.07 |
| Mineral products | -0.10 | 0.03 |
| Iron & steel | -21.90 | 6.36 |
| Non-ferrous metals | 0.21 | -0.26 |
| Metal products | 1.22 | -0.41 |
| Motor vehicles and parts | -0.07 | -0.25 |
| Other transportation equipment | -0.12 | -0.13 |
| Electronic equipment | -0.15 | -0.08 |
| Machinery and equipment | 0.13 | -0.24 |
| Other manufactured products | -0.04 | -0.16 |
| Construction | -0.26 | -0.19 |
| Utilities | -0.11 | 0.09 |
| Transportation & Communication | -0.11 | 0.00 |
| Financial Services | -0.22 | -0.01 |
| Insurance | -0.16 | 0.01 |
| Other Business Services | -0.14 | 0.01 |
| Other Services | -0.14 | -0.01 |

**5. 301 Impact on Supply Chains**

**Has Commerce conducted any kind of analysis of the supply chains that will be affected by the 301 tariffs? Did this analysis include an evaluation of available capacity in other markets, including the U.S., to produce covered goods? How quickly does Commerce believe companies can adjust their supply chains to shift sourcing away from China?**

**Answer:** Commerce has examined trade statistics concerning U.S. import dependence on China on individual tariff lines. Commerce has also assisted USTR in reviewing the public comments that were submitted in response to the Federal Register Notice on the 301 tariffs and has provided USTR with recommendations on any changes to the list based on analysis of positions in these comments.

**6. Department of Commerce Business Outreach in advance of 232 Tariffs**

**Did you ask any specific companies that use steel and aluminum how the 232 tariffs would affect them? Specifically, did you ask:**

- **d. How they might change sourcing patterns?**
- **e. How the tariffs would affect their costs of producing in the United States?**
- **f. How the tariffs would affect their global competitiveness?**

**Answer:** As part of the Section 232 steel and aluminum investigations, the Department published Federal Register Notices inviting interested parties to submit written testimony, data, analyses, or other information pertinent to the investigations. The responses provided by interested parties included information about sources, cost, and competitiveness. The Department also held two public hearings, both of which I participated in: the first about steel on May 24, 2017, and the second on aluminum on June 22, 2017.

**Questions from Rep. Black:**

**1. Section 232 Tariffs and Medical Equipment that require Aluminum**

**I have a specific question about medical equipment and how it could be impacted by the aluminum tariffs.**

**Medical equipment is unique because reimbursement rates are set by public payers like Medicare, Medicaid and the Veterans Administration. These payers do not take into account increases in manufacturing or tariff costs when setting their rates. Increases like this tariff could have unintended and negative consequences on end users accessing the equipment they need.**

**Fewer providers means less choice for end users, thus limiting access to the medical equipment they need to maintain independence. Therefore, imposing a tariff of 10-percent on aluminum could have a dramatic impact on consumers and manufacturers. Has the Administration considered exempting medical equipment from these tariffs?**

**I appreciate your attention to this important issue and look forward to your response.**

**Answer:** Medical equipment itself is not subject to these tariffs, although aluminum imports used to manufacture such equipment may be depending upon the source. The Department has established procedures where individuals or organizations that use steel and aluminum articles identified in the President's proclamations may submit requests for exclusions from the tariffs. These parties must use these steel or aluminum articles in business activities in the United States, such as construction, manufacturing, or supplying these articles to users. Any individual or organization in the United States may file objections to aluminum and steel exclusion requests, but the Commerce Department will only consider information directly related to the submitted exclusion request that is the subject of the objection. Each request for exclusion will be evaluated on a case-by-case basis, taking into consideration all factors including the potential impact on national defense and critical infrastructure projects.

**2. Anti-dumping Duties Imposed on Canadian groundwood Paper**

**Mr. Secretary:**

**I want to share with you concerns I am hearing from many Tennessee manufacturers, public officials and small-town newspapers opposing preliminary new duties that Commerce has imposed on Canadian imports of uncoated groundwood paper. As you know, this paper is used for newspapers, book publishing and commercial printing.**

**The countervailing and anti-dumping duties that are now being collected impose as much as a 30-percent rise on the U.S. cost of newsprint and other related paper. Since newsprint is the second largest expense for small newspapers after human resources, these tariffs will imperil many small-town newspapers that are often the communications lifeblood of many small towns.**

**Only one firm, operating one mill, in just one location, with about 260 worker supports this action. That mill, NORPAC, was recently acquired by a New York hedge fund and filed these petitions last summer.**

**In Tennessee alone, these tariffs are raising concern across the newsprint supply chain that together represent at least 4,800 Tennessee jobs - 4,000 in the newspaper sector and about 800 in the commercial printing and paper manufacturing sector.**

**Nationally, with the exception of NORPAC, all other U.S. paper producers universally oppose this action, including the American Forest and Paper Association. Also opposed are book publishers, commercial printers and newspaper companies. Together, these sectors represent some 600,000 U.S. jobs.**

**I worry about Commerce imposing new sanctions that may or may not protect 260 jobs in one location while putting at risk some 4,800 jobs in Tennessee and 600,000 across the country. I ask that you provide me feedback on ways you might be able to use your discretion to eliminate or sharply reduce the impact of these duties when you make a final determination on this matter.**

**I appreciate your attention to this important issue and look forward to your response.**

**Answer:** The loss of any jobs concerns me. However, under U.S. law, the Department must initiate an AD and/or CVD investigation if a petition filed by a producer or worker in the United States meets the statutory criteria for initiation. Let me emphasize that the Department's administration of the trade remedy laws is by far the most transparent of our trading partners. As such, we provide an opportunity for all parties to submit comments and legal arguments pertaining to an investigation. I can assure you that the Department will consider carefully the positions and comments raised by all parties before issuing our final determinations in this matter, which are now due to be announced on August 2, 2018. If the Department's final determinations are affirmative, the U.S. International Trade Commission (ITC) will conduct its final injury investigations. As for an analysis of the impact of potential duties on an industry, under U.S. law, the Department must determine the level of dumping and/or subsidization that is occurring, which is separate from the issue of the impact of any potential duties on downstream industries. The ITC conducts a concurrent investigation for injury that is independent of the Department's decision on duties and addresses separate criteria – specifically, whether dumping and/or subsidies are causing, or threatening to cause, material injury to a domestic industry. Only if both the Department's and the ITC's final determinations are affirmative will an order be issued.

**Question from Rep. Higgins:**

**1. Uncoated groundwood Paper - AD/CVD Investigation**

**I was very concerned to see recent action taken by your office on a petition to initiate countervailing and antidumping duties on companies that produce uncoated groundwood paper in Canada. I am concerned of the adverse impact these proposed duties would have on our domestic newspaper production industry, most notably local newspapers who are very sensitive to potential drastic shifts in the price of newsprint. Was there an analysis on the impact of the proposed duties on this vital industry?**

**Answer:** The loss of any jobs concerns me. However, under U.S. law, the Department must initiate an antidumping duty (AD) and/or countervailing duty (CVD) investigation if a petition filed by a producer or worker in the United States meets the statutory criteria for initiation. Let me emphasize that the Department's administration of the trade remedy laws is by far the most transparent of our trading partners. As such, we provide an opportunity for all parties to submit comments and legal arguments pertaining to an investigation. I can assure you that the Department will consider carefully the positions and comments raised by all parties before issuing our final determinations in this matter, which are now due to be announced on August 2, 2018. If the Department's final determinations are affirmative, the U.S. International Trade Commission (ITC) will conduct its final injury investigations. As for an analysis of the impact of potential duties on an industry, under U.S. law, the Department must determine the level of dumping and/or subsidization that is occurring, which is separate from the issue of the impact of any potential duties on downstream industries. The ITC conducts a concurrent investigation for injury that is independent of the Department's decision on duties and addresses separate criteria – specifically, whether dumping and/or subsidies are causing, or threatening to cause, material injury to a domestic industry. Only if both the Department's and the ITC's final determinations are affirmative will an order be issued.

**Question from Rep. Sewell:**

**1. Anti-Dumping and Countervailing Duties**

**As you know, I represent Birmingham, Alabama, which is also known as "the Pittsburg of the South". Birmingham was founded in the late 1800's as a hub for the iron and steel industry, and was the largest steel producer in the southern United States. Unfortunately, over the last few decades, my district has lost hundreds of high-paying steel jobs because of illegally dumped steel from China. While in Congress, I have strongly supported the many anti-dumping and countervailing duty cases before the International Trade Commission that have targeted dumped steel products by countries like China. Unfortunately, some foreign producers are simply absorbing the additional AD and CVD duties. Therefore, even when a case is successful, market conditions may not change for U.S. producers. Secretary Ross, are you willing to consider addressing duty absorption in antidumping calculations?**

**Answer:** Strict enforcement of the AD and CVD trade laws is one of my top priorities, and the effective collection of duties is critical. I appreciate your question of duty absorption, which is quite technical. The Department has two mechanisms at its disposal to address "duty absorption" and a similar behavior known as "duty reimbursement," both of which undermine the effectiveness of the AD law. As you know, duty reimbursement occurs where a foreign producer or exporter pays the duty on behalf of the importer, or reimburses the importer for duties the importer paid. Where Commerce finds such behavior, it deducts the reimbursed amount from U.S. price, and effectively doubles the duty. For duty absorption, however, the statute instructs Commerce to make duty absorption determinations, when requested, in the second and fourth administrative reviews following the issuance of each AD order, and to report its results to the U.S. International Trade Commission. The Commission is then required by law to take Commerce's determination into account in its sunset determination, making it more likely for the order to be continued for another five years. The legislative history of the Uruguay Round Agreements Act, however, instructs Commerce not to deduct absorbed duties from U.S. price as it would in the case of reimbursement. Accordingly, Commerce reports the results of its duty absorption determination to the Commission, and only imposes additional duties where it finds reimbursement of duties by the foreign producer or exporter.

**Questions from Rep. Meehan:**

**1. Downstream Effects of Tariffs**

**A number of downstream industry players rely on highly-specialized foreign manufactured steel and aluminum imports to adequately meet product specs. Do you think the domestic industry is capable of handling the demand for steel from the U.S. downstream industry when the tariffs are implemented? Where do you think there are gaps in the domestic industry's capacity and how does the Administration plan to address these gaps?**

**Answer:** U.S. steel and aluminum producers have been operating their manufacturing facilities at low, sub-optimal rates and have ample capacity to fulfill much of the increased demand. However, domestic companies can use the exclusion request process established by the Department to ensure the supply of steel and aluminum products not produced in the United States while avoiding having to pay tariffs. There is not a complete understanding of where production gaps are for steel and aluminum products made in the United States. Data collected through the exclusion request process will provide valuable information on specific types of products for which manufacturing is thin in the United States.

**2. Downstream Effects of Tariffs**

**A recent report from the Trade Partnership Worldwide estimates that the tariffs would increase employment in the iron, steel, and aluminum sectors by 33,464 jobs, but would cost 179,334 jobs throughout the rest of the economy. This equates to a net loss of nearly 146,000 jobs in the U.S. While the tariffs will help some companies in the U.S. industry, they may hurt other companies and employees. Has the Administration done its own economic analysis of the impact of the tariffs on U.S. jobs, particularly in the downstream industries? If so, what does the analysis indicate? How has the Administration taken into account the loss of downstream industry jobs in its decision to implement the tariffs?**

**Answer:** The findings of the Trade Partnership Worldwide organization regarding estimated employment impacts flowing from the imposition of tariffs on imports of steel and aluminum products have not been validated by similar studies in peer-reviewed economic journals. Yes, the Department analyzed the downstream economic impact of potential steel tariffs using the standard version of the Global Trade Analysis Product (GTAP) Computable General Equilibrium (CGE) model of global trade and the results were presented in the Secretary's Report to the President.

**3. Tariff Exclusion Process**

**As I understand it, trade associations will not be allowed to submit exclusion applications on behalf of the industries they represent. I would argue that reducing the number of exclusion applications would greatly ease the significant processing burden that the Department faces. Can you tell us why the Commerce Department would not accept more comprehensive exclusion applications for larger industry segments? Furthermore, can you tell me what additional resources, staffing, funding, and office space that the Department**

**will need in order to handle this process efficiently and effectively with no adverse impacts or delays to US business operations?**

**Answer:**

The exclusion determinations will be made on a case-by-case basis based on the information specific to the requesting individual or organization; it may include a single or multiple foreign sources; however, a total volume of imports will be authorized for a specific time period. We do have the discretion to make broader exclusions available to all importers if we find the circumstances warrant.

Individuals or organizations that use steel and aluminum articles identified in the President's proclamations may submit requests for exclusions from the tariffs. These parties must use these steel or aluminum articles in business activities in the United States, such as construction, manufacturing, or supplying these articles to users. The exemption request must necessarily specify the precise product. Otherwise, it would be impossible to determine whether to grant an exemption. This need for specificity is why companies are expected to respond on an individual basis. It would be inefficient for a trade association to submit a broad request, because the Department would need to follow up with individual companies to get specific information. Any process must also include the opportunity for public comment to allow U.S. steel and aluminum manufacturers to challenge specific exclusion requests, and we have specified 30 days, a minimal period.

The Department has submitted a request to reprogram $5 million in Fiscal Year 2018, to enhance BIS's ability to execute its new Section 232 exclusion process responsibilities, including through contractor support. For Fiscal Year 2019, BIS requested 13 positions and $4.1 million for Industrial Base Survey and Assessment studies, which includes funding for the 232 investigations and the processing of 232 exclusion requests. In addition, ITA requested an increase of $4.8 million and 28 positions to (1) enhance and further develop its efforts to assist U.S. manufacturers and their workers through self-initiation of anti-dumping and countervailing duty cases and (2) establish a team devoted to enforcement and administration of Section 232 remedies. These additional resources will enable the Department to ensure it has the capacity to complete the increasing number of Section 232 investigations within the established statutory deadlines for the President and provide expert support during any remedy implementation, including processing exclusion requests.

**4. Tinplate Steel**

**In 2016, U.S. demand of tinplate steel was 2.1 million tons, while domestic tinplate production was 1.2 million tons. It required American manufacturers to imports of 42% of tinplate steel to meet the demands to feed Americans. The Commerce Department and the ITC have determined that tinplate steel is a separate category, requiring its own consideration and examination, based on the department's long-standing policy, why is the department promulgating a new policy that will not make a specific exemption for tinplate steel and thus taxing it at a higher rate, making it less available and more expensive for American manufacturers? What substantial proof can you provide that a tariff on top of**

**already other existing duties will encourage domestic producers to meet the demand for tinplate that American manufacturers require?**

**Answer:** Periodic reviews of the functioning of the Harmonized Tariff Schedule of the United States (HTSUS) can result in the reclassification of steel products. The setting of a distinct HTSUS number for tin plate steel had no connection to the Section 232 investigation conducted by the Department. The effect of a tariff on top of other existing duties in spurring domestic steel producers to manufacture tin plate products remains to be seen. The impact of market forces on ramping up tin plate production in the United States could take a year or more to understand.

**5. Implementation Process**

**Have you considered grandfathering in aluminum and steel imported under contracts in place before the tariffs were announced on March 8, 2018? In my opinion, this would avoid disrupting the operation and finances of projects that are already budgeted and underway.**

**Answer:** The President's March 22 Proclamations for steel and aluminum established procedures allowing relief "[f]or merchandise entered on or after the date the directly affected party submitted a request for exclusion[;] such relief shall be retroactive to the date the request for exclusion was posted for public comment." If an exclusion is granted, the party would then work with Customs and Border Patrol on the refund mechanism.

**6. Effect on Trade Relations**

**Has the Administration conducted any analysis on the impacts of retaliatory tariffs imposed by some of our major trading partners on U.S. businesses and consumers? If not, will the Administration commit to reviewing or ending the tariffs if they result in net economic harm to U.S. companies?**

**Answer:** The Administration is aware of and in the process of examining retaliatory measures taken or proposed by our trading partners.

**Questions from Rep. Holding:**

1. **Section 232**

**Mr. Secretary, in your testimony you referenced the Department's discretion in the 232 exclusion process. You mention the Department has the discretion to make broader exclusions available to all importers of particular products, which would essentially grant a blanket request on a particular item if certain criteria are met. This would be a positive step the Department could take, as it would save time and resources of all parties involved. The Department is likely to receive individual requests that are indicative of an industry-wide problem and I encourage the Department to deal with these on a broad basis. Will you commit to proactively granting such blanket product exclusions when warranted in order to minimize the burden on U.S. job creators?**

**Answer:** Yes. We will make broader exclusions available to all importers if we find the circumstances warrant.

2. **U.S.-Australia FTA**

**In October, USTR formally requested consultations with Australia under the U.S.-Australia Free Trade Agreement on behalf of aggrieved U.S. investors in NuCoal Resources, Ltd. I understand is the first time that either the U.S. or Australia has invoked this portion of the free trade agreement, which speaks to the seriousness of the issue. This case has been ongoing for some years now. Meanwhile, U.S. investors have lost the totality of their investment and suffered irreparable harm as a direct result of a state-sponsored expropriation, which would not have occurred in my home state of North Carolina without proper due process. How does your agency intend to continue to pursue this matter?**

**Answer:** The Administration places a high priority on ensuring full compliance with the obligations in our trade and investment agreements, including the Australia-United States Free Trade Agreement. Accordingly, we initiated consultations under the Investment Chapter of that Agreement to address a discrete investment dispute in the energy sector involving U.S. investors. We are continuing to engage with Australia regarding this ongoing matter

3. **Household Aluminum Foil**

**It has been noted that there is concern for products with no national security nexus from being caught up in these new tariffs. One such product is household aluminum foil and container stock, which would be subject to the 10% tariffs on aluminum. The U.S. Department of Commerce recently imposed antidumping/countervailing duties on aluminum foil from China, which should seem to address unfairly traded imports from China. Currently, in the household aluminum foil market, the largest provider of private-label, or non-branded, household aluminum foil is an ESOP company, which gives the employees the ability to achieve the American dream by owning part of their successful business. Would the Department be amenable to a 232 product exclusion for household aluminum foil and container stock?**

**Answer:** In the Section 232 investigation, we found that aluminum is being imported into the United States in such quantities and under such circumstances to threaten to impair the national security of the United States. The President's actions adjusting imports of aluminum into the United States is independent of any actions taken pursuant to U.S. unfair trade statutes.

The Secretary of Commerce, in consultation with other federal agencies, has the authority to grant exclusions based on a demonstrated lack of sufficient U.S. production capacity of comparable products or specific national security-based considerations. On March 19, we published in the Federal Register procedures for the requests for exclusion and for submitting objections to exclusion requests. The review period for exclusion requests will normally not exceed 90 days. We will review all properly submitted exclusion requests, including any request related to household aluminum foil and container stock.

**4. Recycled Trade with China**

**The Administration is pursuing a number of policy measures meant to improve trade between the United States and China. Beyond filing a dispute at the World Trade Organization, what is the Administration's strategy for supporting the trade of recyclable materials trade with China? This trade supports thousands of American jobs and helps the environment because otherwise these materials could end up in a landfill.**

**Answer:** Commerce's International Trade Administration has worked closely with the Office of the U.S. Trade Representative to address China's ban and new standards on imported recyclable and recycled material in the WTO Committee on Technical Barriers to Trade and the Import Licensing Committee. In these fora, we have noted that China's new standards are not aligned with international standards because they have higher, unobtainable requirements for imported versus domestic materials. The United States Government, joined by other members of these fora including the EU, Canada, and Japan, in raising trade agreement concerns on the effect the ban has on trade of legitimate recyclable and recycled material and the environment. The Trump Administration will continue to raise this issue in the WTO as well as bilateral engagement with China.

**Question from Rep. Jason Smith:**
**1. Aluminum Exclusion Process**

**Secretary Ross, as you may know, the day after the President signed the proclamation pursuant to Section 232, a primary aluminum smelter in my district announced that it was restarting idled production and employing 450 workers. These actions by the President are a key step toward restoring a fairly traded market for primary aluminum in the United States, where our smelters are no longer subjected to unfair competition from subsidized and state-owned smelters all over the world. Countries, such as Canada and Mexico are currently excluded from these tariffs and there is potential for that list to be expanded. As you work through the exclusion process for products and countries, what factors, classifications, and tests are you using to determine which countries may have an exemption?**

**Answer:** On March 22, 2018, the President authorized the modification of the section 232 tariffs on aluminum and steel imports to temporarily suspend the tariffs for certain countries before they took effect (Proclamations 9710 and 9711). Tariffs on aluminum and steel imports from Argentina, Australia, Brazil, Canada, Mexico, the member countries of the European Union, and South Korea were suspended until May 1, 2018, pending discussions of satisfactory long-term alternate means to address the threatened impairment to U.S. national security.

On April 30, the President signed a proclamation stating that the United States had successfully concluded discussions with South Korea on a satisfactory alternative means to address the threatened impairment of our national security posed by steel article imports from South Korea, including a steel quota.

On May 31, the President signed proclamations stating that the United States had successfully concluded discussions with Argentina and Australia on a satisfactory alternative means to address the threatened impairment of our national security posed by aluminum imports from these countries and with Argentina, Australia, and Brazil on a satisfactory alternative means to address the threatened impairment of our national security posed by steel article imports from these countries. The tariff on imports of aluminum from South Korea went into effect on May 1. The tariffs on steel and aluminum went into effect on June 1 for Canada, Mexico, and the member countries of the EU.

**Questions from Rep. Walorski:**

**1. 232 Downstream Impact**

**The steel and aluminum reports reference economic studies that were carried out to evaluate the impact of the tariffs on jobs. But your reports only reference the impact directly to the steel and aluminum industries, not to their downstream value chain or to the U.S. economy as a whole.**

**What was the result of the Department's economic model used to create the three recommendations to the President on downstream users and consumers as well as the U.S.**

**economy as a whole? In considering negative 232 impacts to downstream stakeholders, what specific information was given to you and the BIS staff by downstream stakeholders regarding company, job or consumer impact? What was studied?**

**Answer:** Testimony was provided to the Department of Commerce through a public hearing and through other information submissions by all segments of the U.S. steel and aluminum manufacturing industries as well as steel and aluminum consuming organizations.

Regarding the impact of tariffs on steel[5], the model results indicate that real GDP, a commonly used measure of welfare, will be mostly unchanged from its baseline level, declining by less than 0.008 percent. Aggregate imports will decline by 0.444 percent by volume while the average price of steel in the US market will rise by approximately 4.5 percent.

At the sector level, downstream sectors such as metal products, motor vehicles and parts, and construction that use steel relatively intensively (either directly or indirectly), see their output contract because of slightly higher steel prices.

**Sector Level Import & Output Changes**

| 232 Model Sector | Change in U.S. Import Volume (%) | Change in U.S. Output (%) |
|---|---|---|
| Crops | -0.05 | 0.05 |
| Extraction & Natural Resources | 0.09 | 0.01 |
| Animal Products | -0.19 | 0.03 |
| Processed Foods | -0.11 | 0.01 |
| Textiles | -0.22 | 0.04 |
| Wearing apparel | -0.15 | 0.09 |
| Leather products | -0.10 | 0.20 |
| Wood products | -0.18 | -0.15 |
| Paper products, publishing | -0.21 | 0.02 |
| Petroleum, coal products | 0.04 | 0.02 |
| Chemical, rubber, plastic products | -0.13 | 0.07 |
| Mineral products | -0.10 | 0.03 |
| Iron & steel | -21.90 | 6.36 |
| Non-ferrous metals | 0.21 | -0.26 |
| Metal products | 1.22 | -0.41 |
| Motor vehicles and parts | -0.07 | -0.25 |
| Other transportation equipment | -0.12 | -0.13 |
| Electronic equipment | -0.15 | -0.08 |
| Machinery and equipment | 0.13 | -0.24 |

[5] These results take into account those countries being considered for exclusion, as described in Proclamation 9711 of March 22, 2018.

| | | |
|---|---|---|
| Other manufactured products | -0.04 | -0.16 |
| Construction | -0.26 | -0.19 |
| Utilities | -0.11 | 0.09 |
| Transportation & Communication | -0.11 | 0.00 |
| Financial Services | -0.22 | -0.01 |
| Insurance | -0.16 | 0.01 |
| Other Business Services | -0.14 | 0.01 |
| Other Services | -0.14 | -0.01 |

**2. 232 Impact on MWP**

**All aluminum and products produced here in the U.S. along with exempted Canada do not carry the 10% tariff, yet the MWP is already artificially inflated and pricing all aluminum at the same higher tariff price. Who will protect the American consumer from price gouging, against smelters and traders who have already artificially inflate prices on aluminum produced and already stored here in the U.S. are exempted from Tariffs?**

**Answer:** The Midwest Premium on aluminum reflects market conditions. Over time increased production by steel manufacturers in the United States will result in an expansion of aluminum product supply that could result in lower prices. As pointed out in the January 19, 2018, Section 232 report on the effect of imports of aluminum, U.S. manufacturers have been operating at a fraction of their production capacity. With the imposition of the tariffs, aluminum companies are boosting production at their plants and reopening idle plants – actions that are anticipated to result in increased supply and, over time, lower prices.

**3. 232 Impact on Aluminum in Storage**

**In the US we have an oversupply of aluminum in storage. Do you think that current inventories of US produced aluminum should be allowed to be sold to end users if the tariff is included in the base price? In other words, who will stop traders from selling metal currently stored in warehouses here in the U.S. at the artificially inflated duty-unpaid price, which was previously imported from non-exempted countries prior to the tariffs implementation?**

**Answer:** Imported aluminum in bonded warehouses will be subject to tariffs when it leaves the warehouse, unless the tariff already has been paid. The selling price of aluminum is determined by supply and demand factors in the market.

**4. Commerce Self-Initiated AD Investigation on Chinese Aluminum Sheet**

**I understand the Department of Commerce has self-initiated an antidumping investigation regarding Chinese aluminum sheet. This is the first self-initiation Commerce has conducted in nearly 30 years. Other than the aluminum industry, have you consulted with other downstream users? Do you plan to take into account the 232 tariffs in this antidumping investigation? It is my understanding beverage cans are outside the scope, would you**

**consider larger sheets of aluminum (72") that are needed for marine and RV manufacturing and difficult to obtain domestically.**

**Answer:** Under U.S. law, the Department must determine the level of dumping and/or subsidization that is occurring, which is separate from the issue of the impact of any potential duties on downstream industries. The U.S. International Trade Commission (ITC) conducts a concurrent investigation for injury that is independent of the Department's decision on duties and addresses separate criteria – specifically, whether dumping and/or subsidies are causing, or threatening to cause, material injury to a domestic industry. Furthermore, the 232 tariffs were implemented recently, whereas the Department is examining time periods in 2016 and 2017 in its AD and CVD investigations of common alloy aluminum sheet. As for the scope of these investigations, the proposed scope language provides for an exclusion for aluminum can stock, which is suitable for use in the manufacture of aluminum beverage cans, or the lids and tabs of such cans. Additionally, Commerce has received comments from interested parties regarding the proposed exclusion of such products from the scope. Regarding larger sheets of aluminum, the proposed scope of the investigation covers common alloy sheet with a thickness of 6.3 mm or less, but greater than 0.2 mm, in coils or cut-to-length, regardless of width. Commerce has received a request to exclude certain larger widths of aluminum sheet, and will carefully evaluate all comments on the record before issuing its decision.

**5. Canadian Softwood Lumber**

**The tariffs on imported Canadian softwood lumber have significantly impacted the price of lumber here in the U.S.. That's certainly good news for U.S. lumber producers. But it is also affecting the ability of my builders back in Indiana to provide affordable housing options for low- to moderate-income families. They are telling me their lumber packages are up 30+%. What is the administration doing to ensure the impacts of these tariffs don't weigh so heavily on U.S. consumers?**

**Answer:** I agree that the availability of affordable housing is key to the economic growth of our country. However, under U.S. law, the Department must initiate an antidumping duty (AD) and/or countervailing duty (CVD) investigation if a petition filed by a producer or worker in the United States meets the statutory criteria for initiation. Let me emphasize that the Department's administration of the trade remedy laws is by far the most transparent of our trading partners. As such, we provide an opportunity for all parties to submit comments and legal arguments pertaining to an investigation. I can assure you that the Department carefully considered the positions and comments raised by all parties before issuing our final determinations in this matter. As for an analysis of the impact of potential duties on an industry, under U.S. law, the Department must determine the level of dumping and/or subsidization that is occurring, which is separate from the issue of the impact of any potential duties on downstream industries. The U.S. International Trade Commission (ITC) conducts a concurrent investigation for injury that is independent of the Department's decision on duties and addresses separate criteria – specifically, whether dumping and/or subsidies are causing, or threatening to cause, material injury to a domestic industry. Only if both the Department's and the ITC's final determinations are affirmative will an order be issued.

**6. Foreign Trade Zones**

**I am deeply concerned about the evaluation of Foreign Trade Zone (FTZ) applications for production authority of products that contain textile inputs. Two companies in my district are affected by this matter and each for different product applications. One of these applications has been pending for nearly 4 years and adversely affects Pregis, a small company in my district that supplies foam for Coleman life vests made in Sauk Rapids, Minnesota. Life vests suffer from an inve1ied tariff, meaning they are subject to a 4.5% duty while the key fabric inputs are dutiable at 14.9%. A similar situation exists for MTD, a company that manufactures lawn mowers in Verona, Mississippi, which are duty-free if imported as a finished good. One of its key components, a grass catcher bag is dutiable at 3.8% A. Schulman, located in my district, provides MTD critical engineering composites for these lawn mowers.**

**In both cases affecting companies in my district, the current tariff structure incentivizes importing the finished good from a foreign supplier over manufacturing the product here in the United States. When produced in the United States, the finished good contains an enormous amount of U.S. value-add (for instance, about 82% for Coleman), whereas there is essentially no U.S. value in the imported product. Applications seeking FTZ production authority for products that contain textile inputs seem to be automatically denied if any negative feedback is received during the public comment period; regardless of the facts. I am highly concerned that the FTZ evaluation process, specifically the net economic benefit test, is not being properly implemented. Could you please detail the steps your Department takes in evaluating net economic benefit vis-a-vis applications that contain textile inputs?**

**Answer:** Reviews of applications for FTZ production authority require the FTZ Board, comprised of representatives from the Department of Commerce and the Department of the Treasury, to examine, among other things, the extent to which the proposed activity is consistent with U.S. trade law and policy, as well as the net economic effect of the proposed activity. With applications that request authority that would enable reduced duty payments on imported textile materials, the Board frequently receives comments in opposition from domestic producers of the types of textile materials in question. In order to make a recommendation on whether to approve the application, the Board takes into account the evidence submitted by all parties – whether in support of or in opposition to the application. The Board also considers input from industry specialists within government, including regarding the potential impact of the requested FTZ authority on domestic producers of the types of imported materials for which the applicant seeks FTZ benefits.

**Questions from Rep. Curbelo:**

**1. Exclusion Process**

**Because DOC plans to make the exclusion requests and objections publicly available, they are warning filers not to submit any classified or business proprietary information in completing the forms but advising that filers can separately submit that type of information. Given this decision, please explain the following:**

- **We are told by companies that it will be almost impossible to complete the exclusion request without revealing propriety information that they will not want competitors to see. Did DOC consider this problem when writing the form?**

**Answer:** The forms are designed so the filers do not have to provide proprietary information in the Exclusion Request or Objection forms. For example, the chemical compositions of these metals are easily determined with standard laboratory equipment. The performance data requested is nothing more than any discerning buyer would request of a supplier. Companies have not been asked to provide information on their proprietary manufacturing processes. Nonetheless, the form does allow exclusion requesters to note whether they have relevant and necessary proprietary or business confidential information. If the Department requires that information, it will request it from the party making the assertion.

- **The process for attaching a separate document containing all of the business confidential information is a more burdensome process than simply allowing for the filing of a "business confidential version" and a "public version" of the filings, as is DOC's practice in antidumping and countervailing duty cases. Why is DOC making this process more complicated for filers in this exclusion request context?**

**Answer:** The Department will only request companies to provide proprietary information if it thinks it necessary to determine whether the product is truly unique or has substantially superior performance properties.

**On the exclusion request form, DOC is asking filers to provide an explanation regarding how U.S. Customs and Border Protection (CBP) will be able to ensure that the exclusion request is recognized by CBP when a U.S importer files entry paperwork for imports that are covered by the request. Please explain how DOC is working with CBP to ensure that CBP will fairly apply the exclusion request once it is granted.**

**Answer:** The Department has been working closely with Customs and Border Protection (CBP) in the development and implementation of the product exclusion process. The Department will notify companies granted exclusions, so they may inform their importer of record (which may be the Exclusion Requestor or a third party). The Department will provide CBP with: 1) the names of Importers of Record that will be bringing in steel or aluminum products on behalf companies that have been granted exclusion requests; 2) a general description of the steel or aluminum product (e.g., slab, sheet, bar, etc.); 3) the 10-digit Harmonized Tariff Schedule of the United States (HTSUS) code covering the specific steel or aluminum product being imported; 4) the Regulations.Gov tracking number issued to the Exclusion Requestor for the product covered by the granted exclusion request; and 5) the quantity of steel or aluminum product that may be imported under the granted exclusion. CBP will enter the tracking numbers established on Regulations.Gov for granted exclusion requests into the Automated Commercial Environment (ACE), the commercial trade processing system. This data will inform CPB staff administering tariffs on imported steel and aluminum products of the existence of an exclusion being granted to the identified exclusion applicant. CPB also will be able to pull detailed steel and aluminum information associated with the exclusion request filing by accessing Regulations.Gov.

**The product exclusion process is being conducted by BIS while the process of negotiating for country exemptions is being conducted by Ambassador Lighthizer. Shouldn't the exemption determinations be made before the tariffs go into effect this week? If not, companies may invest time in money in the exclusion process only to find that a country exemption granted subsequently renders their product exclusion request unnecessary.**

**Answer:** The exclusion request and objection process operates independently of country exemption discussions. Companies are free to file exclusion requests for steel or aluminum products imported from countries currently exempt, knowing that the exemption status may expire.

**The regulations provide that the exclusions will "generally" be approved for a period of one year. Does this mean that companies will have to file a completely new exclusion request each year even if no facts or circumstances regarding the request have changed?**

**Answer:** Yes, companies will need to file a new exclusion request before the expiration of any granted exclusions. The exclusion is limited to a set time period because there will be changing domestic production capabilities and product availability as U.S. steel and aluminum manufacturers increase production.

**2. Trade Retaliation**

**Many downstream users are concerned about the impact of these tariffs on their manufacturing businesses. For example, boating is an extremely popular activity in my district, supp1ying 330 businesses and 2800 direct jobs in my district. The boating industry contributed $525 million in economic activity but is extremely concerned about the impact these tariffs will have on the industry. Before the announced exemption, the EU threatened retaliation with US made boats as a target. This will impact not just aluminum builders, but the entire industry with export values of $366 million. What are you doing to ensure US manufacturers are not impacted by retaliatory actions?**

**Answer:** The President extended the tariff exemption for member states of the European Union on two occasions (March 23 and April 30), in order to allow our ongoing discussions to continue. These extensions reflected an earnest desire to try to arrive at satisfactory alternative means to address the threatened impairment to national security caused by imports of steel and aluminum from the member states of the European Union. Unfortunately, our discussions have not yielded the necessary results, and as such, the Section 232 tariffs came into effect for imports of steel and aluminum from the member states of the European Union on June 1. It is important to remember that U.S. steel and aluminum producers need to be commercially viable to provide the steel and aluminum required for defense and critical infrastructure applications. This is why excess capacity and surging steel and aluminum imports are national security concerns. Excess production by numerous countries has harmed steel and aluminum producers and jobs in the United States.

**Manufacturers in my district rely on aluminum for many component parts like fuel tanks. Aluminum fishing boats, popular in my district and with retail businesses in my district are concerned about supply shortages, increased prices, and difficulty obtaining wide sheets of aluminum which is critical to safe boat manufacturing. How are you ensuring actions to protect US aluminum will not harm other US manufacturers and businesses?**

**Answer:** The exclusion process is available to companies to help ensure that they can obtain adequate supply of aluminum products of size, shape, and function that are not available in the United States in adequate quantity.

**3. Investigation on Canadian uncoated groundwood paper**

**In many communities, the printed newspaper is the primary way in which people get news and info1mation, and stay co1mected with one another.**

**While this Administration's effort is to use antidumping and countervailing duties to protect U.S. industries and U.S. jobs is laudable, there are some situations where duties will simply backfire. In particular, the Commerce Department's investigation and preliminary assessment of duties on imports of Canadian uncoated groundwood paper, which includes newsprint, is already having a damaging impact on newspapers. These duties which go as high as 32 percent have caused mills to announce price increases that climb as high as 20 percent on a ton of newsprint. This is staggering for newspapers as newsprint is the second highest cost behind payroll.**

**We have heard that some small daily newspapers have cut back their distribution of the printed newspaper from 7 days to 3 days. Other small, community newspapers, are being told by suppliers that they will not get their normal supply of newsprint given the disruption in the marketplace. Through these increased prices or lack of supply, some community newspapers will go out of business.**

**I am troubled that this whole investigation was started by one mill in Northwest Washington who petitioned for countervailing and antidumping duties. The petition was not supported by any other U.S. newsprint mills and - in fact - the petition is opposed by the paper industry's trade group, the American Forest and Paper Association.**
**Secretary Ross, it appears to me that one company may be manipulating the trade law for its own financial gain, and in doing could set off a slew of unintended consequences including the loss of good US jobs in printing and publishing, as well as closures at small and rural newspapers.**

**Secretary Ross, what would you recommend I say to my constituents who are struggling to**

**cope with these tariffs? Will you commit to taking a closer look at this case and its impact on newspapers - and our society at large - before the Department issues a final determination in late summer?**

**Answer:** The loss of any jobs concerns me. However, under U.S. law, the Department must initiate an antidumping duty (AD) and/or countervailing duty (CVD) investigation if a petition filed by a producer or worker in the United States meets the statutory criteria for initiation. Let me emphasize that the Department's administration of the trade remedy laws is by far the most transparent of our trading partners. As such, we provide an opportunity for all parties to submit comments and legal arguments pertaining to an investigation. I can assure you that the Department will consider carefully the positions and comments raised by all parties before issuing our final determinations in this matter, which are now due to be announced on August 2, 2018. If the Department's final determinations are affirmative, the U.S. International Trade Commission (ITC) will conduct its final injury investigations. As for an analysis of the impact of potential duties on an industry, under U.S. law, the Department must determine the level of dumping and/or subsidization that is occurring, which is separate from the issue of the impact of any potential duties on downstream industries. The ITC conducts a concurrent investigation for injury that is independent of the Department's decision on duties and addresses separate criteria – specifically, whether dumping and/or subsidies are causing, or threatening to cause, material injury to a domestic industry. Only if both the Department's and the ITC's final determinations are affirmative will an order be issued.



[Submissions for the Record follow:]

## The Adverse Impact of Tariffs on Steel and Aluminum Products

Alliance for Competitive Steel and Aluminum Trade (ACSAT)

ACSAT Strongly Opposes Proposed High Tariffs on Steel and Aluminum

ACSAT represents thousands of businesses across the United States who are deeply concerned about the Administration's proposal to impose sweeping global import tariffs on steel and aluminum on the basis of national security. We are convinced that these restrictions will have a significant negative impact on our businesses, employees and customers. The following is a brief outline of our concerns and recommendations.

Damage to Downstream Users and American Consumers

The proposed tariffs of 25% on all steel imports and 10% on all aluminum imports are far broader than required to address any legitimate defense or security needs and will cause severe harm to many of our most competitive industries by raising production costs and prices throughout our economy. The downstream industries that consume steel and aluminum are 40 to 50 times greater than these two sectors in terms of output and employment. Job losses and reduced competitiveness in downstream sectors will far outweigh any short-term benefits to steel and aluminum. Moreover, since steel and aluminum are vital inputs in a huge range of downstream products, these tax increases could impact millions of Americans through higher prices for essential purchases, such as autos, home appliances, food products and energy.

Damage to US Exports

Compounding the costs to our domestic industries will be the adverse effects on American exporters. Many trading partners have already announced their intention to retaliate against what they consider to be an unjustifiable use of the WTO national security exception. Ironically, the major impact of these restraints will fall on our NATO allies and other security partners, since China, the country cited by the Administration as the major cause of global overcapacity and widespread dumping, already faces high antidumping duties and represents only 3% of all US imports. Hence, our best allies in maintaining global security and our most reliable export markets will bear the brunt of these measures. This will intensify their resolve to retaliate and lessen their cooperation with us in pushing China and other countries towards fairer world trade. Retaliation by our closest partners places at risk our most competitive export sectors, including agriculture, aircraft, autos, machinery and equipment, IT and electronics, pharmaceuticals, plastics and chemicals.

Damage to Economic Growth

The American economy is strong and growing, and our manufacturers, farmers and service industries are seeing the benefits of the recent tax cuts and regulatory reforms. Our unemployment rate is at its lowest point since 2000, wage rates have begun to increase and GDP growth is increasing. Trade is a critical ingredient in these economic successes: More than 40 million American jobs depend on world trade; one out of every three acres of American agriculture is grown for export; and our manufacturing sector and technology-based industries lead the world in innovation. As the world economy continues to recover strongly from the great recession, this would be the worst possible time to turn inward and begin erecting trade barriers. For all the reasons outlined above, sweeping, long-term restrictions on imports of steel and aluminum will undermine, rather than advance, both our economic growth and our broader national security interests.

Recommendations

While we clearly need to address problems of unfair trade practices, subsidies and global overcapacity, mechanisms exist under our trade laws to address these specific problems without severely damaging the interests of competitive producers here at home. Moreover, policies to assist workers impacted by trade and to promote more competitive steel and aluminum production will be far more effective than prolonged import protection.

ACSAT asks Members of Congress to consult with the industries and farmers affected by the proposed restrictions on steel and aluminum. The major committees of jurisdiction should schedule public hearings so that all interests can be heard. Congress has Constitutional authority to regulate foreign commerce, and we believe it is vital that all interests are weighed more fully before deciding what actions, if any, should be taken on national security grounds. Ultimately, Congress and the President should work more cooperatively to achieve the proper balance between trade concerns and other national priorities.

About ACSAT

ACSAT includes a broad cross-section of industries that produce intermediate and finished goods containing steel and aluminum as important inputs. It also includes a wide range of manufacturers and farmers that are among America's most export-dependent sectors. Our producers are leaders in productivity and technological innovation and depend upon open trade and competitive inputs to survive in the global economy. The members of our alliance stand ready to assist policymakers in Congress and the Administration to formulate more effective policies to address the challenges of international trade.

Members of ACSAT

Air-Conditioning, Heating, and Refrigeration Institute
Alliance of Automobile Manufacturers
American Automotive Policy Council
American Chemistry Council
American Exploration and Production Council
American Fuel & Petrochemical Manufacturers
American International Automobile Dealers Association
American Petroleum Institute
American Soybean Association
American Supply Association
American Wire Producers Association
Associated Equipment Distributors
Associated General Contractors of America
Association of Equipment Manufacturers
Association of Global Automakers
Auto Care Association
Beer Institute
Can Manufacturers Institute
Forging Industry Association
Grocery Manufacturers Association
Independent Petroleum Association of America
Industrial Fasteners Institute
International Association of Drilling Contractors
LNG Allies
Midwest Food Products Association
Motor & Equipment Manufacturers Association
National Automobile Dealers Association
National Council of Farmer Cooperatives
National Electrical Manufacturers Association
National Foreign Trade Council
National Pork Producers Council
National Retail Federation
National Tooling and Machining Association
Outdoor Power Equipment Institute, Inc.
Pet Food Institute
Petroleum Equipment and Services Association
Precision Machined Products Association
Precision Metalforming Association
Shelf-Stable Food Processors Association
Truck & Engine Manufacturers Association
U.S. Grains Council
U.S. Wheat Associates

AcuityBrands.

April 4, 2018

The Honorable Kevin Brady
Chairman
Committee on Ways and Means
1102 Longworth HOB
Washington D.C., 20515

The Honorable Richard Neal
Ranking Member
Committee on Ways and Means
1139E Longworth HOB
Washington D.C., 20515

Dear Chairman Brady and Ranking Member Neal,

We write to express Acuity Brands' concerns about recently-enacted steel and aluminum tariffs. Specifically, we are concerned that the tariffs—rather than achieving their purported goal of boosting the U.S. economy by supporting the steel and aluminum industries—will harm American businesses and the economy overall by negatively impacting steel prices and related business operations across a variety of industries.

Acuity Brands, Inc. (NYSE: AYI) is a North American market leader and one of the world's leading providers of lighting and building management solutions for commercial, institutional, industrial, infrastructure, and residential applications throughout North America and select international markets. With fiscal year 2017 net sales of $3.5 billion, Acuity Brands currently employs approximately 13,000 associates. We are headquartered in Atlanta, Georgia and have operations throughout North America and in Europe and Asia.

The Company's lighting and building management solutions vary from individual manufactured products to intelligent network systems. Individual products include luminaires, lighting controls, emergency lighting, lighting components, controllers for various building systems (including HVAC, lighting, shades, and access control), power supplies, and prismatic skylights.

We also offer networked systems driven by sensors and software that allow the infrastructure in buildings, roadways, and properties to communicate data regarding operations and activities. Among other benefits, these intelligent network systems can optimize energy efficiency and enhance building occupants' experiences by providing wayfinding assistance, security notifications to law enforcement, and predictive controls that adapt based on learned usage patterns for various indoor and outdoor applications—all while reducing operating costs. Acuity Brands continues to expand its solutions portfolio, including software and services, to provide a host of other economic benefits resulting from data analytics that enables the "Internet of Things" ("IoT") and supports the advancement of smart buildings, smart cities, and the smart grid.

Notably, our efforts to continue innovating and striving for even greater energy efficiency and smart functionality within all aspects of building management are substantially impacted by the price and availability of steel. Acuity Brands is a strong supporter and business partner of domestic metals suppliers, working with U.S. mills to source steel and manufacturing a significant volume of our products at various locations across the country. We have worked closely with our steel suppliers to project usage trends and develop contracts that provide us with the financial certainty needed to promote cost-effective lighting and high-quality network solutions.

Despite Acuity's relationships with domestic steel mills, however, our business still runs the risk of being significantly harmed by the recently-enacted tariffs. This is because many domestic mills purchase foreign raw materials, and as such, will be negatively impacted by the tariffs. Any process changes made by these steel mills in response to the tariffs are likely to increase the cost of the domestically-produced metals used by Acuity. In addition, the tariff changes will put a significant strain on the limited supply of domestic steel, as domestic capacity—even with new U.S. mills—cannot be ramped up for at least another year and may be constrained by other economic and workforce factors.

All of this puts Acuity's existing contracts at risk and creates significant uncertainty for our business. Furthermore, while we appreciate the work on and attention to country-specific exemptions from the tariffs, many of those are temporary. Thus, rather than helping provide supply chain stability, the exemptions may add more uncertainty to our sourcing strategy.

Aside from the aforementioned specific impacts on Acuity, the tariffs also will broadly affect the lighting, construction, and a variety of other industries. For example, construction projects focused on energy-efficient renovations are at risk due to pricing uncertainty that has resulted from the tariffs. A slow-down in renovations—never mind new construction—will have a negative impact on our company's sales, as well as curtail the environmental benefits, monetary savings, and jobs resulting from construction of energy-efficient buildings.

We appreciate Congress's attention to the potential real-world impacts of the steel and aluminum tariffs on domestic industries and U.S.-based businesses like Acuity Brands. We ask that Congress continue to work with the Administration to properly tailor the new tariff regime to minimize harm to U.S. businesses and the economy.

Sincerely,

Cheryl R English

Cheryl English
VP, Government & Industry Relations
Acuity Brands
Cheryl.English@AcuityBrands.com
770-860-2660

CC: The Honorable David Reichert
Chairman
Subcommittee on Trade
Committee on Ways and Means
1103 Longworth HOB
Washington D.C., 20515

The Honorable Bill Pascrell, Jr.
Ranking Member
Subcommittee on Trade
Committee on Ways and Means
1103 Longworth HOB
Washington D.C., 20515

AFPM
American
Fuel & Petrochemical
Manufacturers

**House Committee on Ways and Means**

**"Hearing with Commerce Secretary Ross"**

**Statement for the Record, American Fuel & Petrochemical Manufacturers**

**March 22, 2018**

The American Fuel & Petrochemical Manufacturers ("AFPM") appreciates the opportunity to provide a statement for the record on the U.S. Trade Policy Agenda. AFPM is proud to represent 97 percent of the nation's refining and petrochemical manufacturing capacity, including 118 refineries and 248 petrochemical manufacturing facilities. Our members are high-tech American manufacturers of virtually the entire U.S. supply of gasoline, diesel, jet fuel, other fuels and home heating oil, as well as the petrochemicals used as building blocks for thousands of vital products in daily life. The refining and petrochemical industries support more than 3 million U.S. jobs and add $568 billion each year to the U.S. economy. Our comments will focus on both global and North American trade.

Free trade is a key element for continued growth in U.S. refining and petrochemical manufacturing. The U.S. imports significant volumes of crude oil from Canada and Mexico and exports substantial volumes of refined petroleum products and petrochemicals to those countries. In addition, with access to abundant feedstocks and the lifting of the export ban, U.S. global trade of natural gas, crude oil, and petrochemical product has increased drastically.

As a result of the North American Free Trade Agreement ("NAFTA"), the U.S. enjoys reduced costs on imported energy products such as crude oil, as well as billions in annual export revenues. The growth of energy infrastructure such as cross-border pipelines from the U.S. into Canada and Mexico has allowed for expanded market access for U.S. companies, greater investment, job growth and affordable energy costs.

Trade policies that could upend the existing integrated North American energy market could greatly increase the costs of U.S. imports of key energy products from Canada and Mexico, driving up energy costs for consumers and impacting job growth and investment.

Additionally, broadly applied trade restrictions, such as the recently announced Section 232 steel tariffs under the 1962 Trade Expansion Act, could compromise the economic benefits of expanded market access the U.S. refining and petrochemical manufacturing industry has experienced under NAFTA.

Increased costs on steel would significantly undermine the supply structure and potentially compromise AFPM member companies' oil and natural gas production, and the refining and transportation of energy to consumers, including the U.S. military.

## I. North American Trade in Energy and Petrochemicals Under NAFTA is Significant and Growing

North American trade in energy and petrochemicals plays an integral role in securing and preserving energy security and economic growth for the United States as well as for our trading partners, Canada and Mexico. Bilateral energy trade between the United States, Canada and Mexico centers largely on crude oil, refined products, and natural gas.

AFPM American Fuel & Petrochemical Manufacturers

Cross-border trade of energy and petrochemical products between the United States, Mexico, and Canada has enhanced market access and bolstered the competitiveness of our domestic refining and petrochemical industries. Canada is the United States' largest energy trading partner and Mexico is the United States' second largest energy trading partner.

***Crude Oil.*** The North American supply of crude oil is vital for U.S. energy, economic, and national security. Canada and Mexico combined to supply 48 percent of the U.S. imported crude supply needs in 2016. More specifically, in 2016, the U.S. imported 3.3 million barrels of Canadian crude oil per day, making Canada the largest supplier of imported crude oil to the U.S., representing 41 percent of U.S. crude oil imports. Similarly, the U.S. imported 582,000 barrels of crude oil per day from Mexico, making Mexico the fourth largest source of imported crude oil, representing 7 percent of U.S. crude oil imports.

***Petroleum products.*** In 2016, the U.S. exported 4.7 million barrels per day of refined petroleum products, and one-third of those exports went to Canada and Mexico. Products include transportation fuels such as gasoline, diesel, and jet fuel, as well as heating oil, and other products such as naphtha, a petrochemical feedstock, propane that is used for heating and cooking, and light oils used to dilute heavy crude oils, which both Canada and Mexico produce.

Both Canada and Mexico are vital markets for U.S. refined products. Mexico is the single largest export market for the U.S. refining industry; in 2016, almost 20 percent of U.S. petroleum product exports were delivered to Mexico. In fact, U.S. exports of gasoline to Mexico supplied more than half of Mexico's gasoline demand in 2016.

***Natural Gas.*** Natural Gas trade between the United States and Canada is dominated by pipeline shipments. In 2016, natural gas imports from Canada averaged 8.0 billion cubic feet per day (Bcf/d) (equaling 97 percent of all U.S. natural gas imports), and U.S. natural gas exports to Canada averaged 2.1 Bcf/d, (equaling 33 percent of all U.S. natural gas exports).

Mexico is the U.S.'s largest recipient of natural gas exports. U.S. exports of natural gas to Mexico have increased dramatically as U.S. production of natural gas has increased. In 2016, U.S. exports of natural gas to Mexico totaled nearly 4 Bcf/d (equaling 60% of total U.S. natural gas exports) and are expected to increase in 2017 as pipeline infrastructure expands. Natural gas pipelines currently under construction or in the planning stages are expected to double the pipeline natural gas exporting capacity from the U.S. to Mexico in the coming years. The U.S imports very small volumes of natural gas from Mexico into Southern California and Texas.

U.S. natural gas trade with Mexico and Canada is vitally important to balancing U.S. natural gas demand and supply. In 2016, the U.S. consumed more than 75 Bcf/day of natural gas, more than 10 percent of which was imported from Canada and Mexico.

***Petrochemicals.*** In total, trade in all chemicals, including substances outside of the petrochemical portfolio, many of which are made from petrochemical building blocks, has more than tripled over the last two decades since the enactment of NAFTA from $20 billion in 1994 to $63 billion in 2014. Petrochemical imports from Canada and Mexico totaled around $419 million in customs value, while exports to both countries totaled around $749 million in customs value.

AFPM
American
Fuel & Petrochemical
Manufacturers

## II. North American Trade in Energy and Petrochemicals Enhances the Competitiveness of U.S. Fuel and Petrochemical Manufacturers

North American energy trade has led to significant and innovative changes in the energy and petrochemical sectors of the U.S., Canada, and Mexico. Innovation and technology have increased crude oil production in the U.S., leading to the lifting of the U.S. ban on crude oil exports in 2015. Likewise, in 2013, Mexico changed its constitution to begin liberalizing its energy sector, allowing for direct investment by foreign companies for the first time.

As a result of increased energy production and the increasingly integrated North American energy market, the International Energy Agency (IEA) now projects that North America will be energy secure by 2020. North American energy security reduces U.S. reliance on unstable and volatile sources of energy, benefiting U.S. national security. Continued cross-border energy trade will only add to the increases in productivity and innovation that has played out the last two decades.

With the liberalization of the Mexican energy sector, significant investments are now being directed from the U.S. into the Mexican energy infrastructure. For example, Andeavor, formerly Tesoro Corporation, was recently awarded a contract to lease storage and pipeline capacity in northwestern Mexico from Mexico's state-run oil and gas company Pemex. Andeavor will supply refined products produced from their U.S. West Coast refineries to consumers in Mexico, providing an important market for U.S.-produced refined products.

Andeavor is currently the first company to integrate sales of U.S. manufactured fuel at U.S. branded (ARCO) stores in Mexico. Andeavor has seen sales volumes at these stores exceed expectations. By 2020, Andeavor projects sales of 30,000 barrels per day in Baja California and Sonora, and the potential for an additional 20,000 barrels of sales per day in Chihuahua, Sinaloa and Baja Sur.

Likewise, Valero Energy Corporation and Exxon Mobil recently announced hundreds of millions of dollars in investment in fuels logistics, product inventories, and marketing in Mexico. Exxon has said the company plans to invest $300 million over the next decade and is opening the first series of Mobil-brand stations in Mexico this year. Similarly, BP launched its first Mexican service station in March of 2017 with plans to have 1,500 in operation over the next five years.

In August, Valero Energy Corporation signed a long-term supply agreement with IENova to supply gasoline, diesel and jet fuel to terminals operated by IENova at the Port of Veracruz on the Gulf of Mexico and inland in Puebla and Mexico City. Supply to the terminal at the Port of Veracruz will begin in 2018 with products moving inland by rail through a separate, long-term Valero agreement with rail operator Ferromax. The Puebla terminal and Mexico City terminal is scheduled to begin operating in early 2019. These investments will provide an important and growing market for U.S. refined products.

## III. Future Opportunities for Growth and Investment Presented by North American Trade in Energy and Petrochemicals

In addition to the current economic benefits of cross-border energy trade, opportunities for sustained trade benefits as well as future growth and investment between the United States, Canada and Mexico will continue.

Exports to Canada of natural gas and other refined products will remain strong thanks in part to investments in energy infrastructure, primarily cross-border pipelines. Additionally, Mexican demand for U.S. exports of natural gas has grown and is expected to continue trending upward through 2030.

In Mexico natural gas is the country's largest source of electricity generation, accounting for 54 percent of the country's generation in 2015, up from 34 percent in 2005. According to Mexico's national energy minister (SENER), more than 60% of Mexico's electric capacity additions between 2016 and 2020 are projected to come from natural gas-fired power plants, and significant natural gas capacity additions are expected to continue through 2029. SENER projects natural gas-fired capacity will account for 24.9 gigawatts (GW) of total capacity additions from 2016 to 2029, with 14.7 GW of new gas-fired capacity coming online by 2020.

New natural-gas fired plants will increase Mexico's natural gas demand, specifically a projected increase from the power generation sector from 3.6 billion cubic feet per day (Bcf/d) in 2015 to 5.4 Bcf/d in 2029. This expected demand growth will be met primarily by increasing imports of natural gas from the United States and by large expansions of both cross-border U.S.-Mexico pipeline capacity and Mexico's domestic natural gas pipeline networks.

In 2017 and 2018, natural gas pipelines currently under construction or in the planning stages are expected to nearly double the pipeline natural gas exporting capacity from the United States to Mexico. The expansion of U.S. pipeline export capacity to Mexico has been matched by a five-year plan to expand Mexico's domestic pipeline network, which includes 12 additional pipelines with a total capacity of 9.7 Bcf/d currently in development. The plan will expand existing networks and add more than 3,200 miles of new pipeline through Mexico that will create new markets for natural gas in currently supply-constrained regions.

**IV. Broad Trade Restrictions, such as Tariffs on Steel, will have Detrimental Impacts on U.S. Manufacturing and Infrastructure, Energy Security and American Competitiveness.**

The recently announced tariffs on steel imports, under Section 232 of the *1962 Trade Expansion Act,* could result in adverse economic impacts including loss of jobs, increased new construction costs, delayed or cancelled projects, delayed maintenance, and potential service disruptions.

AFPM members own and operate pipeline infrastructure and rail tank cars that transport crude, gas, and petroleum products to and from their refineries and facilities. In recent years, approximately 77 percent of the steel used in line pipe was imported as there is currently limited domestic production availability of the high-quality pipeline quality steel required under U.S. safety laws. Trade restrictions such as these would significantly undermine that supply structure of this important steel without viable alternatives and potentially lead to delay or canceled infrastructure projects.

U.S. steel manufacturers have moved towards higher margin steels and away from high grade pipeline steels. As of March 30, 2017, there are 38 mills able to produce API Specification 5L Line Pipe (the required standard) in the United States whereas there are 536 worldwide. The availability of multiple domestic and foreign sources of steel has provided supplies that have led to the United States becoming the world's largest producer of oil and natural gas. In 2017 alone, the oil and gas industry accounted for 10 percent of steel demand.

While a steel tariff would likely positively impact the steel employment rates, it would be far off-set by losses in steel-using industries. Most recently the U.S. found this out in 2002 after former President George W. Bush imposed similar tariffs on imports of certain steel products. A 2003 study on the unintended consequences of the 2002 U.S. steel import tariffs found: 200,000 Americans lost their jobs to higher steel prices during 2002; more American workers lost their jobs in 2002 to higher steel prices than the total number employed by the U.S. steel industry itself; and every U.S. state experienced employment losses from higher steel cost, with some of the highest losses occurring in California (19,392), Texas (15,828), Ohio (10,553), Illinois (9,621) and Pennsylvania (8,400).

Tariffs on steel imports could lead to potential trade retaliation and set a dangerous precedent for future trade policy. The U.S. trade deficit in goods and services was $566 billion last year, and in December widened to its highest since 2008. This deficit would have been much worse had we not seen the boom in U.S. energy production and significant gains in crude oil and petrochemical product exports. The U.S. trade deficit indicates the high level of exposure the U.S., and the energy industry, has to retaliatory policies that could be pursued by countries adversely affected by U.S. domestic content policies.

Furthermore, following passage of the Tax Cuts and Jobs Act (H.R. 1), a number of AFPM member companies have announced billions in investments to build out operations, production, and increase employment. However, such investments could be compromised as a result of increased construction and material costs that could result from tariffs on steel imports.

**V. Recommendations**

An increasingly integrated North American energy market is a win for the U.S. refining and petrochemical industries, the environment, and energy consumers. Strong trade relationships between the United States, Canada and Mexico have led to reduced costs on key imported energy products, robust export markets in Canada and Mexico, and expanded market access. This in turn has allowed for greater industry investment and job growth, affordable energy costs and increased global competitiveness.

AFPM appreciates the role North American free trade has played in fostering energy security, economic growth and American competitiveness, and support the continuation of NAFTA. As NAFTA negotiations continue in 2018, AFPM offers the following recommendations for modernizing the free trade agreement.

NAFTA investment protections should be strengthened consistent with other U.S. free-trade agreements, or at the very least preserved. This specifically includes the Investor-State Dispute Settlement (ISDS) enforcement mechanism, which protects and promotes U.S. investments.

AFPM also recommends that the U.S. support policies that enhance and modernize NAFTA, including those that streamline and modernize customs procedures to reflect the way modern energy and petrochemical trading moves across borders, and increase regulatory cooperation.

Finally, AFPM recommends policies that help ensure we have modern and updated infrastructure in place to safely and efficiently move our products across the borders and further strengthen our integrated energy markets. AFPM strongly opposes a broad 25 percent steel tariff and recommends that

AFPM American Fuel & Petrochemical Manufacturers

the Department of Commerce implements a flexible and fair exclusion process from the steel tariffs that acknowledges the complex multi-modal supply chains of the U.S. energy sector. Any such exclusion process should recognize the need for specialty steel not available domestically. Broadly applied trade restrictions without a robust exclusion process would significantly undermine the supply structure, without viable alternatives, and potentially lead to delay or canceled infrastructure projects that are essential for energy production, processing, refining, transportation, and distribution.

Policies such as broadly applied trade restrictions like tariffs on steel imports are counterproductive to this goal and could have a regressive impact on the growth in market access and resulting economic benefits the U.S. fuel and petrochemical manufacturing industry has enjoyed under NAFTA.

AHRI
AIR-CONDITIONING, HEATING, & REFRIGERATION INSTITUTE
we make life better™

2111 Wilson Boulevard Suite 500 Arlington VA 22201-3001 USA
Phone 703 524 8800 | Fax 703 562 1942
www.ahrinet.org

March 20, 2018

The Honorable Kevin Brady
Chairman
Ways and Means Committee
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Richard Neal
Ranking Member
Ways and Means Committee
U.S. House of Representatives
Washington, D.C. 20515

Dear Chairman and Ranking Member:

On behalf of the Air-Conditioning, Heating, and Refrigeration Institute (AHRI) I am writing in reference to the committee hearing on Thursday, March 22, 2018 with Secretary of Commerce Wilbur Ross on trade matters within Commerce's purview, particularly the section 232 determinations on steel and aluminum. AHRI is the trade association representing over 315 manufacturers of residential, commercial, and industrial air conditioning, space heating, water heating, and commercial refrigeration equipment and components for sale in North America and around the world. The heating, ventilation, air-conditioning, refrigeration (HVACR), and water heating industry employs 1.3 million people and generates $257 billion in economic activity annually.

Please find attached AHRI's previous comments regarding the Section 232 investigation for the impact of steel imports on national security.

Please do not hesitate to contact me if you have any questions.

Sincerely,

Joe Trauger
AHRI Senior Vice President
Policy and Government Relations

July 17, 2017

The Honorable Wilbur Ross
Secretary, Department of Commerce
1401 Constitution Avenue, NW
Washington, D.C. 20230

Dear Secretary Ross:

On behalf of the Air-Conditioning, Heating, and Refrigeration Institute (AHRI), I am writing to express concerns about the Section 232 investigation into the impact of steel imports on national security.

AHRI is the trade association representing manufacturers of residential, commercial, and industrial air conditioning, space heating, water heating, and commercial refrigeration equipment and components for sale in North America and around the world. The heating, ventilation, air-conditioning, refrigeration (HVACR), and water heater industry is responsible for nearly 1.3 million jobs in the United States and represents roughly $79 billion in wages for American workers.

Steel and aluminum are essential components in the manufacturing of HVACR and water heating equipment. The imposition of additional tariffs on steel beyond existing anti-dumping and countervailing duties is very likely to have a negative impact on the industry, its employees, and the consumers who buy its products. To provide you with some context of how important these materials are to the industry, below are several examples of our members' products made using aluminum and steel that will be directly impacted by any increases in the cost of those materials.

Water-cooled chiller – Up to 8 tons of steel per unit
Residential air-conditioning system – 80+ pounds of steel depending on size (7.3 million units 2016)
Residential water heater – 100+ pounds of steel per unit (8.3 million units 2016)
Commercial boilers – 1.75 to 30 tons of steel per unit depending on size

Therefore, increasing the cost of steel and aluminum are of great consequence to the HVACR and water heating industry and its consumers. We appreciate your consideration of those consequences as you make your recommendations in concluding the Section 232 investigation. Please do not hesitate to reach out should you have any questions.

Sincerely,

Stephen Yurek
President and CEO

February 22, 2018

| | |
|---|---|
| The Honorable Mitch McConnell<br>Majority Leader<br>United States Senate<br>Washington, D.C. 20510 | The Honorable Paul Ryan<br>Speaker of the House<br>United States House of Representatives<br>Washington, D.C. 20515 |

On behalf of the Air-Conditioning, Heating, and Refrigeration Institute (AHRI), I am writing to express our industry's concerns about potential actions resulting from the Section 232 investigation reports on steel and aluminum imports that would be detrimental to our members. We urge you to let the Administration know you share our concerns about the consequences additional tariffs will have on our economy.

AHRI is the trade association representing manufacturers of residential, commercial, and industrial air conditioning, space heating, water heating, and commercial refrigeration equipment and components for sale in North America and around the world. The heating, ventilation, air-conditioning, refrigeration (HVACR), and water heating industry is responsible for nearly 1.3 million jobs in the United States and generates roughly $257 billion in economic activity annually.

Steel and aluminum are essential components in the manufacturing of HVACR and water heating equipment. The imposition of additional tariffs on these materials beyond existing anti-dumping and countervailing duties is very likely to have a negative impact on the industry, its employees, and the consumers who buy its products by reducing the global competitiveness of manufacturers in the U.S. and threatening jobs.

To provide you with some context of how important these materials are to the industry, below are several examples of the amount of steel used in our members' products that will be directly impacted by any increases in the cost of those materials.

Water-cooled chiller – Up to 8 tons of steel per unit
Residential air-conditioning system – 80+ pounds of steel depending on size (7.3 million units 2016)
Residential water heater – 100+ pounds of steel per unit (8.3 million units 2016)
Commercial boilers – 1.75 to 30 tons of steel per unit depending on size

Using 2016 sales figures for residential air-conditioning and water heating systems noted above, those two products account for **over 700,000 tons of steel annually**. Clearly, any increase in cost or disruption in the supply of these materials will have a significant impact on the cost and delivery of these products to consumers in the residential market.

AHRI and its member companies would like to thank you for your leadership in making manufacturers more globally competitive through efforts like tax and regulatory reform, and would greatly appreciate your continued support in urging the Administration to consider the detrimental economic impacts additional tariffs would have on American manufacturing.

Joe Trauger
AHRI Senior Vice President Policy
and Government Relations

Cc: Senator John Cornyn
Senator Orrin Hatch
Senator Roy Blunt
Senator John Thune
Majority Leader Kevin McCarthy
Majority Whip Steve Scalise
Representative Cathy McMorris-Rodgers
Representative Patrick McHenry
Representative Kevin Brady

February 27, 2018

The President
The White House
1600 Pennsylvania Avenue, NW
Washington, DC 20500

Dear Mr. President:

As representatives of thousands of businesses across the United States, we are concerned with the recently released reports by the Department of Commerce entitled "The Effects of Imports of Steel on the National Security" and "The Effects of Imports of Aluminum on the National Security" (collectively, the Reports).

After reviewing the Reports, our industries are worried that all of the remedies recommended are overly-broad and will have severe detrimental impact on downstream users of steel and aluminum. We understand your goal of supporting these two important sectors of our domestic manufacturing base. However, it is our belief that global tariffs and quotas on imports of these products will injure the purchasers of these products and will lead to the loss of thousands of American jobs. Trade restrictions of this nature and magnitude will therefore lead to more downstream steel and aluminum-containing products being imported into the U.S. Historical and current data shows that the remedies prescribed in the Reports will significantly raise input costs for industries that use these products. Further, as steel and aluminum costs continue to rise and availability decreases, it will impede the ability of downstream manufacturers and the suppliers and retailers reliant upon them to reinvest in innovation and their workforce. Finally, actions of this type will inevitably result in trade retaliation by our trading partners, and such retaliation will likely target U.S. exports abroad, including manufacturers, agricultural and commodity exporters and even our services industries.

Thank you for your efforts to support manufacturing in America. The U.S. economy is starting to see the benefits of the Administration's tax reform and regulatory agenda. However, we believe that all options provided in the Reports will significantly curtail job growth for downstream users, which are cumulatively far larger in terms of employment than steel and aluminum. Such trade measures will serve as a drag on overall U.S. economic growth and far outweigh any benefit to steel and aluminum producers. We urge you instead to look for better solutions to legitimate concerns about global trade in these products that will benefit both producers and users.

Sincerely,

Air-Conditioning, Heating, and Refrigeration Institute
Alliance of Automobile Manufacturers
American Chemistry Council
American Petroleum Institute
American Soybean Association
American Supply Association
Association of Equipment Manufacturers
Association of Global Automakers
Can Manufacturers Institute
Grocery Manufacturers Association
Industrial Fasteners Institute

Midwest Food Processors Association
Motor & Equipment Manufacturers Association
National Council of Farmer Cooperatives
National Electrical Manufacturers Association
National Foreign Trade Council
National Pork Producers Council
National Tooling and Machining Association
Outdoor Power Equipment Institute, Inc.
Pet Food Institute
Precision Machined Products Association
Precision Metalforming Association
Shelf-Stable Food Processors Association
Truck & Engine Manufacturers Association
U.S. Wheat Associates

Cc.
The Honorable Robert Lighthizer, United States Trade Representative
The Honorable Wilbur Ross, The Secretary of the Department of Commerce of the United States The Honorable Gary Cohn, Director of the National Economic Council

**Testimony on behalf of Amgraph Packaging, Inc.**
**Before the Committee on Ways and Means**
**U.S. House of Representatives**
**April 4, 2018**

Hello and thank you for the opportunity to testify before the House Ways & Means Committee in response to President Trump's Section 232 tariffs on Aluminum. My name is Michael Higgins, and I am the Chief Operating Officer at Amgraph Packaging. Amgraph is a producer of flexible packaging, with a focus on sustainability, supplying food and pharmaceutical packaging to many well-known name brands. We are a family owned - family run business that employs about one hundred and ten hardworking Americans in our facilities along the east coast.

I am here to provide you with the perspective of someone who relies on imported aluminum foil to produce finished goods in the United States. A significant portion of our business is the conversion of aluminum foil into flexible packaging largely for food packaging and similar applications. Aluminum foil provides superior moisture and oxygen barrier properties and is preferred for our production process. Imported foil, especially from China, is crucial to our production process and interruptions in supply have proven extremely difficult to replace. I want to stress at the outset that when I say "extremely difficult to replace," I'm not referring simply to monetary considerations. The United States aluminum industry cannot provide the quality, gauge or quantity that my company and other flexible packaging manufacturers require to make a satisfactory product.

These tariffs have rendered Chinese aluminum foil unavailable, due to significant increase in cost. Since I will not be able to source the inputs I need in the United States, I will have to turn to alternative sources abroad from Korea, Indonesia or Europe, at an increased cost from what we were previously paying for foil. To maintain the stability of my Company I will try to pass on the increased costs to my customers. Increasing cost is not an ideal solution long term as it will impact our competitiveness in both global and domestic markets.

Our reliance on imported foil is driven by two primary concerns, access to adequate supply and quality. Seventy-eight percent of the foil my company purchases is .0003" ("ultra-thin") and below. We cannot source commercial volumes at that gauge of material in the United States. Only one mill in the United States can produce ultra-thin foil, however that mill cannot meet our supply demands. The remaining twenty-two percent of the foil we purchase ranges between .0007" to .001" gauges. We have attempted to source these gauges domestically but the quality of the product has been terrible. At one point we were rejecting one out of every two loads of foil from domestic producers in the triple .0007" gauge range. We have been in this business a very long time and know that that thickness should be relatively easy to produce, but the poor quality remained consistent and forced us, at great cost, to air freight foil from China to meet our production commitments. By contrast, over the past twelve years, with imports of fifteen million pounds, we have had zero defects from Chinese product - zero. Also significant, it is zero defects in the gauges that are more difficult to produce.

To provide you with a separate example, a domestic producer supplied my company with product, in the .0007" gauge range, that contained a surface contamination that ultimately resulted in a loss for Amgraph of approximately $200,000. We had a third party examine the issue and identify deficiencies at our foil supplier's mill. When we contacted the mill to discuss how we might remedy the situation, they told us that the product met the alloy specifications in the contract, and in their eyes that was all they were required to do. This example is one of many and highlights why my company is unwilling to trust or take a chance on United States Aluminum mills capable of producing foil in the gauges we require. I simply cannot rely on supply from domestic producers who cultivate the perception that they are unwilling to deliver a quality product to the market.

These are two sensational examples of problems with domestic supply. Day to day quality issues like tears during conversion result in extended periods of machine down time and costly cleanup. When we are laminating plastic to foil and the foil tears, molten plastic adheres to machine components rather than the foil. This results in down time and lost material, and often damage to our equipment requiring repair or replacement. Poor quality is costly.

To the extent that the domestic aluminum manufacturers are suffering, it is in my opinion that it is a failure on their part to invest the necessary capital to produce product of sufficient quality to meet the needs of United States customers. Under-investment has been prevalent for 10 years, and the suggestion that unfairly priced imports are the cause of the industry's woes strikes me as opportunistic.

Ultimately these tariffs will operate to protect one industry at the cost of many others. The flexible packaging industry alone directly employs 80,000 people and contributes approximately 30 billion dollars to the United States economy. Our industry consists of 419 companies in 45 states, and indirectly supports over 230,000 jobs nation-wide. We are a vibrant and growing segment of the American manufacturing economy. Access to raw materials is crucial, given the prevalence of that cost in the production process. Our industry provides goods that are essential to food supply chains and the pharmaceutical sector. Due to limited supply and inferior quality in the domestic industry my company will be compelled to continue to source overseas, often at a higher cost than a year ago.

Let me be honest with you. I would love nothing more than to buy American products for our foil requirements. I am a two-time combat veteran who has faith in the future of manufacturing in this country. These tariffs will not incentivize my company to purchase foil domestically. Instead, these tariffs jeopardize both my ability to compete against foreign packaging importers and my industry's ability to grow, thrive and contribute to the health of the domestic economy.

Thank you.

Donald B. Cameron, Jr.
202-216-4811
dcameron@mmmlaw.com
www.mmmlaw.com

R. Will Planert
202-216-4819
wplanert@mmmlaw.com
www.mmmlaw.com

MORRIS, MANNING & MARTIN, LLP

Julie C. Mendoza
202-216-4817
jmendoza@mmmlaw.com
www.mmmlaw.com

Brady W. Mills
202-216-4116
bmills@mmmlaw.com
www.mmmlaw.com

William H. Barringer
202-216-4108
wbarringer@mmmlaw.com
www.mmmlaw.com

March 21, 2018

**VIA EMAIL**
Chairman Kevin Brady
United States House Committee on Ways and Means
1102 Longworth HOB
Washington, DC 20515
waysandmeans.submissions@mail.house.gov

**Re: Section 232 Duty on Steel Imports - Product Exemption for Grade 1078 and Above Wire Rod for Tire Cord**

Dear Chairman Brady,

This letter is filed on behalf of Bekaert Corporation, Kiswire America, and Tokusen USA concerning the issue of 1078 and above wire rod for tire cord (imported under HTS 7213.91.30.11) and the Section 232 duty on steel imports. Stated simply, U.S. wire rod producers are incapable of producing 1078 and above grade wire rod to produce tire cord because that grade of wire rod must be produced in blast furnaces to achieve the strength cleanliness and other properties necessary to draw the wire rod to tire cord dimensions. All three of our companies produce tire cord in the United States for U.S. tire manufacturers – but without access to imported wire rod of grade 1078 and above, our mills will not be able to produce tire cord and they will be shut down. Indeed, because of the anticipated 232 duties, these companies have cut back on expansion plans and, in one case, already closed an operating facility resulting in lost jobs to U.S. workers.

The U.S. Department of Commerce acknowledged this problem with respect to tire cord. In its discussion of the difference between Electric Arc and Basic Oxygen Furnace production in the 232 Report, the Commerce Department stated as follows with respect to high carbon wire rod required to produce tire cord:

> A further reduction in domestic basic oxygen furnace capacity would put the United States at serious risk of becoming dependent on foreign steel to support its critical industries and defense needs. . . . This is not a hypothetical situation. The Department of Defense already finds itself without domestic suppliers for some particular types of steel used in defense products, **including tire rod steel used in military vehicles and trucks**."

*The Effects of Imports of Steel on the National Security*, U.S. Dep't of Commerce (Jan. 11, 2018) (hereinafter "*Section 232 Report*") at 45-46 (emphasis added) (citation omitted).

This was also testified to by Tracey J. Norberg, Senior Vice President and General Counsel of the U. S. Tire Manufacturers Association. *Section 232 Report* at Appendix F, pp 96-99. Yet no product exclusions were announced with the Proclamation.

Inexplicably, the Administration's approach has been to exclude tire cord from the Section 232 duties, but not the wire rod used to produce tire cord. This, despite the fact that there is extensive U.S. production of tire cord, but there is virtually no domestic production of 1078 and above wire rod, meaning that domestic tire cord manufacturers are dependent on importing wire rod as the feed stock for their production. This perverse policy virtually guarantees the disappearance of most, if not all, U.S. tire cord capacity as the U.S. tire cord producers must pay a 25% duty on their imports of wire rod needed to produce tire cord in the United States while tire cord produced outside the United States continues to enter free of Section 232 duties. Thus, good high paying U.S. jobs in the tire cord industry will be eliminated, while all of this production will be transferred to overseas manufacturers.[1] At the same time, the U.S. tire manufacturers will become more dependent on imports of tire cord for

[1] A list of affected production facilities and U.S. manufacturing jobs is attached.

manufacturing tires, including those used in national defense applications, such as tires for military aircraft. These consequences are all the exact the opposite of the President's objective in imposing the Section 232 duties. U.S. jobs will be lost, not created, foreign suppliers will gain a competitive advantage in supplying the U.S. tire market, and the production of important national defense products will become more dependent on imports.

We understand that the U.S. Department of Commerce has established an exemption process for dealing with short supply issues. That process, however, is not a sufficient remedy for addressing the perverse incentives that have been created in this instance – where U.S. producers of tire cord must pay Section 232 duties on wire rod that is not available from U.S. producers while their foreign competitors already have an exclusion from Section 232 duties. Simply put, the U.S. tire cord producers cannot afford to wait 90 days or longer for relief from this disastrous policy inversion. As mentioned above, one U.S. producer has already idled production due to the Section 232 duties. In addition, because exclusions must be renewed annually, the U.S. tire cord producers will be reluctant to make long term investments when a supply of feedstock is only guaranteed short term.

In view of the these facts, urgent, expedited action is needed to put U.S. tire cord producers on a level playing field with their foreign competitors by providing an immediate, permanent exclusion from Section 232 duties for 1078 and above grade wire rod used to produce tire cord in the United States.

This 232 process is been flawed from conception, and in the case of tire cord and wire rod used to produce tire cord, the process is deteriorated even further.

Please contact the undersigned if you have any questions regarding this matter.

Respectfully submitted,

Donald B. Cameron
Julie C. Mendoza
R. Will Planert
William H. Barringer

# ATTACHMENT

## List of Affected Production Facilities and U.S. Manufacturing Jobs

### Bekaert Corporation

Bekaert operates five plants in North America. The two largest plants are in Rogers and Van Buren, AR employing nearly 900 workers.

The tire manufacturers have been or are in the process of investing $6 billion in new capacity in North America, particularly in the US. An unstable trade environment does not attract investment. On the contrary, Bekaert Rogers was planning a $29 MIO expansion that would have increased tire cord production capacity by 50% and add over 100 new jobs. This project was put on hold when the Section 232 investigation was initiated.

### Kiswire America

Kiswire America has two steel cord plants in the United States. The plant in Pine Bluff, Arkansas employs 320 employees and has 35,000 MT annual capacity. The plant in Newberry, South Carolina employs around 150 employees and has 15,000 MT annual capacity. The Newberry plant was going to expand to 35,000 MT capacity and employ an additional 150 employees, but those plans are now cancelled due to the section 232 duty.

### Tokusen USA

Tokusen USA's plant is located in Conway, AR, employs 330 employees, and has 40,000 MT annual capacity.

**U.S. House of Representatives**
**Committee on Ways and Means**
**Hearing with Commerce Secretary Ross**
**March 22, 2018**

**Introduction**

Bemis Company, Inc. ("Bemis"), a manufacturer of packaging headquartered in Neenah, Wisconsin, has concerns about the negative consequences that will result from additional tariffs being placed on imports of aluminum foil used for flexible packaging. Bemis believes that aluminum foil used in manufacturing flexible packaging in the United States (specifically, 7607.11.30, 7607.11.60, 7607.11.90, and especially 7607.19.60 of the Harmonized Tariff Schedule of the United States) should be excluded from the Section 232 tariffs to avoid a punitive impact on this U.S. industry. Based on the March 15, 2018 ITC ruling, aluminum foil imports from China are already subject to AD and CVD duties ranging from 55.13-126.07%.

Additional tariffs on aluminum foil, and especially the ultra-thin foil used in flexible packaging, will negatively affect our business in the United States, given that (1) there is not adequate capacity in the United States to meet our quantitative and qualitative needs, and (2) our products compete with imported packaging that would not be covered by any measure impacting foil imports. Accordingly, Bemis respectfully submits that aluminum foil should be excluded from all actions resulting from the Section 232 investigation of national security effects of aluminum imports.

**Bemis, its products and its employment**

Bemis manufacturers packaging for the largest food, consumer products, and medical device companies in the world. Though we are not a household name, our products are found in virtually every aisle of the grocery store. Our products keep the food you buy safe and fresh through distribution and keep patients safe during surgery. At year-end 2017 Bemis had 57 facilities in 12 countries and about 16,500 employees worldwide. Within the United States, Bemis had 31 manufacturing plants in 14 states and almost 9,000 employees, 5,000 of those in Wisconsin. The states with the largest number of Bemis employees are Wisconsin, Indiana, Ohio and Pennsylvania.

As a core part of its packaging business, Bemis uses aluminum foil as a barrier to light, oxygen, moisture, and bacteria to protect the food and medical supplies that go into our packaging. Without aluminum foil, many food and medical products would be less safe and subject to higher waste through distribution. While Bemis sources a significant percentage of its aluminum foil in the United States, there is only one domestic producer of foil for flexible packaging, and that firm's entire capacity is not enough to supply Bemis' annual requirements.

A large portion of Bemis' foil requirements are for ultra-thin foil in gauges less than 0.0003 inches thick. Such ultra-thin foil is used for applications such as ketchup packets, cream cheese packaging, powdered food and beverages, and medical device packages. We source the majority of our thicker foil requirements domestically, but must import the majority of our foil below 0.0003" because domestic equipment supplying the packaging market, dating to the 1970's and earlier, is incapable of efficiently producing the quality we require for ultra-thin foil. We are unable to use the thinner gauges from domestic suppliers on our newer, high speed equipment because it results in high waste, reduced efficiencies, significant downtime, and unacceptable quality. As such, Bemis has been required to source this key material from offshore suppliers.

**Restricting imports will negatively impact U.S. jobs and increase prices to consumers**

As previously mentioned, we are already facing duties on aluminum foil imports from China ranging from 55.13-126.07%. Adding an additional 10% tariff on top will only further increase costs and will not change the amount of aluminum foil that is imported from China. Bemis cannot absorb these increased costs from tariffs and duties and has no choice but to pass them on to our customers who will ultimately pass them on to consumers.

Bemis understands the importance of, and fully supports protecting U.S. manufacturing jobs. The U.S. flexible packaging industry is a $30 billion industry employing an estimated 80,000 U.S. workers. However, many of Bemis' aluminum foil containing products compete with suppliers of packaging from outside the U.S. The higher costs resulting from tariffs and duties on aluminum foil could open the door to imports of packaging or finished products that don't face the same tariffs and duties resulting in a potential loss of market share for Bemis, other domestic packaging producers, or our customers, and potentially lead to lower employment.

During the AD/CVD hearings on imports of Chinese foil, domestic foil producers stated that they had idle capacity available and could create jobs if only they didn't have to compete with low priced imports from China. CVD have been in place since August 2017, and AD since November 2017, and despite the foil producer's assertions that they have idle capacity ready to serve, no new capacity has been made available to the packaging industry. Over the past six months the lone domestic supplier of foil for flexible packaging has increased its prices, extended its lead-times, and limited the amount of foil available to its customers. We have no choice but to pursue alternatives to Chinese foil from outside the U.S.

Finally, packaging foil is not made from military grade, high purity aluminum. We are not aware of any significant defense production needs for aluminum packaging foil. We respectfully submit that the Section 232 tariffs should not apply to imports of aluminum foil for packaging as the result will be grave consequences to the domestic manufacturing facilities of Bemis, other packaging producers, and our customers with no increase in defense security.

Respectfully submitted,

Bemis Company, Inc.
2301 Industrial Dr, PO Box 669
Neenah, WI 54956
www.bemis.com

Tom Salmon
CEO
Berry Global, Inc.
101 Oakley Street
Evansville, IN 47710
Tel. 812-424-2904
Fax. 812-250-0813

Letter for the Record of the U.S. House of Representatives Committee on Ways and Means Hearing on Trade Matters within the Department of Commerce's purview.

Berry Global, Inc. ("Berry") is writing to express our concerns about the recently imposed Section 232 tariffs on aluminum foil. Berry uses significant amounts of ultra-thin gauge aluminum foil and is being negatively affected by the imposition of the Section 232 tariffs.

The tariffs being imposed under Section 232 of the Trade Expansion Act of 1962 (19 U.S.C. §1862) are intended to support domestic production of items to address national security concerns. While we believe national security should remain a priority, these tariffs are being implemented in a haphazard and chaotic manner, which is further complicated by the application of multiple exemptions. This diminishes the intent and makes these tariffs in effect a misappropriated tool to negotiate trade concerns, specifically with China, who is not a key supplier of aluminum or steel to the U.S.

While Berry supports efforts to protect U.S. jobs and U.S. national security, we believe that such measures must consider the impact upon all sectors of U.S. industry and be limited in scope to address their specific objectives.

Berry is a large user of aluminum foil in many of its products, including adhesive tapes, food packaging, and pharmaceutical packaging closure systems. The aluminum products for which there is limited or non-existent US production have been included in the scope of the Section 232 action. Ultra-thin foil, which accounted for less than one percent of all US producers' shipments in 2016 and is a key manufacturing input for Berry, is subject to these tariffs. We are unable to identify and secure sufficient supply for this product in the US and are therefore being forced to import ultra-thin foils at an arbitrarily higher price due to the Section 232 tariffs.

Any trade action taken in the name of protecting U.S. national security should have considered the breadth of its impact. Aluminum foil imports necessary for the packaging industry but without application in the national defense industry should be excluded from the scope of the Section 232 action.

Berry and the Flexible Packaging Association, a trade organization representing Berry and other flexible packaging companies, share the same goal as the domestic aluminum producers, that of more American jobs. However, we cannot support trade actions that do not positively influence both the U.S. aluminum manufacturers and the $30 billion U.S. flexible packaging industry which employs 80,000 workers. We believe that all U.S. industry wins where there is fair trade and we support finding ways to work together to improve our country's competitiveness.

epic.org

Electronic Privacy Information Center
1718 Connecticut Avenue NW, Suite 200
Washington, DC 20009, USA

+1 202 483 1140
+1 202 483 1248
@EPICPrivacy
https://epic.org

March 20, 2018

The Honorable John Culberson, Chairman
The Honorable José Serrano, Ranking Member
U.S. House Committee on Appropriations
Subcommittee on Commerce, Justice, Science, and Related Agencies
H-305, The Capitol
Washington, DC 20515

Dear Chairman Culberson and Ranking Member Serrano:

We write to you regarding the FY19 Budget Hearing for the Department of Commerce[1] and the critical issue of privacy protection, perhaps the most important issue that the Secretary of Commerce will confront over the next several years.

EPIC is a public interest research center established in 1994 to focus public attention on emerging privacy and civil liberties issues.[2] EPIC is a leading advocate for consumer privacy and has appeared before this Committee on several occasions, and has actively participated in the proceedings of the Federal Trade Commission ("FTC") and the Federal Communications Commission ("FCC").[3]

American consumers face unprecedented privacy and security challenges. The unregulated collection of personal data has led to staggering increases in identity theft, security breaches, and financial fraud in the United States.[4] The recent Equifax data breach that exposed the personal information of more than 145 million Americans is the latest in a growing number of high-profile hacks that threaten the privacy, security, and financial stability of American consumers. Far too many organizations collect, use, and disclose detailed personal information with too little regard for the consequences.

---

[1] *FY19 Budget Hearing - Department of Commerce*, 115th Cong. (2018), H. Comm. on Appropriations, Subcomm. on Commerce, Justice, Science, and Related Agencies, https://appropriations.house.gov/calendar/eventsingle.aspx?EventID=395131 (Mar. 20, 2018).

[2] *See* EPIC, *About EPIC*, https://epic.org/epic/about.html.

[3] *See, e.g,* Marc Rotenberg, EPIC Executive Director, Testimony before the U.S. Senate Committee on Commerce, Science, and Transportation, Commerce Committee, *Internet Privacy and Profiling* (June 13, 2000), https://epic.org/privacy/internet/senate-testimony.html; Letter from EPIC to the U.S. Senate Committee on Commerce, Science, and Transportation on Oversight of the FTC (Sept. 26, 2016), https://epic.org/privacy/consumer/EPIC-Letter-Sen-Comm-CST-FTC-Oversight.pdf; Letter from EPIC to the U.S. House of Representatives Committee on Energy and Commerce on FCC Privacy Rules (June 13, 2016), https://epic.org/privacy/consumer/EPIC-FCC-Privacy-Rules.pdf.

[4] Fed. Trade Comm'n, *Consumer Sentinel Network Data Book* (Feb. 2016), https://www.ftc.gov/system/files/documents/reports/consumer-sentinel-network-data-book-january-december-2015/160229csn-2015databook.pdf.

Secretary Ross must back strong privacy safeguards for American consumers. At this time, the FTC is simply not doing enough to safeguard the personal data of American consumers. The FTC's privacy framework – based largely on "notice and choice"– is simply not working. Research shows that consumers rarely read privacy policies; when they do, these complex legal documents are difficult to understand. And companies remain free to changes the terms and conditions whenever they wish. Nor can industry self-regulatory programs provide meaningful privacy protections without enforceable legal standards.

Even when the FTC reaches a consent agreement with a privacy-violating company, the Commission rarely enforces the Consent Order terms.[5] Just this week, we learned that the FTC's failure to enforce a 2011 Consent Order with Facebook has resulted in the unlawful transfer of 50 million Facebook user records to a controversial data mining firm to influence the 2016 U.S. presidential election.[6] The 2011 Facebook Order was the result of an extensive complaint filed by EPIC and a coalition of consumer organizations in 2009, following Facebook's repeated changes to its privacy settings that overrode user preferences and allowed third parties to access private information without users' consent.[7] The FTC has an obligation to the American public to ensure that companies comply with existing Consent Orders. It is unconscionable that the FTC allowed this unprecedented disclosure of Americans' personal data to occur. The FTC's failure to act imperils not only privacy but democracy as well.

EPIC has also repeatedly warned the FTC that it has an affirmative duty to undertake a review of substantial changes in business practices of a company subject to a consent order that implicates the privacy of Internet users.[8] The FTC's apparent failure to pursue such review has led to a downward spiral in the protection for American consumers.

The FCC must also do more to safeguard American consumers. Last year, in the context of a public rulemaking, EPIC urged the FCC to adopt comprehensive privacy rules that would apply to both Internet Service Providers ("ISPs") and so-called "edge" providers, such as Google and Facebook, that dominate much of the Internet economy.[9] However, the FCC adopted a modest rule that only applied to ISPs and that rule was subsequently repealed by Congress, with the support of the current FCC Chairman Ajit Pai. Instead of moving forward to safeguard consumers, the FCC is moving backwards, leaving users of new communications services exposed to unprecedented levels of identity theft, financial fraud, and security breaches.[10]

---

[5] *See EPIC v. FTC*, No. 12-206 (D.C. Cir. Feb. 8, 2012).

[6] Craig Timberg, et al., *U.S. and European Officials Question Facebook's Protection of Personal Data*, Washington Post, (Mar. 18, 2018), https://www.washingtonpost.com/business/economy/us-and-european-officials-question-facebooks-protection-of-personal-data/2018/03/18/.

[7] EPIC, et al, In the Matter of Facebook, Inc. (Complaint, Request for Investigation, Injunction, and Other Relief) (Dec. 17, 2009), https://epic.org/privacy/inrefacebook/EPIC-FacebookComplaint.pdf.

[8] Letter to Acting FTC Chair Maureen Ohlhausen, "FTC 2017: 10 Steps for Protecting Consumers, Promoting Competition and Innovation" (Feb. 15, 2017) ("*1. The FTC Must Enforce Existing Consent Orders"*), https://epic.org/privacy/internet/ftc/EPIC-et-al-ltr-FTC-02-15-2017.pdf

[9] EPIC Statement, *FCC Overreach: Examining the Proposed Privacy Rules*, hearing before the House Committee on Energy and Commerce, Subcommittee on Communications and Technology, Jun. 13, 2016.

[10] Federal Trade Comm'n, *Consumer Sentinel Network Data Book*, Mar. 2017, https://www.ftc.gov/system/files/documents/reports/consumer-sentinel-network-data-book-january-december-2016/csn_cy-2016_data_book.pdf.

Of particular urgency for Secretary Ross is the "Privacy Shield," which permits the flow of data on European consumers to firms located in the United States that would otherwise be subject to European privacy law. EPIC and many others are concerned about the adequacy of the Privacy Shield and the protection of consumer data.[11] Without more substantial reforms to ensure protection for fundamental rights of individuals on both sides of the Atlantic, the Privacy Shield will put users at risk and undermine trust in the digital economy. There is also a growing sense that European leaders may simply withdraw from the transborder data sharing arrangement if certain steps are not taken:

- Appoint the Privacy Shield "ombudsman" at the Department of Commerce
- Reform Section 702 surveillance authority
- Stand up the privacy and Civil Liberties Oversight Board with five commissioners
- Stand up the Federal Trade Commission with five commissioners
- Limit excessive data gathering and surveillance at the border

The United States must commit to protecting the data privacy of both US-persons and non-US-persons in order to protect users and instill trust in the digital economy.[12]

Secretary Ross should make clear his commitment to a comprehensive approach to data protection, based in law. If he fails to do this, there is a real risk that the transatlantic flow of personal data will be disrupted, and consumer privacy, as well as business opportunity and innovation will suffer. *He should be asked specifically about the US efforts to uphold Privacy Shied.*

We ask that this letter be submitted into the hearing record. EPIC looks forward to working with the Subcommittee on Commerce, Justice, Science, and Related Agencies on this issue.

Sincerely,

| | |
|---|---|
| /s/ *Marc Rotenberg*<br>Marc Rotenberg<br>EPIC President | /s/ *Caitriona Fitzgerald*<br>Caitriona Fitzgerald<br>EPIC Policy Director |
| /s/ *Sam Lester*<br>Sam Lester<br>EPIC Consumer Privacy Fellow | /s/ *Sunny Kang*<br>Sunny Kang<br>EPIC International Consumer Counsel |

[11] *See, e.g.*, Testimony of Marc Rotenberg, EPIC Executive Director, Testimony before the U.S. House of Representatives Energy & Commerce Comm., *Examining the EU Safe Harbor Decision and Impacts for Transatlantic Data Flows* (Nov. 3, 2015), https://epic.org/privacy/intl/schrems/EPIC-EU-SH-Testimony-HCEC-11-3-final.pdf.

[12] *See, e.g.*, Letter from EPIC, et al., to Article 29 Working Party Chairman Isabelle Falque-Pierrotin, et al., on Privacy Shield (Mar. 16, 2016), https://epic.org/privacy/intl/schrems/Priv-Shield-Coalition-LtrMar2016.pdf.

Flexible Packaging Association
Connecting. Advancing. Leading.

185 Admiral Cochrane Drive
Suite 105
Annapolis, MD 21401

Tel (410) 694-0800
Fax (410) 694-0900

www.flexpack.org

**Flexible Packaging Association (FPA)**

**Statement for the Record**

**House Ways and Means**
**Hearing on U.S. Trade Policy Agenda**
Wednesday, March 21, 2018
**and**
**Hearing with Commerce Secretary Ross**
Thursday, March 22, 2018

My name is Alison Keane, and I am President and CEO of the Flexible Packaging Association (FPA). FPA is the voice of U.S. manufacturers of flexible packaging and their suppliers. The association's mission is connecting, advancing, and leading the flexible packaging industry. Flexible packaging represents over $30 billion in annual sales in the U.S. and is the second largest and one of the fastest growing segments of the packaging industry. The industry employs over 80,000 workers in the United States. Flexible packaging is produced from paper, plastic, film, aluminum foil, or any combination of these materials, and includes bags, pouches, labels, liners, wraps, rollstock, and other flexible products. With respect to aluminum foil, this packaging includes everyday food and beverage products such as candy, salty snacks, yogurt, and beverages; as well as health and beauty items and pharmaceuticals, such as aspirin, shampoo and shaving cream. Aluminum foil provides the barrier protection from oxygen, light and bacteria that these products need to ensure stable shelf-life and freshness. Aluminum foil is also used by the flexible packaging industry for medical device packaging to ensure that the products packaged, such as absorbable sutures, human tissue, and artificial joints, maintain their efficacy at the time of use.

This Section 232 investigation, that was initiated under the Trade Expansion Act of 1962, was to determine what, if any, effects imports of aluminum have on national security. FPA is not aware of any impacts aluminum foil imports for use in the packaging industry has on U.S. national security and the Department of Commerce Report entitled "Effects of Aluminum Imports on the National Security," (Report) did not specify any. FPA supports efforts to protect domestic manufacturing and ensure national security, however, these efforts must consider the impact and consequences on all U.S. manufacturing industries, and the recently imposed 10% tariff on aluminum imports does not. Aluminum foil imports necessary for the packaging industry, and without application for national defense, should have been excluded from the tariffs. In its investigation, the Administration was to consider a range of factors related to national security, including the economy and the effects of foreign competition on the economic welfare of domestic industries, including impacts on employment. However, this does not appear to have been the case. These import restrictions on aluminum will have a significant negative impact on the flexible packaging industry and its employment in the U.S with regard to aluminum foil converting.

FPA was pleased to see that one aspect of the Report was adopted in the Administration's proclamation instituting the aluminum tariffs – the process for exclusions from the tariffs "upon request of affected parties if the steel or aluminum articles are determined not to be produced in the U.S. in a sufficient and reasonably available amount or of a satisfactory quality or based upon specific national security considerations." However, according to the direct-final regulations implementing the exclusionary process (83 FR 12106, March 19, 2018), trade organizations, such as FPA, can not petition on behalf of their respective members, even though our members would all be making the same request – that aluminum foil is exempted as it is not make domestically in the quantities and quality needed for the packaging industry. Many manufacturers, particularly small businesses, rely on their trade associations to assist them in responding and negotiating solutions to government regulations. By not allowing trade associations to file on behalf of their industries, this rule is encouraging excessive and duplicative filings and will disproportionately impact small businesses. And, the tariffs went into effect on March 23, 2018, when the earliest possible date Commerce could grant an exclusion would be May 18, 2018, when the exclusions will "generally" be approved. So, there is no guaranteed timeframe in which petitioners will know whether or not their petition has been approved and they will have already been paying the tariff for at least 90 days. The damage to U.S. flexible packaging jobs may very well already be done after 90 days of this tariff, and once again, this process will certainly disproportionately disadvantage small converting businesses that cannot afford to front these costs.

Further, there is little to no clarity on the petition process from the rule. Commerce must supply FAQ's answering such questions as how confidential business information (CBI) can be submitted. Right now, there is simply a check box on the form where businesses can state that they have CBI information and there is no indication of the process for submitting such; whether or not the petition is incomplete without the information and if so, what the timeline for completion would be; nor if the arbitrary 25-page limit of the petition includes or does not include this CBI. Similarly, the rule states that Commerce may approve a broader exclusion request to apply to multiple similarly situated importers but gives absolutely no information on how groups of companies can apply for this broader exclusion. Again, as trade associations such as FPA, do not "use aluminum in business," we can not file on behalf of multiple companies. If a product exclusion is granted because it is not manufactured domestically in quantities and quality necessary for the industry – why wouldn't that exclusion be granted to all users of the product? Lastly, the exclusion process, if granted, would only be applicable for one-year. Will companies have to petition for the exclusion every year? If the product is not available domestically now, why does Commerce believe it will be available next year, or the year after, or ever? It should not be up to individual companies to prove to the Administration that these products do not exist domestically, this should have been part of Commerce's analysis before instituting the overly broad tariff in the first place. Even if the domestic aluminum foil suppliers guaranteed to start making the aluminum foil gauges flexible packaging manufacturers need tomorrow – it would take several years for the mills to produce the quantity and quality of the foil our companies need. Further, under Federal Food and Drug Administration regulations, substitution of the foil substrate could take two to ten years for approval, depending on use in packaging for food or medical devices.

FPA is also concerned about the lack of transparency with regard to the Section 232 remedy and the process Commerce will use to monitor and report on its effects. As stated above, while the investigation was supposed to take into consideration the effects of foreign competition on the economic welfare of domestic industries, including impacts on employment; the Report failed to address downstream industries dependent on aluminum or steel. How will Commerce monitor and report on the effect of this tariff on the primary manufacturers of aluminum in the U.S.; let alone downstream industries, which were ignored in the Report? Commerce must be accountable to show the impacts to all affected industries and ultimately work towards alleviating the devastating impacts of these tariffs on downstream users of aluminum products and mitigating the burdensome and unnecessary paperwork this exclusionary process would apparently mandate on an annual basis.

The Section 232 investigation and proposed remedy is paralleling an International Trade Commission (ITC) investigation and remedies for Chinese aluminum foil imports. Thus, FPA members are being penalized twice – first with the ITC anti-dumping and countervailing duties that in some cases exceed 140%, and then with the new 10% tariffs on other imports of aluminum foil, which are applied on top of the duties already in place. The consequences of the tariff under this investigation, combined with the duties from the ITC probe, , is the loss of flexible packaging jobs in the U.S. The negative impact on American jobs by cutting off the supply of aluminum foil for flexible packaging manufacturing will far outweigh any job benefits that are envisioned by the ITC and Section 232 taxes. These duties and tariffs are leading to U.S. companies sourcing aluminum foil from other non-U.S. manufacturers at a much higher cost; Chinese suppliers of printed or otherwise converted aluminum foil products entering the U.S. market, since this bypasses the duties; and/or U.S. companies moving flexible foil packaging production outside the U.S., thereby reducing the amount of U.S. foil converting jobs. There is simply no scenario where the benefits to the U.S. aluminum manufacturers outweighs the detriment to the U.S. flexible packaging industry.

Aluminum foil used by the flexible packaging industry is not manufactured in the U.S. in the quantities and qualities needed. Failure to invest, and quality lapses, including gauge, width, and lack of appropriate alloys all contribute to the fact that the U.S. producers of aluminum foil are not able to serve the U.S. flexible packaging industry. In fact, the ITC, at its preliminary hearing on March 30, 2017, found that domestic ultra-thin foil production "may be limited or nonexistent." Thus, the packaging industry in the U.S. should be granted an exclusion for aluminum foil imports from the Section 232 tariff. Since FPA is not eligible to petition on their behalf, Commerce should recognize the broad-based exclusion the rule mentions to reduce the repetitive and burdensome petitions it will received with regard to this foil for flexible packaging manufacturers.

FPA shares the same goal as the domestic aluminum foil producers who want more American jobs and understands the importance of protecting national security. This tariff is not the answer. The Administration should find ways to work together to improve our country's competitiveness. Everybody loses in unfair trade cases, especially the American consumer.

Thank you.

March 22, 2018

Hon. Kevin P. Brady
Chairman
Committee on Ways and Means
Washington, DC 20515

Hon. Richard E. Neal
Ranking Member
Committee on Ways and Means
Washington, DC 20515

Dear Chairman Brady and Ranking Member Neal:

The associations submitting this letter request that our comments be included in the record for the hearing held on March 22 with Commerce Secretary Wilbur Ross. Our specific comments relate to the Section 232 tariffs recently imposed on steel imports, and the impact these new tariffs will have on the entire energy sector, including pipelines.

National security requires pipelines to deliver the energy America needs, and pipelines require specialty steel products not always available in sufficient quantities and specifications from domestic manufacturers. Pipeline projects create construction jobs, bring affordable energy to millions of American consumers, and support American energy production.

For oil and natural gas pipelines, federal safety requirements and industry standards require steel specifications beyond those commonly used in other markets, such as automobiles or building materials. Pipeline-quality steel also is a niche market representing only about three percent of the total U.S. market for steel. Because this type of steel is more expensive and time-consuming to make, domestic producers largely have exited this market, leaving the U.S. with limited productive capacity for this product. In particular, domestic capacity is insufficient to meet the anticipated demand for large-diameter and/or thick-walled pipe that operators use to construct pipelines. For certain steel products, there is zero domestic availability today. To further support our concerns, we would like to submit the ICF study *Feasibility and Impacts of Domestic Content Requirements for U.S. Oil and Gas Pipelines* that was filed with the Department of Commerce in May 2017. The bottom line is that imports of both pipeline-quality steel, and pipe products, are necessary for timely construction of the new pipeline infrastructure needed to link natural gas and oil producers with industrial, power generation and residential customers.

Pipelines put Americans to work. Already, 75 percent of spending on a pipeline project ends up in the hands of American workers and businesses. A typical 300-mile pipeline project would generate approximately $1.8 billion in U.S. worker compensation and domestic spending. Tariffs that include pipeline steel will delay or reduce that $1.8 billion benefit. Pipeline projects are also vital to national security. Because of insufficient pipeline capacity, certain areas of our country continue to rely on imported fuels to meet basic energy needs. As you weigh important concerns about broad steel market issues, we urge caution because American energy jobs depend on specialty pipeline steel products.

We urge policymakers to broaden allowed product exclusions and country exemptions from the new tariffs to increase application efficiency, consider existing anti-dumping and countervailing duties on covered products, and consider pre-existing purchasing and procurement agreements, for steel products needed for energy production, processing, refining, transportation, and distribution. Failing to do so will threaten American energy workers and consumers. We appreciate the Commerce Department's commitment to review exclusion requests promptly through the process published in the Federal Register earlier this week. We are concerned, however, that failure to allow broader exclusions – and instead require each company to apply for product-specific exclusions – could result in delays and uncertainty.

Sincerely,

Andrew J. Black
President and CEO
Association of Oil Pipe Lines

Donald F. Santa
President and CEO
Interstate Natural Gas Association of America

Mark Sutton
President and CEO
GPA Midstream Association

Toby Mack
President and CEO
Energy Equipment and
Infrastructure Alliance

Dena Wiggins
President and CEO
Natural Gas Supply Association

Charlie Riedl
Executive Director
Center for LNG

Jack Gerard
President and CEO
American Petroleum Institute

Barry Russell
President and CEO
Independent Petroleum Association of America

**Statement of Richard Woldenberg on Possible Chinese Toy Tariffs**

**Submitted to the**
**House Committee on Ways and Means**
**The United States House of Representatives**

**March 20, 2018**

My name is Richard Woldenberg, and I am CEO of Learning Resources, Inc. located in Vernon Hills, Illinois. I am submitting this testimony on behalf of our company. Our company is a family business which develops and markets educational products and educational toys in the United States and dozens of other countries. We outsource the manufacturing of our products overseas, and as a result, we are a significant importer (of our own products) into the United States. Many of our products are made in China under our control.

We have grave concerns about reports that the President intends to impose high tariffs on toys made in China by the end of March. The imposition of tariffs on toy imports is completely unrelated to allegations of Chinese theft of intellectual property and forced technology transfers in other industries, and is rife with risk and unintended consequences. Our industry is highly dependent on China as a manufacturing hub, and thus an easy target in trade disputes with China. I fear that the future of our company, and the many jobs we provide, are at stake here. We are a small business under the Federal government definition and believe that the problems we will face under a harsh import tariff regime will be experienced by many other small business importers in the United States.

**Our Company**:

Learning Resources, Inc. (LR) was founded in 1984 and is located in Vernon Hills, Illinois and has about 150 employees in the U.S. and U.K. The company is part of our family business group which turned 100 years old in 2016; I am the third generation of my family to run this business, and we were proud to welcome the first member of the fourth generation into our business last year. LR develops and markets proprietary educational toys and materials in Vernon Hills but has manufactured most of its 1,200 products overseas since the late 1980's. Jobs at our company pay well, turnover is low and we are an important member of our community, injecting many millions of salary and benefit dollars into the local economy annually. In 2013 and again in 2016, LR tried and failed to find factories located in the United States interested in making our products. In other words, we know from recent experience that we have no realistic option to make our products in the United States, with or without the coercive pressure of tariffs. High tariffs will just shrink our business and impoverish our consumers.

**Toy Tariffs Will Hit the Wrong Target**:

*Our China factories are not State-owned*:

Our business largely depends on factory relationships in China. To my knowledge, we do not do business with any Chinese government-owned or controlled entities. The factories that we use are private businesses, typically family businesses like ours. These businesses are subject to law, and pay fair wages to make our products in a responsible manner. The factories are subject to Code of Conduct audits and certifications, and must also pass compliance audits by local authorities. The high quality products we make in our Chinese factories satisfy U.S. safety standards and other international safety standards. We do good business in China with good people.

Losses by our partner factories will hurt us. Our partners are hard working and honest people who do a great job making consumer goods for Americans to buy and enjoy. They do not have deep capital reserves, however. Their economic suffering at the hands of U.S. tariffs will come out of our pockets, in the form of higher costs, lost production capacity, ruined teams or forgotten know-how, weakened balance sheets and broken trust. When the President pushes Humpty Dumpty off the wall, we know he cannot be put back together again.

*Chinese enforcement of our property rights has been reliable*:

We have never experienced intellectual property theft by our factories. We register our intellectual property in China, as elsewhere, and rely on Chinese lawyers and Chinese courts to enforce our rights in our innovations. We have been successful in enforcing our rights in China, in part because of our legal ability to close the U.S. market to infringers. We are not confident we will have the same leverage when the President closes U.S. markets to all Chinese toy companies preemptively.

In fact, a greater issue in our business is the economic health of our factories, which can be shaky at times. We have seen factories go out of business, leaving our U.S. business endangered. In one notorious case, a big factory closed overnight, leaving our business exposed with many important proprietary molds in legal limbo. However, within a short period of time, a Chinese judge ruled in our favor in the local insolvency proceeding and allowed us to recover our molds in time for Christmas toy production. The Chinese judge's decision to uphold our property rights in the molds saved our holiday selling season. In our experience, Chinese courts and Chinese judges have been respectful of our property rights even though we come from another country.

*Our company has no realistic ability to move its supply chain to another country*:

We have business reasons for the assignment of products to specific factories, whether in the U.S. or in other countries. There are many considerations for these decisions. Based on our market knowledge, we locate our manufacturing in the most efficient way possible. We know of no other markets where we can get the range of services and skills necessary to make our products at the best possible cost. We have also made repeated attempts to develop a U.S.-based supply chain but cannot do so on any basis, even inefficiently. We have no known realistic alternative to our current supply chain.

Our products are used in American Schools:

Toy tariffs will harm American schools because many toy companies cross over into school supply. Notably, our company was formed to supply schools with hands-on learning tools in 1984. U.S. Customs regulations treat our educational products as "toys", which means that the cost of tariffs will force us to raise the cost of school products. The big losers will be poorly-equipped American schools, and the American families depending on them. This is yet another example of the self-destructive nature of import tariffs aimed at the wrong target.

Our industry is greatly weakened right now:

The demise of Toys R Us is a material event in the American toy industry. Not only did TRU have U.S. market share of 20-25%, leaving a huge hole for many companies in the wake of its liquidation, but it also played a special role in the market for the introduction of hot new toys. The absence of TRU from the marketplace removes a critical industry marketing vehicle, not to mention a brand ambassador and a critically important source of revenue. Notably, TRU inflicted massive losses on many toy companies in September 2017 when it sought Chapter 11 bankruptcy protection, and again in March 2018 when it announced plans to fully liquidate. This was a kind of a "Double Indemnity" event for the toy industry. Adding tariffs at this time will devastate the health of an already weakened American toy industry employing hundreds of thousands of Americans.

The vast majority of imports are made by Small Businesses:

It is well-known that 97% of U.S. importers are Small Businesses (U.S. Census data, 2014). The average import value per annum per congressional district is about $1.5 billion from Small Business alone. The annual import value (2015) for the U.S. Small Business community was a very healthy $631 billion (https://www.census.gov/foreign-trade/Press-Release/edb/2015/exh1d.pdf). Toy tariffs will certainly be a Small Business tax. According to the U.S. Census Bureau, there were more than 191,000 small business importers in 2015 in the United States. Toy tariffs will put many small business jobs at risk and there should be no presumption that those jobs will come back if Mr. Trump later reverses course.

**Just Because We Start a Fight Doesn't Mean We Will Have the Power to End it**:

The effect of toy tariffs is unknown and may be irreversible:

Our industry has never experienced high tariffs. The burden of toy tariffs was last felt in the early 1990's and the removal of those small tariffs led to dramatic industry growth. In that same time period, retail prices have fallen on an adjusted basis while innovation has skyrocketed. It is reasonable to assume that high tariffs will sharply reverse that progression. The cost of tariffs will have to be passed on to American consumers, and the financial burden of the tariffs will drain cash availability at victimized toy companies. The outcome of this grand trade experiment cannot be foretold but it is certainly not going to be pleasant. Jobs lost because of this ill-considered policy may never return. The historic lessons of Smoot-Hawley need to be taken seriously.

Retaliation may leave a permanent mark on certain industries owing to lack of trust:

The imposition of tariffs on our industry has no precedent. No one has a plan to deal with it, and our factories will immediately become financially sick. Under these circumstances, when the U.S. government demonstrates a willingness to act capriciously and unpredictably, trust can be forever damaged. Who will be willing to invest in reliance on prevailing trade practices after that? We will have to deal with this externality for years to come. That's a cost we will never get back.

Retaliation will be followed by reinvigorated foreign competition:

The likelihood of retaliation for high tariffs is great. Market access removed because of aggressive trade actions may cede market control to foreign competition. As everyone knows, it's easier to retain a customer than to win one back. The government is playing with our life's work with these tariffs, and the future is murky. We will have no control over the removal of measures taken in response to the President's provocative tariff plan.

**Conclusion**:

Regardless of the justifications supporting toy tariffs, no one is going to miss the point that costs are going to skyrocket. In the wake of tax reform designed to improve corporate competitiveness, the high toy tariffs will come as a shock to an unsuspecting corporate community preparing for expansion. The voters' anger will only mount as job losses pile up and prices rise.

There must be another, better way to fix trade imbalances with China, and it is Congress' responsibility to find it. Thank you for considering my views.

MillerCoors
A MOLSON COORS COMPANY

**House of Representatives Committee on Ways and Means**
**Hearing with Commerce Secretary Ross**
**Statement of Gavin Hattersley – Chief Executive Officer of MillerCoors**
**Hearing Date: March 22, 2018**

Chairman Brady and Committee Members:

I am Gavin Hattersley, the Chief Executive Officer of MillerCoors. We brew in eight different states, including your home state of Texas. We have a uniquely strong heritage in both Wisconsin and Colorado as Frederick Miller began brewing his beer in Milwaukee, Wisconsin in 1855 and Adolph Coors began in Golden, Colorado in 1873.

I also serve as Chairman of the Beer Institute, one of the oldest trade associations in America that promotes beer and its responsible consumption as well as sound public policy and regulation for all of America's brewers, beer importers, and beer industry suppliers.

Thank you for the opportunity to submit a statement for the record about the recently announced 10% tariff on imported aluminum. While the tariff itself is quite concerning, we are eager to learn more about the Department of Commerce's recently released Interim Final Rule regarding exemptions and exclusions. We are closely reviewing that rule and will have further comment for the Department of Commerce as they consider next steps.

I would like to share our story as an iconic American brewer, and an integral part of an industry that provides products of refreshment and delights millions of consumers. The beer industry contributes over $350 billion to the US economy. MillerCoors is the Chicago-based US business unit of Molson Coors Brewing Company, a New York Stock Exchange listed company, which is based in Denver, Colorado. Collectively, we brew, market and sell beer in the US, Canada, Europe and in over 60 other markets throughout the world.

MillerCoors directly employs over 8,000 hard-working Americans who are dedicated to making the highest quality, best tasting and most refreshing beers and other malt beverages. We sell our products in all 50 states and also export our products worldwide. MillerCoors insists on building its brands the right way: through brewing quality, responsible marketing, sales, environmental and community impact.

The combined brewing legacies of the Miller Brewing Company and Coors Brewing Company go far beyond Wisconsin and Colorado. We also have brewing operations in California, Georgia, Ohio, Oregon, Virginia and Texas. And as you might imagine, our vast supply chain provides critical ingredients and inputs for our great beers and stretches even further into other states like Idaho, Montana, North Dakota, South Dakota, Washington and Wyoming for barley, hops, flavorings, glass, packaging and other materials.

Last year, MillerCoors brewed and shipped over 56 million barrels of beer within the United States, and package about 65 percent of that beer in aluminum cans and aluminum bottles. To make our cans, we need aluminum – and a lot of it! That is the equivalent of about 4,000 (four thousand) 747 jumbo jets worth of aluminum each year. Beer in aluminum containers has a long history within our company. In fact, Bill Coors (now 101 years old) invented the seamless two-piece aluminum container in 1958 and started the first aluminum can recycling program 55 years ago.

In these comments offered to the committee today, I would like to convey the potential impacts of the proposed tariff on our company and the US brewing industry, and share how this tariff will impact the way that I manage our business for the remainder of 2018 and beyond.

In short, this tariff – or any other unanticipated cost thrust upon a business late in the first quarter of any year – can cause large shifts in the way we approach our business operations. Our planning cycle was completed and approved in the fall of 2017, and a ten-percent impact on any line item can potentially impact capital investment, innovation, marketing support and other items that may hinder the performance of our business.

Taking a broader view, recent economic analysis performed by John Dunham & Associates shows that the industry-wide impact of the aluminum tariff could cost the US brewing industry alone over $345 MILLION dollars each year. The total national economic impact is estimated to be nearly $2.5 BILLION dollars when all economic activity from the supply chain, all the way through to the restaurant or tavern owner and ultimately the American consumer is considered.

I recall some of the comments made recently by Secretary Ross and some White House officials when they referred to the costs associated with the tariff as "*de minimis*." Mr. Chairman, I can assure you that we at MillerCoors take this tariff very seriously and with those impact numbers, there is nothing "*de minimis*" about it. All in, our industry purchases $2.7 BILLION dollars of aluminum for our can products each year. In addition, brewers of all sizes increasingly are moving to aluminum packaging material due to consumer preference, reduced weight, increased brand promotion, reduced transportation costs and impact on the environment.

While I am unable to provide direct costs to MillerCoors to the Committee today due to the uncertainty of the exclusion process, it is fair to say that the direct impact of this tariff to MillerCoors is in the tens of millions of dollars.

Those costs only go higher next year, and higher still in future years.

Our ability to support innovation and give the consumers what they want is impacted due to the direct cost of the tariff. This is compounded further when consumers show a preference for those products in aluminum containers. For example, one of our most successful package innovations over the past few years was the aluminum pint bottle. Initially launched with *Miller Lite*, the 16-ounce aluminum pint has been extended to *Coors Light* and has been a very popular package ever since. In fact, we've invested tens of millions of dollars to install a new can line at our Elkton, Virginia brewery just a few hours from the Capitol building.

This aluminum tariff could challenge our ability to make capital improvements to any of our breweries or other investments in our business, including in our people. We recently located a global business service operation in Milwaukee, Wisconsin and will add over 150 well-paying jobs to the community. Additionally, I am very proud to share news about our recent expansion of our Tenth Street Brewery, also in Milwaukee, to allow for a more nimble innovation pipeline and ensuring that the supply of our great *Leinenkugel* brands from Chippewa Falls, Wisconsin are able to meet growing consumer demand across the country. The costs associated with this tariff could not only affect our business, but also the many local contractors who would provide the equipment and labor to install these projects if we have to make the difficult decision to curtail, defer or cease those activities.

MillerCoors operates in one of the most competitive global industries in the world. And in the US, we compete in the largest profit pool within the industry. Our business is dependent upon our ability to manage our supply chain, brew quality beers, keep costs at a minimum, re-invest in our business and hire the best available workers. I say that because our competitors wake up every morning with the same objective. To say competition within the American beer business is fierce - is a major understatement.

To add insult to injury, our competitors in the wine and hard liquor industries do not use aluminum for product packaging, except for novelty items. Quite simply, this tariff is equivalent to a tax increase on the American beer industry alone and further erodes the cost structure between beer, wine and hard liquor which leaves our industry at a significant competitive disadvantage.

From an international standpoint, our foreign competitors in the beer industry will see their costs unaffected by this tariff, thereby decreasing the cost differential between their imported products and our domestic beer offerings. Whether unintended or not, this is a consequence that will be felt by the entire US brewing industry and beer drinkers. The tariff also will add costs to the beer we export to other countries, again leaving us at a competitive disadvantage when seeking to promote American brands abroad.

Because a tariff is a forced cost, our ability to absorb that shock is never as simple as "pass it along to the consumer" as some would suggest. We pride ourselves in earning the trust and confidence from our consumers by offering a quality product at a reasonable price.

However, at the same time this tariff is thrust upon us, there are serious problems and distortions in the aluminum marketplace. Purchasers of aluminum, including the beer industry, are encountering serious pricing irregularities and potential anti-competitive conduct by aluminum producers, merchants, traders, and others which warrant investigation by the Congress and other government regulators, including the Commodity Futures Trading Commission (CFTC).

The price of the raw input materials for aluminum, like any other commodity, can be volatile at times moving both higher and lower based on market fundamentals. These are normal market price actions that both consumers and producers expect to see over time based on normal supply and demand factors for which they can and do hedge and protect themselves accordingly. With the exception of the past several months, aluminum prices have been relatively stable apart from the fact that there has been a massive surplus of aluminum in both the global and the US markets in recent years.

Nonetheless, consumers of aluminum have been forced to pay rising costs for aluminum for no apparent market based reason. The source of these rising costs are the recent increases in the "Midwest Premium" (MWP) that is inherent in all North American aluminum contracts and charged to all end users of aluminum in the United States, purportedly for the cost of storage and transportation of aluminum to end users. The MWP has undergone sharp irrational price spikes in recent months, including doubling since Secretary Ross released Commerce's recommendations (chart attached.) This price spike occurred despite the fact that logistical costs of sourcing metal from within the U.S. and around the world has had until now minimal change, with no significant increases in the cost to transport or store aluminum.

As shown in the attached chart, the MWP spot price has more than doubled (from 9 cents to 20 cents/lb.) since the announcement of possible aluminum tariffs by the Administration. Each penny movement in the MWP translates into hundreds of millions of dollars in increased cost to the beverage industry. This steep price increase has occurred even though the aluminum tariff is not yet in effect, and at a time when the industry is faced with a large surplus of aluminum stocks in the US and other storage facilities around the world. We are concerned that the MWP increases may not reflect actual trades for aluminum or purchases, but rather are based only on offers in the market without any actual consumer transactions, sale or movement of physical metal taking place.

I will add one final observation that all of the issues I have mentioned are magnified due to the recently passed US tax reform measures that were intended to make companies like ours more competitive with our global competitors, and to benefit American workers and consumers with larger paychecks. Sadly, this ten-percent tariff on imported aluminum has the direct and opposite effect. It seems that any benefit to MillerCoors from last year's tax reform will be negated by the tariff.

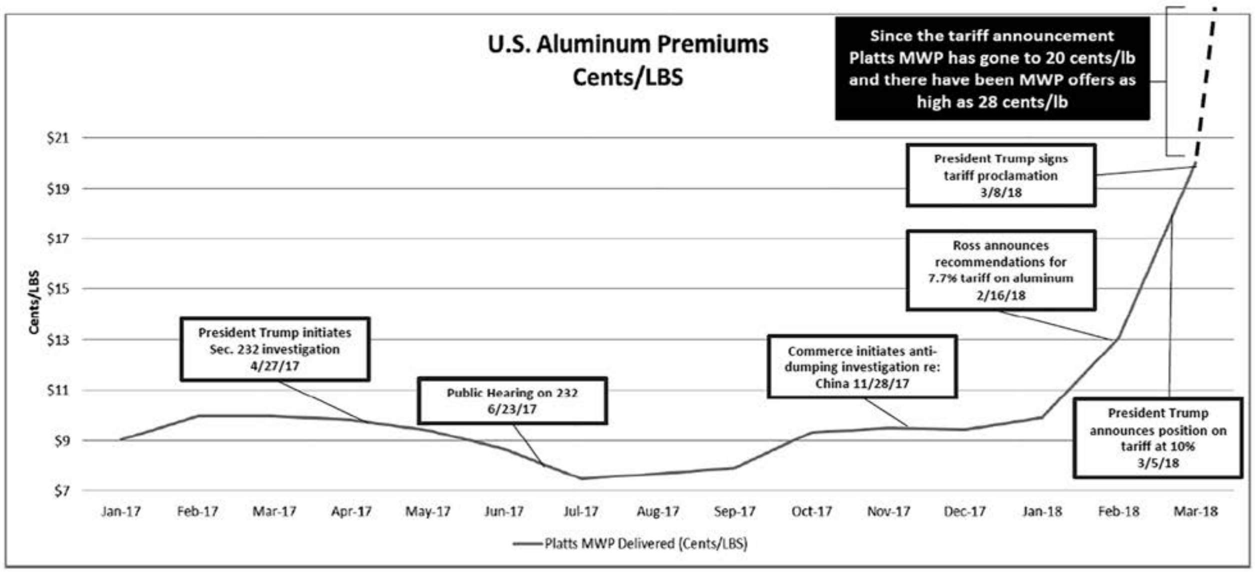
And while I may not be in a position to offer national security observations, I am fairly certain that imported aluminum to make beer cans does not impact national security. After all it is only 2% of all imported aluminum, but it does allow our consumers to enjoy a cold and refreshing beer after a hard day's work.

I appreciate this Committee's consideration of my testimony on behalf of MillerCoors.

Sincerely,

Gavin Hattersley
Chief Executive Officer

# Platts Midwest Premium (MWP)




**The MWP price has skyrocketed almost three fold since the Commerce Department delivered its tariff recommendations to the White House, and further since President's Trumps announcement**

PRECIOUS METALS
ASSOCIATION OF NORTH AMERICA

**Written Testimony of**
**Scott Smith**
**President**
**Precious Metals Association of North America**

**Before the**

**House Committee on Ways & Means**

**Hearing with Commerce Secretary Ross**

**Thursday, March 22, 2018**

Chairman Brady and Members of the Committee,

My name is Scott Smith and I am the CEO of Pyromet, which is a privately owned precious metals manufacturer and refiner of silver, gold, and platinum group metals. Since 1969, Pyromet has been a reputable name in precious metals and precious metals management. I also serve as President of the Precious Metals Association of North America (PMANA) and am submitting this written testimony on behalf of our members. Our industry has serious concerns with recent action taken by the Department of Commerce following its Section 232 investigation. The PMANA is particularly concerned with possible repercussions from our trading partners that can significantly affect jobs along the precious metals supply chain.

**Background**
In February 2018, as a result of its Section 232 investigation, the Commerce Department provided a recommendation for President Trump to act to protect domestic steel and aluminum industries. Following the Commerce Department's recommendations, the President announced increased tariffs of 25 percent on imported steel and 10 percent on imported aluminum – with the possibility for exemptions.

Last week, the PMANA learned that the European Union (EU) is considering retaliatory tariffs on U.S. products that accounted for $8.2 billion of trade in 2017. Almost 20 percent, or $1.4 billion, of these proposed tariffs target precious metals products manufactured in the United States. If fully implemented, these retaliatory tariffs pose a serious threat to recyclers, refiners, and manufacturers all along the precious metals supply chain.

If the Administration follows-through with steel and aluminum tariffs on the EU, it will prove to be counterproductive for the precious metals industry which cannot afford additional attacks from the international community. The industry is already under attack from our trade partners – namely China – with the onslaught of counterfeit bullion coins and bars entering the country. Trade partners should play by the same rules, but our trade policy needs to be more targeted which is why the PMANA recommended that the USTR act against inadequate policies in China that promote the spread of fake bullion into the U.S.

**Policy Proposal**

Rather than impose tariffs that would undercut ongoing efforts to address counterfeiting, the PMANA recommends that Congress amend 15 U.S. Code § 2101 to expand marking requirements to include bullion investment coins and bars, and that our trade partners be held to the same marking requirements in future agreements.

Precious metals workers should not be punished for the international community's negative trade practices. The implementation of tariffs, whether it be through Section 232 or Section 301, will be extremely detrimental to the industry's ongoing efforts to address intellectual property infringement by the international community.

Thank you for giving the PMANA the opportunity to submit these comments to the Committee. If you or your staff have any questions, please do not hesitate to reach out to us. We are more than happy to discuss our concerns with you or your staff and look forward to working together to protect consumers and businesses from counterfeit products.

###