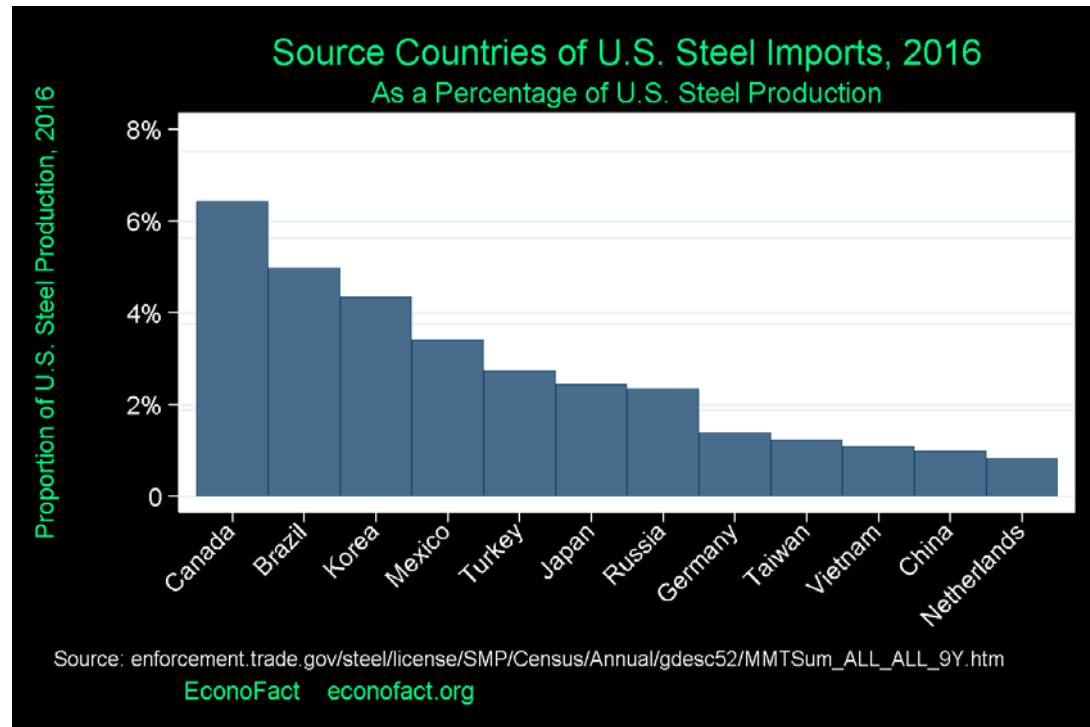


# Import Limits on Steel and Aluminum: Protecting National Security or Protectionism?

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## The Issue:

The Trump Administration has proposed a number of trade related measures purportedly on the basis of national security. The first involves invoking a seldom-used provision of the trade law to investigate whether imposing import restrictions for steel and aluminum is justified by national security reasons. The second is the creation of a new White House office, the Office of Trade and Manufacturing Policy, superseding and replacing the National Trade Council established at the outset of the Trump Administration.

The question is whether the threats posed to national security are genuine, or merely a means of protecting domestic industries under the guise of national security.

## The Facts:

- **Within the space of two weeks, Presidential actions buttressed a role for national security in trade policy.** On April 20th and April 27th, the Administration directed the Secretary of Commerce to initiate an investigation under section 232 of the Trade Expansion Act of 1962 (19 U.S.C. 1862(b)(1)(A)) to determine the effects on national security of steel imports (<https://www.whitehouse.gov/the-press-office/2017/04/20/presidential-memorandum-secretary-commerce>), and aluminum imports (<https://www.whitehouse.gov/the-press-office/2017/04/27/presidential-memorandum-secretary-commerce>), respectively. On April 29th, the Administration established by Executive Order the Office of Trade and Manufacturing Policy (<https://www.whitehouse.gov/the-press-office/2017/05/01/presidential-executive-order-establishment-office-trade-and>) within the White House Office, the mission of which “is to defend and serve American workers and domestic manufacturers while advising the President on policies to increase economic growth, decrease the trade deficit, and strengthen the United States manufacturing and defense industrial bases.”
- **Investigations under section 232 regarding the threat that imports pose to national security have been very rare and in the majority of cases resulted in findings of no threat.** There have only been 26 Section 232 investigations since the law was established 55 years ago. A finding that there are negative effects on national security would allow the U.S. government to impose trade barriers. Only two investigations have concluded there was a threat to national security, both involving petroleum. In the first case, the government banned imports from Libya. In the second case, petroleum imports were found to impair national security, but the Commerce Department’s recommendation (<https://www.bis.doc.gov/index.php/forms-documents/section-232-investigations/79-crude-oil-and-petroleum-products-1994/file>) was to use other means to reduce oil import dependence. The last investigation, on iron

ore and steel, was completed in 2001. The U.S. Department of Commerce concluded (<https://www.bis.doc.gov/index.php/forms-documents/section-232-investigations/81-iron-ore-and-semi-finished-steel-2001/file>): "[T]here is no probative evidence that imports of iron ore or semi-finished steel threaten to impair U.S. national security. There is neither evidence showing that the United States is dependent on imports of iron ore or semi-finished steel, nor evidence showing that such imports fundamentally threaten the ability of domestic producers to satisfy national security requirements."

- **The criteria used in past investigations to determine whether imports represent a threat to national security have been fairly narrow.** For instance, in the 2001 investigation, the negative impact of imports on national security were identified as arising from either (i) excessive dependence on imports from unreliable or unsafe sources, thereby resulting in vulnerability to a supply disruption, or (ii) threats to the viability of U.S. industries and resources needed to produce domestically goods and services necessary to ensure U.S. national security.
- **In 2005, the American Iron and Steel Institute** (<https://www.steel.org/~media/Files/AISI/Reports/2016-AISI-Profile.pdf>) **estimated that national defense and homeland security needs accounted for only 3 percent of total steel shipments in that year.** Production by the U.S. steel industry was 78.6 million metric tons (<https://www.ft.com/content/22f66e87-a2bb-3cd3-bcde-1f7ca74e9e96>) in 2016, ranking it fourth after China, Japan, and India. Capacity utilization is 3.6 percentage points higher and production of raw steel (through the fourth quarter of 2016) is 5.2 percent higher than a year prior, according to data from the Board of Governors of the Federal Reserve System. These facts suggest that it is difficult to argue that U.S. industry cannot fulfill the nation's national security needs in the face of a cutback of imported steel. Moreover, the pressure from steel imports was lower, partly due to the imposition of other trade measures, in the most recent data: the share of imports used in domestic production dropped to 29.9 percent in 2016 (through September), down from 34.7 percent in the corresponding period in 2015, according to the Commerce Department (<http://www.ita.doc.gov/steel/countries/pdfs/imports-us.pdf>).
- **The top source of U.S. steel imports in 2016 was Canada. Canadian imports were 6.5 percent of U.S. production in that year.** The next largest sources of U.S. steel imports were Brazil, South Korea and Mexico. Steel imports from China ranked 11th and represented 1 percent of U.S. domestic production (see

chart). It would be difficult to argue that imports of steel from Canada could become unavailable to satisfy national security needs.

- **Canada was also the largest source of United States aluminum imports (<http://www.politico.com/story/2017/04/26/trump-aluminum-imports-trade-237665>) in 2016.** Secretary of Commerce Wilbur Ross has focused (<http://www.politico.com/story/2017/04/26/trump-aluminum-imports-trade-237665>) on specific types of aluminum: “The problem we have is there is only one American smelter that produces the high-purity aluminum needed for these uses [in the F-35 and F-18 fighters, C-17 transport aircraft, and in armor plating for a variety of military vehicles, vessels and missiles.]. Just one. ... Even worse, eight U.S. smelters have either closed or curbed production since 2015. There are only two U.S. smelters fully operational as we stand here today.” But there are several high purity aluminum smelters in Canada; Alcoa alone has three (<https://www.rtapublicsales.riotinto.com/En/OurProducts/Pages/HighPurity.aspx>). Imports from Canada were about four times as much as Russia, and nearly six times as much as China. Again, it is difficult to see how U.S. security is threatened by reliance on aluminum from Canada.
- **Other investigations of imports based on national security concerns may be announced.** Secretary Ross has indicated (<http://www.politico.com/story/2017/04/26/trump-aluminum-imports-trade-237665>) that semiconductors and shipbuilding are the types of industries that might be the next targets of investigation.
- **Trade restrictions resulting from these investigations could open the door to retaliation.** Use of Section 232 has been termed “The Nuclear Option” (<http://www.politico.com/story/2017/04/26/trump-aluminum-imports-trade-237665>) in trade law by international trade expert Chad Bown. If a particular trade measure is contested by, for instance China, on the basis of violating a U.S. tariff commitment or obligation under World Trade Organization (WTO) law, and the U.S argues an exception under Article XXI (Security Exceptions) ([https://www.wto.org/english/res\\_e/booksp\\_e/gatt\\_ai\\_e/art21\\_e.pdf](https://www.wto.org/english/res_e/booksp_e/gatt_ai_e/art21_e.pdf)) of the General Agreement on Tariffs and Trade (GATT) and refuses to participate in litigation, a ruling by a WTO panel that finds in favor China would allow for sanctions, to which the U.S. might respond with additional measures, potentially leading to a tit-for-tat escalation.

## What this Means:

The primary determination made by the Department of Commerce under this statute has historically been whether the U.S. has sufficient productive capacity for the relevant type of article. It is unlikely that import competition in the steel and aluminum industries poses a real threat to national security, given ample supply of domestically sourced steel, and the presence of reliable alternative non-domestic sources of aluminum. Hence, these investigations, if conducted as they have in the past, will likely result in negative determinations. If the investigations do result in protectionist measures, these are likely to raise prices for downstream consumers in the defense industry, as well as the overall economy. A finding that leads to protectionist measures is also likely to invite retaliation by our trading partners, which could lead to a process of escalating protection.

**TOPICS:** CHINA / INTERNATIONAL TRADE / NATIONAL SECURITY

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