

# ISSUE BRIEF

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## Four Guidelines for the President When Considering Tariffs

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This month, at least four major trade cases will cross President Donald Trump's desk: (1) a Section 201 (of the 1974 Trade Act) case on solar panels and modules, (2) a Section 201 case on large residential washers, (3) a Section 232 (of the 1962 Trade Expansion Act) case on steel, and (4) a Section 232 case on aluminum. These cases seek to restrict imports from all countries, minus a few exceptions, as a safeguard against alleged unfair competition under Section 201, and on the basis of national security under Section 232.

While the four cases involve different products and sectors of the economy, they have a few simple things in common. First, the domestic industries lobbying the government in each case are trying to use the political process to overcome setbacks in the economic marketplace. Second, the remedies being sought have the potential to cause serious damage to other firms or sectors of the U.S. economy. Finally, any actions taken by the government will increase the prices of the products in question in America.

The stakes are high when considering tariffs, no matter the trade law used to impose them. In deciding whether or not to impose tariffs or non-tariff barriers, the President should follow four simple guidelines: (1) Do not let political lobbying over-

ride market discipline or legitimate competitive pressures, (2) consider the consequences for other domestic industries and producers as well as consumers, (3) respect U.S. obligations under existing trade agreements, and (4) understand that trade cases are among the most costly and least effective ways to “punish” other countries.

### The Politics of Trade Remedies

Officials at the Office of the United States Trade Representative (USTR) and the Department of Commerce have made it clear that enforcing U.S. trade laws to their fullest extent is a priority. Over the past year, enforcement efforts have largely concentrated on using trade law to benefit larger industries and firms that have the resources to pay lobbyists and lawyers to do their bidding. Companies like Whirlpool, Nucor, and ArcelorMittal USA are spending hundreds of thousands of dollars a year to argue trade cases, and in that process placing smaller U.S. companies at the short end of the stick.<sup>1</sup>

Trade policy, through specific cases or more generally, should not be about tipping the scale toward one American industry or interest group over another. Instead, policies should focus on lowering trade barriers, the best solutions for all Americans. The Heritage Foundation's annual *Index of Economic Freedom* shows the strong relationship between lower trade barriers and greater economic prosperity.<sup>2</sup> Countries with higher scores in trade freedom, calculated through average applied tariff rates and analyzing non-tariff barriers, generally enjoy higher levels of gross domestic product per capita, greater political stability, and are better at protecting the environment.<sup>3</sup>

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This paper, in its entirety, can be found at <http://report.heritage.org/ib4811>

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## Tariffs Have Unintended Consequences

Tariffs cost Americans money and jobs. The last time tariffs were imposed under Section 201, supposedly to “protect” jobs in the U.S. steel-producing industry, an estimated 200,000 American jobs were lost due to higher steel prices.<sup>4</sup> Even worse, employment in the steel-producing sector continued to decline anyway.<sup>5</sup>

With this history in mind, it is imperative that the Trump Administration take into account all potential negative repercussions to the U.S. economy as a result of implementing tariffs in any of the four cases at hand. Costs will likely manifest themselves in two main areas: economic and job losses in other U.S. sectors, and increased costs to American consumers. Should any of these consequences seem probable, it is the responsibility of the President to say no to trade restrictions.

**Other Industries.** The Section 232 cases on steel and aluminum have the potential to negatively impact not only manufacturers that use these products as intermediate goods, but also the construction and the beverage retail industries in the United States. According to the U.S. Chamber of Commerce, “imposing broad tariffs or other barriers against steel imports would undermine the competitiveness of U.S. manufacturers, incentivize offshoring, and endanger more American jobs that it would protect.”<sup>6</sup> An impact on solar-industry jobs is also expected to occur as a result of tariffs under the solar panel and

module 201 case. If the President imposes the tariffs requested by the petitioners, an estimated 88,000 downstream solar jobs could be at risk.<sup>7</sup>

**American Consumers.** The Section 201 case concerning large residential washers boils down to whether government should override consumer choices in the marketplace. Over the past decade, Samsung and LG have become big players in the U.S. market, capturing about 35 percent of domestic washer sales between them.<sup>8</sup> Whirlpool alone holds the same market share and hopes the government will help it get more. Tariffs on washer imports will cut out the competition in the U.S., limiting choices for Americans and forcing them to pay more for what is available.

## American Leadership in the World

As one of the world’s largest economies, and a principal country behind the creation of the World Trade Organization (WTO), the United States serves as a key actor in promoting trade around the world. This role is a vital one, especially in a world that saw trade grow by just 1.3 percent in 2016.<sup>9</sup>

Under the WTO, countries have the authority to impose trade restrictions unilaterally under some circumstances. Sections 201 and 232 are legitimate under WTO rules. Nonetheless, it is appropriate for the U.S. to keep the bigger picture in mind. Some trade experts have expressed concern about the negative example of potential unilateral restrictions by

1. Open Secrets, “Whirlpool Corp,” 2017, <https://www.opensecrets.org/lobby/clientlbs.php?id=D000029842> (accessed January 18, 2018), and Open Secrets, “Steel Production,” 2017, <https://www.opensecrets.org/lobby/indusclient.php?id=N14&year=2017> (accessed January 18, 2018).
2. Terry Miller and Anthony B. Kim, *2017 Index of Economic Freedom* (Washington, DC: The Heritage Foundation, 2017), <http://www.heritage.org/index/>.
3. Bryan Riley and Patrick Tyrrell, “2018 *Index of Economic Freedom: Freedom to Trade Is a Key to Prosperity*,” Heritage Foundation *Backgrounders* No. 3266, November 21, 2017, <http://www.heritage.org/trade/report/2018-index-economic-freedom-freedom-trade-key-prosperity>.
4. Joseph Francois and Laura M. Baughman, “The Unintended Consequences of U.S. Steel Import Tariffs: A Quantification of the Impact During 2002,” Trade Partnership Worldwide, LLC, February 4, 2003, updated February 7, 2003, [http://www.tradepartnership.com/pdf\\_files/2002jobstudy.pdf](http://www.tradepartnership.com/pdf_files/2002jobstudy.pdf) (accessed January 18, 2018).
5. Tori K. Whiting, “The U.S. Steel Market Needs Free Trade, Not Favoritism,” Heritage Foundation *Backgrounders* No. 3150, September 12, 2016, <https://www.heritage.org/international-economies/report/the-us-steel-market-needs-free-trade-not-favoritism>.
6. John G. Murphy, “Five Questions About Possible Steel Tariffs,” U.S. Chamber of Commerce, July 14, 2017, <https://www.uschamber.com/series/above-the-fold/five-questions-about-possible-steel-tariffs> (accessed January 18, 2018).
7. Solar Energy Industries Association, “Suniva Trade Case: The Solar Industry’s View,” June 2017, [http://www.seia.org/sites/default/files/Suniva-Trade-Case-Factsheet\\_SEIA\\_6-8-2017-final.pdf](http://www.seia.org/sites/default/files/Suniva-Trade-Case-Factsheet_SEIA_6-8-2017-final.pdf) (accessed January 18, 2018).
8. Tori Whiting, “We Don’t Need the Federal Government to Pick Our Washing Machine,” *The Hill*, October 5, 2017, <http://thehill.com/opinion/international/354009-we-dont-need-the-federal-government-to-pick-our-washing-machine> (accessed January 18, 2018).
9. World Trade Organization, “Trade Recovery Expected in 2017 and 2018, Amid Policy Uncertainty,” April 12, 2017, [https://www.wto.org/english/news\\_e/pres17\\_e/pr791\\_e.htm](https://www.wto.org/english/news_e/pres17_e/pr791_e.htm) (accessed January 18, 2018).

the U.S. under Section 232. Dan Ikenson of the Cato Institute states in a recent report that the “argument that national security is threatened by an abundance of the very raw materials allegedly needed to protect national security is so flimsy that it would be an open invitation to every other WTO member to invoke national security to bestow protectionist favors on their own politically important domestic interests.”<sup>10</sup>

## Recommendations

Trade investigations under Section 201 and 232 are drastic measures to aid domestic producers that oftentimes lead to serious consequences elsewhere in the economy. The Administration has made it clear that enforcing U.S. trade law is a priority, especially with China, but the four major trade cases under consideration are not the appropriate way to address bilateral trade disputes.

Keeping this in mind, the President should exercise extreme caution when considering tariffs and follow these four guidelines:

- 1. Refrain from imposing tariffs in response to heavy-handed political lobbying.** Section 201 and 232 tariffs should not be used to reward businesses that spend resources on lobbying and lawyers rather than on improving business practices and products.
- 2. Consider the consequences for other domestic industries and producers.** In deciding cases, the government must take into account both the

benefits for one firm or sector and the potential negative consequences elsewhere in the domestic economy. The 200,000 jobs lost in the U.S. in steel-using industries after President George W. Bush imposed steel tariffs in 2002 are a dramatic example of the unintended harm that can follow the imposition of trade restrictions.

- 3. Respect U.S. obligations under existing trade agreements.** While trade restrictions like Sections 201 and 232 are permitted under the WTO, the United States will benefit most if all countries exercise restraint in such unilateral actions.
- 4. The goal of trade cases should not be to “punish” other countries.** Using broad trade measures to target the actions of one country might seem like firing a missile at a target, but the shrapnel can have a devastating effect on bystanders. In these cases, China or Korea might be the target, but Americans will be among the victims.

Each of the cases under consideration this month fails to pass more than one of these tests. Therefore, the Trump Administration should decline to impose new tariffs on the products in question. That is the only way to ensure that other domestic producers and industries, as well as U.S. consumers, do not suffer severe collateral damage.

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10. Daniel Ikenson, “The Danger of Invoking National Security to Rationalize Protectionism,” *China-US Focus*, May 15, 2017, <https://www.chinausfocus.com/peace-security/the-danger-of-invoking-national-security-to-rationalize-protectionism> (accessed January 18, 2018).