

# ISSUE BRIEF

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## Tariffs Make for a Poor Negotiating Tactic: The Trump Administration Should Abandon Them Without Delay

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On May 1, 2018, tariffs imposed on steel and aluminum imports under Section 232 of the Trade Expansion Act of 1962 will go into full effect, unless the Trump Administration announces an extension to exemptions for a handful of countries. South Korea successfully negotiated a permanent exemption from the steel tariffs during the U.S.–Korea Free Trade Agreement renegotiation by accepting a quota, but remains subject to the aluminum tariffs. The Administration has not announced exemption agreements with any other countries at this time.

Meanwhile, American manufacturers are already seeing the costs of these tariffs being part of White House trade negotiation tactics. For the past five weeks, companies have dealt with increased uncertainty, costs, and regulatory burdens while submitting individual applications for product exclusions. Thousands of applications have already been submitted, but the review process is extremely slow.

The Trump Administration has achieved significant pro-growth economic reforms, which include tax and regulatory reform, but its trade policies have not brought success to all American workers and businesses. The Administration must abandon its tariff-focused trade policies, and instead focus on negotiating new trade agreements that open markets and

allow the U.S. to enforce trade rules through those agreements. As concerns arise regarding the trading practices of other countries, the U.S. should seek a resolution by working with its allies and through international organizations such as the World Trade Organization (WTO). Pursuing non-unilateral measures will ensure that American workers and businesses do not suffer as collateral damage.

### Country Exclusion Process

President Trump agreed to temporarily exempt Argentina, Australia, Brazil, Canada, Mexico, South Korea, and member countries of the European Union (EU) from the tariffs on steel and aluminum until May 1, 2018.<sup>1</sup> Five of America's top 10 sources for steel were able to secure initial exemptions; however, its close strategic partners, Japan and Taiwan, were left out.

The process for countries to seek exclusion from Section 232 has been opaque, even to Congress. The Administration did not publish official directions for countries in the *Federal Register* and has not made public any moves to agree on permanent exemptions.

The May 1 deadline is approaching quickly and so far South Korea is the only country to reach a permanent exemption from the tariffs. To avoid the tariffs, South Korea was forced to accept an import quota on steel products equal to 70 percent of its average steel imports for the past three years. South Korea resorted to accepting the 10 percent tariffs on aluminum.<sup>2</sup>

European Union Trade Commissioner Cecilia Malmström clearly stated the EU's unwillingness to reach an agreement similar to South Korea's: "We have not offered the U.S. anything. We are not going to offer them anything to get exemptions from tariffs we consider not in compliance with the WTO."

This paper, in its entirety, can be found at <http://report.heritage.org/ib4848>

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Moreover, she stated the EU is “under no circumstances negotiating anything under pressure, under threat.”<sup>3</sup>

### Product Exclusion Process

The House Committee on Ways and Means held a hearing on April 12, 2018, that featured testimony from businesses and associations impacted by the steel and aluminum tariffs. The overwhelming message of these testimonies was that the product exclusion process is too burdensome.<sup>4</sup> The process established by the Commerce Department requires individual businesses to file exclusion requests for each product requiring an exclusion. Associations cannot file on behalf of multiple member companies, resulting in a process that favors large corporations over small and medium-sized businesses.<sup>5</sup>

Ann Wilson, senior vice president of the Motor & Equipment Manufacturers Association, testified on behalf of more than 870,000 American workers in the automotive industry. According to Wilson, the exclusion “process is already creating significant burdens on these companies. The exclusion request process lacks transparency and will be particularly burdensome for small manufacturers. It is unbalanced and appears to not allow for successful outcomes for downstream users.”<sup>6</sup>

Cal Dooley, president and chief executive officer of the American Chemistry Council, echoed these sentiments in his testimony, stating that “when you have the requirement [that] an individual company has to

apply for an exemption—and it’s also kind of a black-box process—and if you look at a lot of the companies that don’t have the internal capacity, that [don’t] have the expertise to even go through that process, it is a significant impediment.”<sup>7</sup>

The Commerce Department’s process penalizes American companies for accessing the global market, even if the source country is a free trade partner and the imports are being fairly traded. Wilson noted in her testimony that “many specialty steel and aluminum materials used in many vehicle components are not available domestically.”<sup>8</sup>

Recent reporting estimates that the Commerce Department has received more than 2,000 exclusion requests as of April 17, 2018, but only a fraction of the requests have been made public.<sup>9</sup> Requests for exclusions should be resolved within 90 days of being made public, but the volume of requests could delay that process.

### Tariffs Are Already Increasing Prices

While domestic companies wait for country and product exclusions to be determined, U.S. steel producers are taking advantage of the lack of competition by jacking up their prices. Drastic fluctuation in commodity prices due to the tariffs also causes uncertainty for steel users, especially those with long-term contracts for projects.

During the April 12 hearing, lawmakers heard from Kevin Kennedy, the president of Kennedy Fabricating. This family-owned company is located in

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1. News Release, “President Trump Approves Section 232 Modifications,” The White House, March 22, 2018, <https://www.whitehouse.gov/briefings-statements/president-trump-approves-section-232-tariff-modifications/> (accessed April 23, 2018).
  2. Jenny Leonard, “U.S., South Korea Reach KORUS Agreement in Principle; Announcement Expected This Week,” Inside Trade, March 26, 2018, <https://insidetrade.com/daily-news/us-south-korea-reach-korus-agreement-principle-announcement-expected-week> (accessed April 23, 2018).
  3. Jim Brunsten, “EU Tells US to Drop Steel Tariffs Threat So Talks Can Take Place,” *Financial Times*, April 18, 2018, <https://www.ft.com/content/37aa2b5e-42f9-11e8-93cf-67ac3a6482fd> (accessed April 26, 2018).
  4. Hearing, *On the Effects of Tariff Increases on the U.S. Economy and Jobs*, Committee on Ways and Means, U.S. House of Representatives, April 12, 2018, <https://waysandmeans.house.gov/event/hearing-effects-tariff-increases-u-s-economy-jobs/> (accessed April 23, 2018).
  5. News Release, “U.S. Department of Commerce Announces Steel and Aluminum Tariff Exclusion Process,” U.S. Department of Commerce, Office of Public Affairs, March 18, 2018, <https://www.commerce.gov/news/press-releases/2018/03/us-department-commerce-announces-steel-and-aluminum-tariff-exclusion> (accessed April 23, 2018).
  6. Ann Wilson, “Hearing on the Effects of Tariff Increases on the U.S. Economy and Jobs,” testimony before the Committee on Ways and Means, U.S. House of Representatives, April 12, 2018, <https://waysandmeans.house.gov/wp-content/uploads/2018/04/20180412-Testimony-Ann-Wilson-.pdf> (accessed April 23, 2018).
  7. Anshu Siripurapu, “Business Groups Urge Commerce to Improve 232 Exclusion Process,” Inside Trade, April 19, 2018, <https://insidetrade.com/inside-us-trade/business-groups-urge-commerce-improve-232-exclusion-process> (accessed April 23, 2018).
  8. Wilson, “Hearing on the Effects of Tariff Increases on the U.S. Economy and Jobs.”
  9. “Hurt by Trump’s Tariffs, U.S. Companies Plead for Exemptions,” *Moneywatch CBS News*, April 19, 2018, <https://www.cbsnews.com/news/hurt-by-trumps-tariffs-u-s-companies-plead-for-exemptions/> (accessed April 23, 2018).
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Splendora, Texas, and employs 350 people. Kennedy Fabricating survived the 2008 recession, and countless other challenges for its business, but Kennedy stated in his testimony that:

Today...we are presented with an insurmountable obstacle that no U.S. manufacturer should have to face. We face the challenge of our own government effectively subsidizing foreign manufacturers at our expense by giving them a significant cost advantage through the Section 232 Steel Tariffs. These tariffs have eliminated imported steel overnight, and without any competition, U.S. steel producers have raised their prices over 40%.<sup>10</sup>

Colorado-based Qualtex Manufacturing Inc., a steel and aluminum fabricator for the aerospace and medical industries, is also facing uncertainty due to the tariffs. The company reports that “rising steel and aluminum prices have already driven the annual cost of [the] company’s key products by \$300,000, jeopardizing plans to add 14 jobs to [its] 74-employee staff. It’s also delaying shipments.”<sup>11</sup>

The Trump Administration failed to perform a cost-benefit analysis of the tariffs during its investigation, but economists and industry groups warned of price increases and the jobs impact that would follow. Before steel and aluminum-using industries experience job losses, as they did during the 2002 tariffs on steel, the Administration should remove the tariffs.

### A Roadmap for Pro-Growth Trade Policy

A successful pro-growth economic agenda for any administration must include trade policies that focus on opening new markets for U.S. exports and allowing for competitively priced imports to enter the country free of tariffs. Enforcement of trade rules is important, but trade disputes should be addressed through international organizations, not unilateral tariffs.

As the aftermath of imposing tariffs on steel and aluminum imports unfolds, the Administration should chart a new course on trade by:

- **Removing the tariffs on steel and aluminum imports.** Restricting steel and aluminum

imports because of national security concerns was not warranted. Moreover, the tariffs are causing drastic increases to prices and uncertainty for U.S. manufacturers.

- **Working with allies to address market distortions abroad.** The U.S. should engage with its closest trading partners, such as Canada, the EU, Mexico, and South Korea, to develop a coalition of countries capable of combatting unfair economic actions by nations such as China.
- **Using the World Trade Organization for disputes, not unilateral tariffs.** The U.S. has a nearly perfect record against China at the WTO and seeking resolution through the organization will minimize harm for Americans.
- **Concluding the renegotiation of existing trade agreements.** The North American Free Trade Agreement greatly benefits the U.S. and a swift conclusion of negotiations will help domestic businesses and workers that depend on trade with Mexico and Canada.
- **Negotiating new trade agreements.** Trade agreements, be they bilateral or multilateral, that focus on lowering tariffs and non-tariff barriers expand opportunities for Americans to export and import freely.

### Conclusion

When Secretary of Commerce Wilbur Ross recently spoke at The Heritage Foundation during the launch of the *2018 Index of Economic Freedom*, he acknowledged the importance of increasing America’s economic freedom. By aligning trade policy with its tax and regulatory reform agendas, which together impact three of the four pillars of the *Index*, the Trump Administration can increase economic freedom for American workers, families, and businesses.

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10. Kevin Kennedy, “Hearing on the Effects of Tariff Increases on the U.S. Economy and Jobs,” testimony before the Committee on Ways and Means, U.S. House of Representatives, April 12, 2018, <https://waysandmeans.house.gov/wp-content/uploads/2018/04/20180412-Testimony-Kevin-Kennedy-Testimony.pdf> (accessed April 23, 2018).

11. “Hurt by Trump’s Tariffs, U.S. Companies Plead for Exemptions,” *Moneywatch CBS News*.