STATEMENT FOR THE RECORD ON BEHALF OF THE TARIFF REFORM COALITION

United States Senate House Ways and Means Committee

President Biden's 2023 Trade Policy Agenda

Friday, March 24, 2023

Submitted By:

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INTRODUCTION

The National Foreign Trade Council ("NFTC") is pleased to provide the statement below on behalf of the Tariff Reform Coalition as part of the House Ways and Means Committee hearing record for its hearing on President Biden's 2023 Trade Agenda.

About the Tariff Reform Coalition

The Tariff Reform Coalition ("the Coalition") is a broad-based coalition of more than 100 companies and associations, (whose member companies number at 1000+) led by NFTC, which is dedicated to working with the Administration and Congress to ensure greater oversight and review of the Executive Branch's use of tariff authority. The Coalition brings together a broad array, large and small, of U.S. manufacturers, retailers, agricultural and food producers, and other supply chain stakeholders who have been adversely affected by the increasing use of tariffs in pursuit of various policy objectives. We welcome the opportunity to provide input on the impacts caused by the tariffs imposed under section 232 of the Trade Expansion Act of 1962 (19 U.S.C. 1862) ("Section 232 tariffs") and section 301 of the Trade Act of 1974 (19 U.S.C. 2411 et seq.) ("Section 301 tariffs").

About NFTC

NFTC is a broad-based business association for leadership, expertise, and influence on international tax and trade policy issues. We believe trade and tax policies should foster fair access to the opportunities of the global economy and advance global commerce for good.

SECTION 232 AND 301 TARIFFS HARM U.S. CONSUMERS AND PRODUCERS, ARE INEFFECTIVE AND SHOULD BE ELIMINATED

A. Section 232 and 301 Tariffs Raise Prices

Since March 23, 2018, additional tariffs of 25% and 10% have been imposed on certain imports of steel and aluminum, respectively under Section 232, which allows the President to take actions to adjust imports of goods if the Department of Commerce ("Commerce") finds that imports threaten U.S. national security.

Beginning in July of 2018, the prior Administration imposed tariffs in tranches on a series of Chinese-origin goods under Section 301, ranging from 7.5% (List 4a) up to 25% (Lists 1, 2, and 3). Section 301 authorizes the President to impose tariffs or take other trade actions when the

United States Trade Representative ("USTR") finds that a trade partner is engaging in unfair trade practices. In this case, USTR found that China had been engaging in industrial policy which has resulted in the transfer and theft of intellectual property and technology to the detriment of the U.S. economy.[1]

Between March 23, 2018, and March 8, 2023, U.S. Customs and Border Protection ("CBP) collected over $188 billion in duties assessed under Sections 232 and 301.[2]

Category	Amount
Aluminum 232	$3.62 billion
Steel 232	$12.05 billion
China 301	$173.07 billion
Total	$188.74 billion

By way of comparison, the combined tariff cost imposed under Sections 232 and 301 exceeds:

- The annual cost of care for the 15 most prevalent types of cancer in the U.S. ($156.2 billion);[3]
- Total U.S. Federal spending on transportation in 2021 ($154.8 billion);[4]
- The annual gross domestic product of Morocco ($133 billion);[5] and
- The net worth of Bill Gates ($115.1 billion).[6]

According to one estimate, the combined cost of the 232 and 301 tariffs amounts to an estimated $50 billion additional tax on U.S. consumers each year.[7] A recent study of the economic impacts of the 232 and 301 tariffs by the U.S. International Trade Commission (USITC) found that U.S. importers bore nearly the full cost of these tariffs because import prices increased at the same rate as the tariffs. The USITC estimated that prices increased by about 1 percent for each 1 percent increase in the tariffs under Sections 232 and 301.[8]

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[1] Press Release, Statement By U.S. Trade Representative Robert Lighthizer on Section 301 Action, July 10, 2018.

[2] U.S. Customs and Border Protection, Trade Statistics, Trade Remedy Enforcement.

[3] Swayne, Matthew, "Cancer costs U.S. more than $156 billion, with drugs a leading expense Cancer Care Cost" (October 6, 2021).

[4] https://datalab.usaspending.gov/americas-finance-guide/spending/categories/

[5] https://en.wikipedia.org/wiki/List_of_countries_by_GDP_(nominal)

[6] Forbes, The Real-Time Billionaires List.

[7] Tom Lee and Jacqueline Varas, "The Total Cost of US Tariffs," American Action Forum (May 10, 2022) ("AAF").

[8] U.S. International Trade Commission, "CERTAIN EFFECTS OF SECTION 232 AND 301 TARIFFS REDUCED IMPORTS AND INCREASED PRICES AND PRODUCTION IN MANY U.S. INDUSTRIES," Inv. 332-591, Press Release, (March 15, 2023). (ITC 232-301 Investigation)

The Section 232 and Section 301 tariffs have also impacted key U.S. industry sectors:

- the American beverage industry has paid nearly $1.9 billion in Section 232 aluminum tariffs since 2018;
- U.S. consumer technology companies paid approximately $43 billion in Section 301 tariffs between June 2018 and November 2022;
- Ford and General Motors disclosed that the 232 tariffs in just the first year they were in effect cost each company an estimated $1 billion (or $700 for each vehicle produced in North America);[9]
- U.S. chemical manufacturers paid $8.5 billion in Section 301 tariffs between June 2018 and December 2021; and
- U.S. apparel and related goods manufacturers paid $5 billion in Section 301 tariffs between 2019 and April 2022.

The Section 232 and Section 301 tariffs have distorted the market for products subject to the tariffs and increased the price of goods for consumers in the U.S. The price effect arises in part from the cost of duties themselves, which, as the data above shows, is significant. But prices of goods produced in the U.S. and third markets have risen as well.

Coalition members report record-high steel prices that have more than doubled since 2018 when the Section 232 tariffs were imposed.[10] Indeed, the 232 tariffs have even generated price effects for domestic steel as the protection afforded by the 25% tariff has allowed U.S. steel producers to increase prices well above those found in other markets. Manufacturers in some industries report that prices are increasing at such substantial rates they must purchase steel based on the price at delivery, not the price available at purchase.

In addition, the 232 tariffs have artificially increased the price of all aluminum sold in the U.S. market because of the unique way in which aluminum prices are set. Aluminum contracts are priced based on a benchmark known as the "Midwest Premium" price. Since the 232 duties on aluminum were put in place, the Midwest Premium price has been set as a "duty paid" price. That means all aluminum contracts in the U.S. are priced assuming the 232 duty applies – even if the imported material was covered by an exclusion or tariff rate quota ("TRQ"). The duty paid Midwest Premium price also applies even when a substantial portion of the aluminum product was sourced from scrap or recycled material.

It is also worth noting there have been price effects (e.g., pass-through of higher material costs to intermediate users (e.g., auto, beverage, and appliance manufacturers, etc.) and higher costs

[9] Michael Shultz, *et al*. "U.S. Consumer and Economic Impacts of US Automotive trade Policies." Center for Automotive Research, February 2019.

[10] Lance Lambert, "Steel prices are up 200%. When will the bubble pop?," Fortune (July 8, 2021).

for consumers) from the 232 duties even for imports from countries no longer subject to the tariffs.

Price increases have also affected goods subject to Section 301 tariffs. While harder to quantify, companies have reported cost increases even when they have relocated production outside of China. Shifting production to new suppliers is often affected by reduced economies of scale, higher qualification and conformity assessment costs, duplicate tooling costs, production capacity limitations, and additional logistics costs, all of which increase prices to consumers.

In sum, prices have risen across the board in response to the 232 and 301 duties and those price increases are causing significant, negative effects felt by many Coalition members and U.S. consumers.

B. Price Increases Harm U.S. Manufacturing Competitiveness

The price increases associated with the 232 and 301 tariffs are making U.S.-produced goods less competitive than products from other markets. Manufacturers outside the U.S. can source primary steel and aluminum products at prices set on the global market, which (as explained above) are much more favorable than those available in the U.S. Compounding this competitive disadvantage is the fact that 232 tariffs do not apply to imported downstream products. That leaves U.S. manufacturers of a wide range of metal products doubly exposed to competitive disadvantage: their raw material prices are higher and foreign-made end products can be sold in the U.S. without any impact from the 232 tariffs. Indeed, the ITC 232-301 Investigation confirmed that the Section 232 duties "reduced production in downstream industries in the United States that use steel and aluminum products as inputs because of increased prices."[11]

Several Coalition members noted lost sales to producers in third markets because of higher materials costs in the U.S. and that once customers have qualified suppliers outside the U.S. they rarely come back. Another member stated that the Section 301 tariffs are encouraging U.S. manufacturers in their sector to move production to third countries where they can purchase Chinese inputs at a lower cost and sell the final, assembled products and more value-added inputs back into the United States.

By imposing additional costs on U.S. manufacturers, the 232 and 301 tariffs are distorting the market and picking winners and losers. While primary metals producers may be enjoying higher prices under the 232 tariffs, it is coming at the expense of downstream industries. According to one study, for each new steel producer job, steel firms earned $270,000 of additional pre-tax profits but steel users paid an extra $650,000 for each job created.[12]

C. Other Economic Impacts of the 232 and 301 Tariffs

In addition to price increases and competitiveness challenges, the 232 and 301 tariffs have had a range of other impacts that adversely affect Coalition members.

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[11] ITC 232-301 Investigation, Press Release.
[12] "Steel Profits Gain, But Steel Users Pay, Under Trump's Protectionism," Peterson Institute for International Economics, December 2018. ("PIIE Report")

Availability: Among the most frequent concerns raised is the impact 232 tariffs have had on the availability of products subject to the tariffs. For purposes of obtaining an exclusion from the 232 duties, the Commerce Department defines a steel or aluminum product as “reasonably available” if a domestic producer can deliver the product within 8 weeks. However, current delivery time quotes for many steel materials are 16-20 weeks with some products not promised for delivery until 2023. Moreover, steel is not a monolithic market and for every type of steel in the market, there is a different profile of global production and a different level of capacity globally and within the U.S. As a result, the availability of products varies widely across different product lines.

For certain types of products, such as food-grade stainless steel, the lack of availability has been particularly acute. As demand for steel and aluminum grows, at least one Coalition member is predicting that it will become much more difficult to obtain specialty steel products as U.S. mills and service centers focus on supplying significant quantities of non-specialty steel to larger industry sectors like the automotive and aerospace industries.

Finding available supply is particularly difficult for small, family-owned businesses, which report that domestic steel suppliers often are unwilling to quote or fulfill orders because they do not meet minimum order requirements. Small companies – particularly those in underserved areas – are less able to hold significant quantities of material in inventory and do not have the resources to invest extensive time and money required to find suppliers who will fulfill their orders. In many instances, domestic producers have told Commerce they are capable of producing a particular product when opposing an exclusion request only to refuse to sell the material in a small quantity when it is subsequently requested.

Alternative Sourcing: Changing suppliers when materials are not available is not as easy as it may seem. The process for changing raw material suppliers varies depending on the type of product and end use. In the Section 232 context, some aluminum extruders use as many as 250 unique profiles (extrusion shapes) in their manufacturing process. To move the dies that are used to extrude those aluminum profiles would cost at least $7500 per die alone. For products that are highly regulated for safety reasons, the raw material supplier is routinely specified in the contract based on testing performed to the customer’s requirements. During the term of a contract, raw material suppliers typically cannot be changed without agreement from the customer and any potential new supplier must undergo a qualification testing and approval process that can take 12-18 months.

For Section 301 tariffs, some Chinese-origin inputs may be available from other markets but Coalition members have invested in complex supply chains that have taken years to develop and maintain. Requiring U.S. manufacturers to rebuild these supply chains drains vital resources and will take many years to source around these tariffs. Moreover, realigning supply chains is not without its own costs. Where alternative sources of supply can be found, often the total cost (price, quantity, quality) is higher than the price available in China, even when the 301 tariff is added to the Chinese good. Furthermore, goods subject to safety approvals like UL standards would be subject to retesting and relisting when the country of origin changed, which is an extraordinary expense that most companies, especially small businesses, cannot afford.

As a result, many U.S. companies decided to pay the 301 tariffs, especially during the pandemic, rather than face the higher costs and uncertainty of realigning their supply chains.

More, with the expiry of the Generalized System of Preferences (GSP) program, U.S. companies now must pay higher tariffs to import from developing country markets that could be good alternatives to China. In fact, some companies found that even with the Section 301 tariffs in place, it was still less expensive to import from China. The Coalition for GSP has detailed instances where sourcing moved back to China AFTER GSP expiry.

Exclusions: The Commerce Department's Section 232 Tariff Exclusion Process cannot mitigate the economic harm to U.S. steel- and aluminum-using manufacturers caused by the 232 tariffs. The exclusion process is supposed to allow companies to obtain exclusions to the tariffs if the product they need is not available in the U.S. in the quantities, quality, or form needed. However, the process has been broken from the start. It is lengthy and cumbersome and regardless of the numerous comments provided to the Commerce Department on ways to improve the process, it continues to favor domestic producers over consumers. Many Coalition members report an overall lack of transparency, predictability, and responsiveness to requests for information about why an exclusion request was not granted (in some instances despite having been previously granted and renewed). Commerce also counts imports covered by a duty exclusion against any available absolute quota volume or TRQ quantity until the allowed quantity is exhausted. In effect, importers are unable to use an exclusion unless the absolute quota or TRQ has already been filled. This requirement greatly limits the utility of the duty exclusion and should be terminated.

301 exclusions, when they were available, also generated significant internal and external costs for companies requesting an exclusion. These costs included administrative costs of filing the request, reviewing the requests that were granted to ensure they could be applied to the relevant goods, and broker costs for filing for duty refunds. Unfortunately, the 301 exclusions on the vast majority of products have expired and are no longer available to provide any relief from the duties, even though USTR had previously agreed the products were not available in the United States.

Uncertainty: The uncertainty that has surrounded the Section 232 and 301 since their inception adds to the expense of the tariffs and their ultimate costs to consumers. Businesses prioritize certainty because it allows them to adequately assess and account for risk. A growing body of economic literature has found there are real economic costs associated with trade policy uncertainty equivalent to a level of tariffs between 1.7 and 8.7 percentage points.[13] When considered in the context of the $500 million in trade subject to the 301 duties the "uncertainty cost" would amount to between $9.35 and $47.85 million annually. The uncertainty cost reflects money companies are not investing in innovation, research, wages, skill-building and many other critical areas.

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[13] Alberto Osnago, Roberta Piermartini and Nadia Rocha, "Trade Policy Uncertainty as a Barrier to Trade," WTO Working Paper ERSD-2015-05 (26 May 2015).

Retaliation: In addition to raising costs for U.S. consumers, the Section 301 and 232 tariffs resulted in significant retaliation against U.S. exports by other governments. Canada, China, the European Union, India, Mexico, and Turkey imposed retaliatory tariffs ranging from four to 70 percent on many U.S. exports.[14] The retaliatory tariffs increased the price of U.S. exports in these markets relative to alternatives that were either domestically produced or imported from other international sources. In the agriculture sector alone, the retaliatory tariffs led to a reduction in U.S. agricultural exports to retaliating partners of more than $27 billion from the time the tariffs were imposed in 2018 through the end of 2019.[15] China accounted for approximately 95 percent of these losses ($25.7 billion).[16]

D. Economic Effects That Have Not Materialized

It is also important to note the anticipated direct economic effects that have not materialized as a result of the 232 and 301 tariffs. Under Section 232 an action taken by the President "must be taken to adjust the imports of the article and its derivatives so that such imports will not threaten to impair the national security."[17] Similarly, Section 301 provides that USTR is authorized to take action, including imposing tariffs, "to obtain the elimination of" the "act, policy, or practice" that was the subject of the investigation.[18] There is no evidence that either the 232 or 301 tariffs are actually solving the problems they were adopted to address.

Steel producers have not significantly increased domestic production to ensure a reliable supply in a national security emergency. The ITC 232-301 Investigation reported an increase in domestic steel production of only 1.9 percent. Indeed, for certain categories of steel, domestic steel producers are shutting down, rather than expanding production. For example, the number of tin mill production lines in the U.S. continues to fall as U.S. Steel has idled its Gary Works mill and plans to close its Pittsburg, CA facility at the end of the year. Similarly, the domestic steel and aluminum industries are not seeing significant new job creation – by one estimate only 8,700 jobs have been created or saved as a result of the tariffs.[19] Further, the Federal Reserve's comprehensive estimate of U.S. steel and aluminum jobs remains lower than the pre-tariff baseline.[20] Moreover, imposing additional tariffs on U.S. imports does nothing to address the problem of global overcapacity.

A similar fact pattern emerges with respect to the Section 301 tariffs. The additional duties imposed on imports from China have had no identifiable effect on persuading China to abandon

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[14] AAF, Table 5.
[15] Stephen Morgan, *et al*, January 2022. "The Economic Impacts of Retaliatory Tariffs on U.S. Agriculture," ERR-304, U.S. Department of Agriculture, Economic Research Service (January 2022).

[16] *Id.*

[17] 19 U.S. Code § 1862(c).

[18] 19 U.S. Code § 2411(a).

[19] PIIE report.

[20] St. Louis Federal Reserve Bank, "Employment for Manufacturing: Iron and Steel Mills and Ferroalloy Production (NAICS 3311) in the United States," FRED, (accessed August 23, 2022).

the kinds of intellectual property rights ("IPR") theft and forced technology transfer practices that were identified in USTR's Section 301 report. Moreover, there is no indication that the cost of the tariffs is affecting the Chinese government or Chinese companies. Rather, the burden of these tariffs is falling on US businesses and their customers who are effectively being punished for China's bad behavior.

If Chinese government IPR and technology theft is the crux of the problem targeted by the Section 301 investigation, then the remedy should focus on limiting export opportunities for those Chinese-origin products that have benefited from the government's actions (e.g., through Section 337 actions to prohibit imports of those products). Instead, the Section 301 tariffs apply to nearly all products sourced from China.

By virtually any measure the 232 and 301 tariffs have failed to achieve their stated purpose.

CONCLUSION

Coalition members believe that neither the 232 nor 301 tariffs have been effective at achieving their intended objective and the President should eliminate them. At least some officials in the Biden Administration agree, calling the tariffs "poorly designed" and confirming they have increased costs for American families and small businesses.[21] One study showing that trade liberalization could deliver a one-time reduction in consumer price index (CPI) inflation of around 1.3 percentage points amounting to $797 per US household.[22]

Congress has provided for the automatic termination of Section 301 actions at the end of four years absent a determination that continuing them is still necessary. USTR has initiated the statutory review of the 301 tariffs, but the process and timetable for reaching a decision have dragged on for nearly a year. The Administration should accelerate this review and take bold action to end the 301 tariffs as soon as possible.

Unlike Section 301, there is no statutory process for ending or even reviewing the 232 tariffs. Absent efforts by both the government and U.S. steel and aluminum producers to increase the domestic supply of products needed for national security purposes, the continuation of the 232 duties simply amounts to a subsidy to domestic producers provided by consumers and U.S. manufacturers of downstream products.

Sincerely,

Tiffany Smith
Chair, Tariff Reform Coalition &
Vice President of Global Trade Policy, NFTC

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[21] Sebastian Smith, "Biden Undecided On China Tariffs Ahead Of Xi Call: W.House," Barron's (July 26, 2022).

[22] Gary Hufbauer, Megan Hogan, and Yilin Wang. "For Inflation Relief, the United States Should Look to Trade Liberalization," Peterson Institute for International Economics, (May 2022).