The Section 232 investigations announced by the U.S. Commerce Department on steel and aluminum within a week of each other in April have drawn largely positive reactions from industry participants. A much-anticipated hearing on May 24 in Washington will iron out some of the details of the steel probe, and a meeting regarding the aluminum investigation will follow on June 22. Steeltakers and their representatives want a broad definition of “national security,” arguing that infrastructure should be included, for example. This would mean any resultant tariffs could hit a broad array of steel products. Specialty steel producers, meanwhile, claim that their products, more than any others, affect national defense and should be protected. Some analysts believe the aluminum probe has more merit, given the applications of the metal in the aerospace and transportation industries. In this special edition, AMM looks at the potential impacts of the probes on end markets, producers and consumers ahead of the steel hearing.
Entire steel supply chain should support 232

The entire steel supply chain—from producer to downstream consumer—should rally behind the Section 232 investigation in order to stop the tide of unfairly dumped and subsidized imports of steel products, according to several top executives.

“Anybody who wants to unfairly trade state-owned and subsidized steel can do it in a variety of ways, and that includes moving up and down the supply chain,” Steel Manufacturers Association (SMA) president Philip K. Bell said in response to a question by AMM during a press conference at the Association for Iron and Steel Technology’s annual AISTech Conference. “Whereas the focus (of Section 232) has been on primary metals such as steel and aluminum, what’s to say they can’t just move somewhere else on that supply chain and attack downstream producers directly?”

Although there is a “very vocal group of downstream consumers that are arguing vociferously” against potential adverse impacts from the Section 232 probe—namely uncompetitive U.S. steel prices—the entire steel supply chain is ultimately facing the same issues, according to Commercial Metals Co. executive vice president of operations Tracy Porter. Foreign countries have long shifted their exports of steel strategically into downstream U.S. markets in order to avoid upstream anti-dumping and countervailing duties, he said.

“We have seen a loss of some of our (original equipment manufacturing)-type customers over the years; those folks will be the first to tell you we have to stop somewhere,” Porter said. “It took many years to get to this point, and it will take many years to get away from it, but somewhere we have to stop and think about what we’re doing, and I think we’re at that moment in time.”

Anti-dumping and countervailing duties have not been sufficient to curb the massive overcapacity in the steel industry, two other steel executives said.

“We brought the trade cases, and we’ve seen a reduction in certain products from certain countries, but we are still living in a world with massive overcapacity,” Association of Iron and Steel Institute president and chief executive officer Thomas J. Gibson said. “Even as we address the problem with imports, we see others step up,” he said, citing the Vietnamese anti-circumvention case as an example.

“We’ve encouraged administrations—not just this one—to use trade diplomacy,” Gibson continued. “Section 232 is a way to complement that.”

“Trade cases helped some, but they were not the solution because they are not working fully,” AK Steel Corp. chief executive officer Roger K. Newport added. “We still have not solved the problem.”

That is why it is incumbent on members of the steel industry to work in unison, according to Bell. “The downstream industry should take note of what the steel industry is doing, because I think we’re boxing above our weight class here in fighting the good fight for all of the industry,” he said.

Indeed, there are no simple answers, according to Porter. “These complicated issues are going to have to be dealt with one at a time, rather than one blanket answer,” he said. “But what I’m hearing out of the Trump administration, particularly (Commerce) Secretary (Wilbur) Ross, is that preservation starts at the underlying foundation, and we have to build it from there.”

“We’re particularly interested in the downstream consumer, because we’re all selling to that person in some form or fashion,” Porter added. “First things first, we will see what the proposed solution is, and then we’ll be able to see some of the consequences—and they may be very positive consequences.”

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–Tracy Porter, Commercial Metals
The scope of the probe will be wide because the department is likely to adopt a broad definition of “national security” to include not only military applications but also infrastructure like the electric grid, water transmissions systems as well as roads and bridges, Chris Weld, a partner in Wiley Rein LLP’s international trade practice, told AMM in a recent interview.

The Washington, D.C.-based law firm has represented domestic mills in traditional anti-dumping and countervailing duty cases and in an anti-circumvention petition against cold-rolled and coated flat-rolled steel from Vietnam.

The breadth of the scope means Commerce will look into imports of everything from the armor plate used to make mine-resistant, ambush-protected (MRAP) military vehicles to the semi-finished slabs used by re-rollers to make hot-rolled coil.

And the measures that Commerce could recommend to the president Trump to limit steel imports are equally broad, Weld said. They might include tariffs, quotas on how much steel certain countries will be allowed to import to the United States, or a combination of both duties and quotas. “It’s all on the table” when it comes to the investigation and relief phase of the 232, Weld said.

However, it’s unclear what form action may take as there is no precedent for a Section 232 resulting in action when it comes to steel imports. Past 232 investigations that have resulted in sanctions were targeted at oil from specific countries, namely Libya and Iran, Weld noted.

The administration of George W. Bush in 2001 decided not to take action against steel imports under Section 232 because it could find no national security rationale for doing so, other trade experts have noted.

Section 232 is part of the Trade Expansion Act of 1962. It allows the president to slap tariffs on imports if he decides they pose a threat to national security.

Despite that lack of precedent, it is likely is that Commerce will recommend at least some degree of action to the president sooner than what is required by law, Weld said. Commerce has 270 days—or until January 2018—by law to conduct its investigation. But both the White House and the Commerce secretary Wilbur Ross have indicated that a decision would come within 60 days of Trump’s signing of an executive order that launched the 232 probe last month.

The steel industry might have a better idea of what Commerce has up its sleeves following a May 24 hearing on the 232. The hearing is likely to be chaired by Ross, Weld noted.

And the president has more arrows in his quiver when it comes to steel and trade than just the 232. Another powerful tool could come in the form of an expansion of “Buy America” provisions that require companies to use steel to be melted and poured in the United States on federally funded projects, Weld said.

The U.S. Commerce Department is coordinating a top-to-bottom review of how Buy America is implemented at federal agencies. Its finding will be presented in a report likely to be completed around Thanksgiving, Weld said.

That review could see loopholes to Buy America closed at various federal agencies. It could also result in agencies that don’t currently have strong domestic-preference requirements—like the Federal Emergency Management Agency
(FEMA)—adopting them, Weld said. The investigation might in addition result in Buy America waivers being removed from free-trade agreements, though such a move would be unlikely, he said.

Unlike the 232, the Buy America review probably won’t be accelerated given sheer number of federal agencies involved. But it could nonetheless have an impact on federal procurement practices in the short-term, Weld said. “We will probably have fewer (Buy America) waivers because contracting officers will pick up on the tone of the executive order.”

And so steel consumers hoping to participate in future infrastructure projects should be prepared for more Buy America compliance audits, Weld said. He swatted aside the idea that compliance might be so burdensome as to discourage businesses from bidding on federal projects.

“It should not be all that complicated to track where manufacturing processes take place. Companies already do that on government work.”

But Weld acknowledged that the Section 232 investigation and the Buy America review could compel companies to alter their supply chains. The benefits of doing so should offset the costs, especially if it means being able to participate in government-backed infrastructure projects, he said.

Weld also downplayed the notion that more stringent controls on imports might limit steel supplies or drive up costs for steel consumers. “The U.S. industry is running at 75 percent capacity, so I don’t see that as a problem.”

MICHAEL COWDEN

A look back at Section 201

Under Section 201 of the Trade Act of 1974, the president may temporarily impose duties or nontariff barriers on imports that injure domestic producers, according to the U.S. International Trade Commission.

Section 201 tariffs were last implemented under the administration of George W. Bush from March 2002 to December 2003 to give U.S. steelmakers time to restructure in the face of surging imports and following numerous bankruptcies.

The temporary tariffs of 8 to 30 percent were originally slated to remain in effect for three years and one day, expiring in 2005, but were lifted 15 months ahead of schedule due to sharp criticism from U.S. trading partners, domestic steel consumers and some U.S. government officials. Opposition to the safeguard measures gained momentum when the World Trade Organization ruled in 2003 that the tariffs violated global trading rules.

When he lifted the tariffs, Bush praised the industry for “wisely” using the trade tool to forge “groundbreaking” labor agreements, increase productivity and lower production costs through restructuring and consolidation. Those changes in the industry, coupled with an improving economic outlook in the U.S., meant the tariffs were “no longer warranted,” the president said.
232 should include specialty metals

Specialty metals are critical for U.S. defense capabilities and should be included in the Section 232 probe into whether steel imports threaten national security, according to the Specialty Steel Industry of North America (SSINA) and specialty metals producers.

Washington-based SSINA is optimistic that specialty metals such as stainless steel, high nickel alloys, super alloys and other similar materials will be considered in the Section 232 investigation, David A. “Skip” Hartquist, partner at New York-based law firm Kelley Drye & Warren LLP and counsel to SSINA, told AMM. He cited a 15-month study published by the trade association in 2005 in conjunction with the Department of Defense that concluded that many critical defense applications rely on specialty metals. Without government intervention, the study said, the availability of high-technology specialty metals could be lost and not easily restored.

“Specialty metals are vitally important to virtually every U.S. military platform,” the report said. “Simply put, weapons systems can neither be built nor operated without these materials. Whether it is missiles, jet aircraft, submarines, helicopters, Humvees or munitions, American-made specialty metals are crucial components of U.S. military strength.”

Gary A. Powell, who was the Acting Deputy Under Secretary of Defense at the time, also commented: “There is no question that specialty metals are critical to national defense, and the U.S. specialty metals industry is a very important supplier of these materials to various defense contractors.”

That study “really goes to the heart of what the Section 232 investigation is all about,” according to Hartquist.

“Some of these materials are just not available elsewhere,” he said. “There are some formulations you can’t buy in the commercial market globally, so we sell those materials to the extent permitted by U.S. law—not only in the U.S., but to other allied countries as well that need the materials.”

Hartquist also emphasized the importance of maintaining the health of the specialty metals industry’s customer base.

“We’re concerned about what’s happening downstream and hope that the 232 remedy is going to address not just the major carbon and stainless mills, but also the customer base, which we need in order to have ongoing business,” he said.

The Department of Commerce has asked steel producers to “think broadly about the definition of national security,” Hartquist noted. “They asked us not to just think of national security in terms of specific applications for weapons systems and so forth, but also to think about it in terms of supporting requirements in order for the U.S. to defend itself” in the event of a war or terrorism-type events.

That means considering specialty metals in terms of supporting infrastructure, power plants and the electrical grid, for example, according to Hartquist.

Indeed, numerous carbon steel industry executives echoed that same sentiment at the AISTech Conference in early May, pushing for a wider definition of “national defense” during the Section
SSINA members have dealt with aggressive import levels in recent years, chairman Dennis M. Oates—who is also chairman, president and chief executive officer of Universal Stainless and Alloys Products Inc.—said at the Congressional Steel Caucus hearing on April 14, 2016, in Washington.

“The industry faces widespread dumping in the U.S. market by foreign competitors, and massive subsidization by foreign governments, particularly China,” Oates said.

However, Hartquist pointed out that the U.S. is reliant on imports of certain specialty materials, such as chrome and nickel.

“We don’t have sufficient domestic supplies of those,” he said, citing his hope for a case-by-case solution.

“It’s very complex, because different segments of the industry have different requirements and are facing greater import competition than others. It would be difficult to come up with a ‘one-size-fits-all’ remedy that works for everyone.”

Specialty steel on board
The top executives at Allegheny Technologies Inc. (ATI) and AK Steel Corp. also have called on the Trump administration to include specialty metals in their Section 232 investigation into steel imports.

“It remains to be seen where the administration’s focus is going to be on Section 232,” Richard J. Harshman, chairman, president and chief executive officer of Pittsburgh-based ATI, said during the company’s earnings call on April 25. “Taken at the words that are being spoken, I think some people are framing it in too narrow of a focus, in my opinion.”

The Department of Defense is a more significant consumer of specialty metals, vs. carbon steel, in terms of overall production levels, according to Harshman.

The Section 232 investigation ultimately could expand the scope of laws requiring defense-related businesses to use materials melted and cast in the U.S., Harshman noted. Requirements under the Berry Amendment, also known as the Specialty Metals Amendment—which mandates that the Department of Defense domestically source titanium and nickel alloys, among others—could be widened, he said.

“Arguably, a Section 232 approach would expand (those laws) beyond the current requirements,” Harshman said.

“Every year, there are efforts within Congress to kill the Specialty Metals Amendment,” he added, pointing to the importance of including specialty metals in the Section 232 investigation.

Roger K. Newport, CEO of West Chester, Ohio-based AK Steel, also hopes the Section 232 investigation will address specialty metals.

“While we are making technical advancements with our electrical steel products, we must also address the import pressures caused by the prior failed GOES (grain-oriented electrical steel) trade case, and we look forward to working with the Department of Commerce to establish a case for a strong remedy under the Section 232 investigation,” Newport said during the company’s earnings call on April 25.

“This will help us address unfair trade not only in the electrical steel market, but also with our carbon and stainless steel products.”

GOES, in particular, is critical for national security because it is necessary to build and maintain electrical infrastructure, according to Newport.

“We believe it is important that the United States not be put into a position in the long term where our country becomes heavily or solely dependent on obtaining steel and/or other components of electrical transformers from China, Japan or other foreign countries,” he said. “Because virtually every household and business in this country relies on electricity, we believe the security and long-term viability of our electrical infrastructure is a national imperative.”

Harshman expressed the same sentiment about GOES.

“If you are talking about GOES, you need to have an electric grid from the capability of defending your nation and having security,” he said in response to a question about the Section 232 probe’s impact on electrical steel.

GRACE LAVIGNE

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—David A. “Skip” Hartquist, Kelley Drye & Warren LLP
“It is not enough to turn out just a few more planes, a few more tanks, a few more guns, a few more ships, than can be turned out by our enemies,” Roosevelt stated. “We must outproduce them overwhelmingly, so that there can be no question of our ability to provide a crushing superiority of equipment in any theater of the world war.”

For the next three-and-a-half years, the U.S. did just that, producing massive amounts of weapons, vehicles and other materials that were used to defeat the Axis powers.

This, of course, could not have been accomplished without an adequate supply of raw materials. So it is prudent that our manufacturing base today has the resources available to meet defense needs.

However, President Donald Trump’s recent order that an investigation be conducted “to determine the effects on national security of steel imports” does not advance this cause, and, in fact, is more likely to hurt it.

Trump on April 20 issued a memorandum that directs the Secretary of Commerce to exercise authority under Section 232 of the Trade Expansion Act of 1962 to conduct the inquiry and, if deemed necessary, “recommend actions and steps that should be taken to adjust steel imports so that they will not threaten to impair the national security.” Such “actions and steps” would probably mean imposing tariffs, quotas or other restrictions on imported steel.

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Trade barriers, not steel imports, are the real security threat

In January 1942, with the United States one month into World War II, President Franklin Roosevelt, in delivering his budget proposal to Congress, wrote, “We cannot outfight our enemies unless, at the same time, we outproduce our enemies.”

Steel imports, to put it most simply, do not, in any way, threaten national security. Just the opposite. They strengthen this country and help to make it more secure.

The domestic steel industry, meanwhile, is healthy and well-positioned to increase production if needed during a crisis. Last year, the U.S. produced 88 million tonnes of steel and operated at about 71 percent of capacity. In December, the Financial Times reported that a survey of analysts found that domestic production is projected to increase by 4.4 percent this year, while global production is forecast to grow by just 0.9 percent.
What would be the impact of new protectionist measures on steel imports?

First, prices would rise. Manufacturers across many industries would have to pay significantly higher prices for steel and steel products, which would inevitably be reflected in lower wages for workers and higher prices for consumers.

Second, because people respond to incentives, U.S.-imposed trade restrictions on steel imports would motivate other nations to respond in kind. This would reduce U.S. steel exports, hurting workers all along the steel supply chain. Further, countries seeking to retaliate would most likely not stop at steel.

U.S. agriculture is a favorite foreign retaliation target. When the Obama administration imposed a safeguard measure on tires from China, that country retaliated the same day by announcing anti-dumping and countervailing duty cases against imports of U.S. autos and chicken parts. China's retaliation against the export of U.S. chicken parts disrupted trade in a market worth hundreds of millions of dollars to U.S. producers and resulted in years of expensive World Trade Organization litigation. Our trading partners well know how politically sensitive the various elements of our farm economy are, and therefore how vulnerable they are to trade-restrictive measures. Moreover, history shows that once agricultural export markets are lost, they are very difficult to regain.

All of this could escalate into a trade war. Economic struggles are a risk factor for instability and war, and it is this that would represent a real threat to national security. Daniel Patrick Moynihan, diplomat, scholar, and late Democratic Senator from New York, acknowledged this reality when he said, “Any short list of events that led to the Second World War would include the aftermath of the Smoot-Hawley Tariff,” the disastrous 1930s-era tariff enacted in an attempt to protect American jobs from foreign competition.

Free trade in steel enables the U.S. to acquire as much of this critical resource as it needs at global market prices, boosting the economy and ensuring that the defense sector can, in Roosevelt's words, “provide a crushing superiority of equipment in any theater.” The Trump administration should not sacrifice both of these components of national well-being for a short-term benefit.

RICHARD CHRISS, EXECUTIVE DIRECTOR
American Institute for International Steel (AIIS)
Market doubtful 232 action will materialize: poll

The investigation into the steel and aluminum industries by President Donald Trump and his administration is unlikely to result in substantive changes, according to the majority of respondents to a recent AMM poll.

According to the poll, 39 percent of the 221 respondents said the Section 232 investigations into whether imports of steel and aluminum threatened U.S. security were mostly rhetoric.

“I think this is more bluster than anything else at this point. ... If it goes through, then I’ll be worried. But it’s never gone through in the past. (Section 232) is exploited by presidents who need to make popularity moves,” a midwestern distributor said.

Meanwhile, 26 percent of the poll respondents believe the investigations will benefit both steel and aluminum producers.

In recent days, the Trump administration notified Congress that it plans to renegotiate the North America Free Trade Agreement, and U.S. Trade Representative Robert Lighthizer said Canada and Mexico have been notified.

“It shows how serious the administration is on supporting 21st century steel production,” said Philip Bell, president of the Steel Manufacturers Association.

Bell was hopeful that the expedited process would result in something substantial occurring within the next 60 days. However, that timeline might be too aggressive, with the White House facing mounting pressure amid daily allegations of improprieties.

Another 24 percent said the Section 232 probes would hurt downstream consumers of steel and aluminum, believing the actions would result in reduced supply and higher domestic prices.

“The steel mills have mobilized our government against imports,” one East Coast distributor source said. “Steel is an intermediate product, not a finished product, and by providing protection to this very local steel industry, it puts the end-user industries at a tremendous disadvantage.”

But if Trump and his team move forward, trade partners could retaliate with World Trade Organization challenges and tariffs against U.S. exports of everything from metallurgical coal and petroleum products to cheese and fertilizers, according to industry experts.

Something similar happened during former President Barack Obama’s first year in office after he slapped a 35-percent tariff on Chinese tire imports. China responded by imposing restrictions on shipments of U.S. chicken parts.

“If announced, prices would go shooting up,” said Gordon Johnson, Managing Director at Axiom Capital. However, Johnson is skeptical that a sizable trade action would last, due to the potential for an angry response by trade partners and a revolt by consumers.

Trump has toned down his rhetoric from the campaign trail, and Johnson believes the odds are against the administration taking action.

But if Trump were to implement sanctions? The final 11 percent of poll respondents forecast an all-out trade war.

DALTON BARKER
Although many groups in the industry, including the Aluminum Association and the China Trade Task Force, lauded the Trump administration for progressing with the probe, others have reacted with more caution.

“We're all frankly a little nervous,” one aluminum supplier told AMM. “If (Trump) chooses the wrong tool, it could hurt the industry.”

Much of the trepidation surrounding the 232 probe—which will consider whether aluminum imports into the U.S. pose a national security threat—is inseparable from concerns about Trump’s overall conduct while in the White House. Specifically, sources pointed to allegations that members of Trump’s team colluded with Russian operatives during the general election.

“I’m trying to learn some Russian, man,” a second supplier quipped. He predicted that the recent deluge of media reports accusing Trump of illicit Russian ties will generally damage Trump’s political capital—and the 232 investigation will be a casualty. “Nothing that is legislation is going to pass.”

Even so, other questions will plague the 232 even if it does materialize. Will its open-ended nature put new taxes and tariffs on countries and regions—such as Canada, Russia and the Middle East—that downstream industry players depend on for material?

“This would also be terrible for the supply chain and downstream industry,” one aluminum trader said.

“Ford just announced more layoffs, so they certainly don’t want to pay higher prices for the aluminum sheet they use in their F-150s.”

Imports of unwrought aluminum into the U.S. through March of this year, excluding material from Canada, totaled 664,033 tonnes, up 48 percent from 448,728 tonnes through the first three months of 2016. This jump coincides with increased aluminum consumption in the U.S. and flattened primary aluminum production.

Chinese aluminum overcapacity has been the general issue facing the U.S. aluminum industry, with domestic producers blaming China’s government subsidies for untenably low pricing. However, by banning large swathes of aluminum imports, the investigation may miss the target, sources said, voicing concerns that were echoed by Chinese exporters.

“China is laughing at all this (232) talk because it’s not going to affect them in the slightest. They don’t really export that much aluminum to the U.S. It’s the Canadian, Russian and Middle Eastern producers who would be affected,” the trader source said.

Regardless of the dicey waters...
Trump now faces, metal industry figures have not refrained from pushing government agencies, such as the U.S. Commerce Department and International Trade Commission, to level the playing field for U.S. metal companies.

“With all due respect to the (U.S. Trade Representative), who enforces the trade laws, the (current) trade laws don’t work,” United Steelworkers union international president Leo Gerard said in his testimony during Commerce’s May 18 hearing on significant trade deficits. “From the people I represent, trade deficits don’t represent cheap goods, it represents lost jobs.”

Since the 232 announcement in late April, Commerce secretary Wilbur Ross has said the department could issue a decision much sooner than 270 days after the probe’s launch—the amount of time allotted to Commerce by law for its investigation.

KIRK MALTAIS