

Bicameral Congressional Trade Authority Act of 2019 (S. 287)

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What is Section 232?

Section 232 of the Trade Expansion Act of 1962 (19 USC § 1862) is a Cold War-era trade statute that delegated from Congress to the executive branch its authority to put tariffs or quotas on imports that “threaten to impair” U.S. national security.

Under current law, the Department of Commerce conducts Section 232 investigations, with non-binding input from the Secretary of Defense. If Commerce concludes that imports of certain goods threaten national security, the President may proclaim trade actions (tariffs, quotas, etc.) to adjust those imports. Prior to President Trump, the last time a President imposed trade actions under Section 232 was 34 years ago, in 1983.

Why is Legislation Needed?

Historically, Section 232 actions have been narrow in scope, targeting a few product lines and/or imports from specific countries such as Iran and Libya. However, the current administration has used Section 232 more broadly—imposing sweeping 25% tariffs on foreign steel, 10% tariffs on imported aluminum, and threatening tariffs on auto imports.

Such wide-ranging Section 232 actions have been economically disruptive and have damaged U.S. relationships with allies, including Mexico, Canada, Japan, the EU, and India. U.S. importers have been forced to pay additional taxes on roughly \$23 billion in steel imports and \$17 billion in aluminum imports. Domestic prices for these products have also increased, hurting downstream consumers. Many countries affected by the Section 232 actions have retaliated against U.S. exports, with agriculture and food products among the hardest hit.

Trade actions with such significant repercussions should not be solely within the authority of the executive.

Solution: Congressional Approval for Section 232 Actions

The Bicameral Congressional Trade Authority Act restores to Congress its Article I trade responsibilities. The bill provides:

- 1. Congress has 60 days to approve any proposed Section 232 actions.** If Congress does not pass an approval resolution, the President’s proposed trade actions shall have no force or effect.
 - Motions to proceed to approval resolutions are privileged in both chambers and may not be filibustered. If not reported by committee within 10 days after introduction, resolutions must be discharged.
- 2. Restores national security intent to the Section 232 statute.** Since 2001, Commerce has used a broad definition of national security to assess imports, explicitly including goods “beyond those necessary to satisfy national defense requirements” in its scope.
 - The bill transfers investigative authority from Commerce to the Secretary of Defense. Commerce still determines the appropriate remedy in the event of a positive finding from Defense.
 - The bill defines “national security” and restricts Section 232 investigations to goods with applications in military equipment, energy resources, and/or critical infrastructure. These goods must also constitute a “substantial cause” of a threat to impair U.S. national security.
- 3. Retroactive to Section 232 steel and aluminum tariffs.** If Congress does not pass an approval resolution within 75 days after enactment, Section 232 tariffs and quotas imposed within the last 4 years are repealed.
- 4. Requires the International Trade Commission (ITC) to administer an exclusion process for future Section 232 actions.** Given current issues with backlog, pace, and transparency at Commerce, the ITC—with its subject matter expertise—is better positioned to administer future exclusions. Exclusions must be product-wide.
- 5. ITC reports.** The bill directs the ITC to submit to Congress reports analyzing the industry-specific and downstream effects of any Section 232 actions taken within the past 4 years, in addition to any future Section 232 actions.