More Tariffs, More Protection[ism]

Jessica A. Mehaylo
MORE TARIFFS, MORE PROTECTION[ISM]

"The winds and waters of commerce carry opportunities that help nations grow and bring citizens of the world closer together. Put simply, increased trade spells more jobs, higher earnings, better products, less inflation, and cooperation over confrontation. The freer the flow of world trade, the stronger the tides for economic progress and peace among nations."\(^1\)

I. INTRODUCTION

International trade is economic transacting that involves the exchange of goods and services across international borders and territories "for the purpose of providing a nation with [the] commodities it lacks in exchange for those that it produces in abundance."\(^2\) The concept of freely sharing the fruits of one’s labor in exchange for the products of another enables countries to efficiently utilize global resources to produce goods and services which fuels active competition and innovation.\(^3\) This ideology allows “individuals and businesses to take advantage of lower prices and increased choice” supporting strong economic growth in market systems.\(^4\) It also gives “individuals[] [the] freedom to decide how to spend and invest their money,” which provides people with opportunities to achieve financial freedom and economic prosperity.\(^5\) It is this concept in which the United States’ economy was founded and expanded upon.\(^6\)


\(^3\) See *The Importance of Trade*, HERITAGE FOUND., https://www.heritage.org/trade/heritage-explains/the-importance-trade (last visited Oct. 25, 2019) [https://perma.cc/8PB4-AR9E] (examining importance of international trade and initiatives of current administration regarding trade agenda). Trade allows individuals and nations to concentrate on their particular expertise, as well as produce specialized goods and services. *Id.* This process efficiently utilizes labor and resources. *Id.*

\(^4\) See *id.* (explaining freer trade enables lower prices for consumers and allows for greater choices of goods).

\(^5\) See *The Importance of Trade*, supra note 3 (considering financial opportunities enabled by free trade).

\(^6\) See *id.* (explaining founders’ inspiration by citing Britain’s “cutting off . . . [t]rade” for declaring independence).
Since international trade is an "inevitable part of the world," it "is regularly the subject of contentious debate both on Capitol Hill and in the media." With the arrival of the Trump administration in 2017, there has been no indication that the discussion on international trade will lose momentum anytime soon. The Trump administration assumed an aggressive approach on international relations relying heavily on tariffs and sanctions to bolster the President's targeted trade agenda. Some contend "[t]his, in itself, is not unusual.” It is undeniable that previous government administrations imposed financial penalties on members of the international trading community in furtherance of their trade policies. However, the approach being utilized by the Trump administration is unparalleled in comparison to past administrations.

Unlike any other administration, the Trump administration has exploited the tools of international trade "in a much more forceful and much more coordinated fashion than any president in the past." The administrations' far-reaching use of national security, ever-growing list of blacklisted foreign entities, and continuing pressure to change trade policies illustrate the unprecedented nature of the Trump administration's approach.

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8 See Adam Taylor, No President Has Used Sanctions and Tariffs Quite like Trump, WASH. POST (Aug. 29, 2018, 6:00 AM), https://www.washingtonpost.com/world/2018/08/29/no-president-has-used-sanctions-tariffs-quite-like-trump/?noredirect-on&utm_term=-.b78665c45fl0 [https://perma.cc/4MPD-7D8B] (focusing on administration's unprecedented sanctions and increased use of tariffs); see also Weiland, supra note 7 (noting Trump's campaign promise to place tariffs on foreign goods if elected).

9 See Taylor, supra note 9 (stating sanctions and tariffs are favored tool of Trump administration).

10 See id. (recognizing past administrations targeted use of such measures). While both the Obama and Bush administrations used sanctions "to punish foreign policy [trade] rivals, criminals, human-rights violators and terrorists," the Trump administration increased the number of people on the list of sanctioned-persons to an "all-time high" in 2017. Id.

11 See Taylor, supra note 9 (comparing use of sanctions by past administrations). "The expansion of the list 'demonstrates the desire to use this sanctions tool even more creatively . . . .’” Id.


13 See Taylor, supra note 9 (explaining current administration’s forceful use of trade, blurring line between trade policy and foreign policy).
agreements has fueled the frustration of allied nations and lawmakers, as well as generated uncertainty for industries "in a way [which] could eventually backfire on Washington."\textsuperscript{14} Through the weaponization of international commerce, the administration has blurred the line between its trade and foreign policy, inciting an unstable precedent.\textsuperscript{15} By promising better trade agreements in the absence of deal negotiations, the administration has caused a tumult of confusion making it nearly indiscernible whether this is a promising plan or protectionism in plain-view.\textsuperscript{16}

This Note will seek to explore the Trump administrations' trade policies by analyzing their agenda and the outcomes of their policies.\textsuperscript{17} Through historical and factual analysis, this Note will study similar strategies by past administrations and will offer distinctions between the positive and negative aspects of imposing such plans.\textsuperscript{18} By examining the resulting civil suits and constitutionality issues, this Note will explore the reactions of U.S. institutions, as well as the probing political resistance.\textsuperscript{19} By surveying datasets, this Note will identify the present and impending implications that such approach is having on the U.S. economy.\textsuperscript{20} Through review of international trading powers responses, this Note will reveal the backlash from longstanding trade partners.\textsuperscript{21} Prior to analyzing the state of the current


\textsuperscript{15} See Taylor, supra note 8 (reiterating implications of confusing trade policy with foreign policy).


\textsuperscript{17} See id. (comparing actual agenda with activities alleged in support of said agenda).


trade climate, it is necessary to understand the relevant historical backdrop concerning taxation and international trade, as well as the constitutional framework surrounding the authority to tax.  

II. HISTORY

The historical background surrounding U.S. trade exhibits a prevailing belief in isolationist policies with protectionism as America’s apparent de facto policy, which started with the passage of the Tariff of 1816.  

Despite the infant-nation’s strong opposition to taxation as one of the principle driving forces behind the American Revolution, rapid industrialization and an increase in the country’s scope and size led the government to turn to tariffs for relief.  

Waves of harsh tariffs plagued the U.S. in the early 19th century, leading to an “inevitable . . . tariff conflict . . . along North-South lines,” which occurred as a result of the negative impact of the tariffs on southern farmers.  

The electorate “largely fed up with protectionism” ousted the then-republican President [ADD NAME], who was known for championing protectionism, by electing [ADD NAME], a democrat, who in response cut tariffs.  

Low-tariff policies remained in effect up to the Civil War until “another swing of . . . protectionism” hit the country in the midst of another industrial revolution and another republican-presidency.  

Up until World War II, “tariffs remained . . . central to American Economic policy,” resulting in the most notoriously condemned protectionist measure in U.S. history, the Smoot-Hawley Act.  

The Smoot-Hawley Act sought to improve the conditions of American farmers struggling with competitors and declining prices resulting from the stock
market crash. Its implementation resulted in retaliatory measures by foreign nations, who increased tariffs on U.S. products, which incited a trade war with overseas competitors. In response to the retaliation, which caused a drastic decline in international trade, President Franklin D. Roosevelt decreased the amount of excessive tariffs by passing the Reciprocal Trade Agreements Act of 1934. This Act was the beginning of a legislative trend granting the president certain powers in the realm of trade tariffs. This Act also enabled the U.S. to distance itself from past international trade procedures.

A shift toward freer trade occurred due to the technological advances of the mid-20th century, which eased the swift progression of industry, and the “battle of capitalism vs. communism” during the Cold War, which encouraged “America to extend its hand to allies.” By the 1980s, the U.S. had completely abandoned protectionism for plans aimed at lowering trade barriers. The once staunchly protectionist republican party abandoned its “shield the industry” position, which reestablished republicans as the party of free trade. Over the years, the U.S. has made great strides to promote free trade through policies and agreements, such as the World Trade Organization (WTO) and the North American Free Trade Agreement (NAFTA).

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30 See id. (examining negative implications that resulted from implementation of high tariffs). This Act raised the United States’ already remarkably high tariffs adding double the import tax at the time, from “20% ... to about 40%.” Id.
32 See id. (tracing historical context behind expansion of presidential powers over trade).
33 See id. (noting United States’ move towards more liberalized trade); see also Chu, supra note 28 (alleging adoption of tariffs mirror past mistakes).
34 See Chu, supra note 28 (exploring swift in policies); see also Smith, supra note 18 (pointing to global position and ideological stance during said time).
35 See Smith, supra note 18 (citing end to spirit of economic isolationism).
36 See Republican Party on Free Trade, ON THE ISSUES, http://www.ontheissues.org/Celeb/Republican_Party_Free_Trade.htm (last updated Sept. 11, 2018) [https://perma.cc/4LNK-LE98] (highlighting Republican party platform in 2016). “Trade plays an important role in our economy... providing immeasurable benefits to American consumers by lowering prices and improving our standard of living... For that reason, the US must do more to support trade agreements with clear benefits, including job growth, to our economy.” Id.
37 See Smith, supra note 18 (noting economic shift towards freer trade and resulting trade agreements).
to products and safeguard against unequal and unprofitable prices, the current administration has chosen a different path.\textsuperscript{38}

III. FACTS

A tariff is a tax imposed on a particular imported good; a tariff aims to protect domestic industry by making a foreign good more expensive.\textsuperscript{39} The framers of the Constitution granted Congress the power to impose tariffs through Article 1, Section 8, Clause 1 (the "Taxing and Spending Clause").\textsuperscript{40} Through the Taxing and Spending Clause, the framers delegated the authority "[t]o lay and collect Taxes, Duties, Imposts and Excises" and "[t]o regulate Commerce with foreign Nations" to the legislative branch.\textsuperscript{41} The Taxing and Spending Clause authorized the central government to generate revenue through taxes and control trade with foreign nations.\textsuperscript{42}

Under the Constitution, Congress reserves the exclusive authority to (1) impose financial penalties in the form of tariffs, and (2) regulate commerce.\textsuperscript{43} The Taxing and Spending Clause expressly grants Congress direct control over the aforesaid enumerated powers with the authority to levy taxes remaining one of its broadest and most significant powers.\textsuperscript{44} Accordingly, Congress plays a significant role in controlling trade and

\textsuperscript{38} See Bertrand, supra note 2 (defining concept of international trade and reviewing history of trade theories).


\textsuperscript{40} See U.S. CONST. art. I, § 8, cl. 1 (granting Congress power to collect taxes, duties, and excises); see also Spending Power, LEGAL INFO. INST., CORNELL L. SCH., https://www.law.cornell.edu/wex/spending_power (last visited Nov. 14, 2019) [https://perma.cc/2T49-7P4R] (explaining constitutional authority to "lay and collect taxes").

\textsuperscript{41} See U.S. CONST. art. I, § 8, cl. 1 (quoting Congress's power to tax as established by Constitution); see also Caitlain Devereaux Lewis, Presidential Authority Over Trade: Imposing Tariffs and Duties, CONG. RES. SERVICE 1-2 (Dec. 9, 2016), available at https://fas.org/sgp/crs/misc/R44707.pdf [https://perma.cc/7C2B-GP4E] (pointing to constitutional framework establishing authority to impose tariffs and regulate international trade).

\textsuperscript{42} See Lewis, supra note 41 (reiterating authority of federal government to implement taxes and regulate international trade).

\textsuperscript{43} See U.S. CONST. art. I, § 8, cl. 1 (quoting Congress's taxing power established by Constitution); see also Lewis, supra note 41 (indicating authority of Congress to levy consequences and control commerce).

\textsuperscript{44} See U.S. CONST. art. I, § 8, cl. 1; see also NCC Staff, Talk of New Tariffs Opens Up an Old Constitutional Issue, NAT'L CONST. CTR. (Dec. 23, 2016), https://constitutioncenter.org/blog/talk-of-new-tariffs-opens-up-an-old-constitutional-issue [https://perma.cc/AN8Z-Q8ED] (highlighting constitutional concerns behind relinquishing congressional authority to further administration's agenda); Lewis, supra note 41 (citing constitutional authority behind Congress's tariff powers).
shaping economic policy.⁴⁵ The Constitution does not expressly provide the president with the authority to modify or impose tariffs.⁴⁶ Therefore, the president must rely on statutes passed by Congress to impose tariffs.⁴⁷ Policy changes in recent decades show that Congress has entrusted the executive branch with greater authority by delegating powers to the president that he does not possess through the express language of the Constitution.⁴⁸ Power over international trade is one of the delegated powers.⁴⁹

Prior to the mid-1930s, the federal government was primarily responsible for regulating tariff rates.⁵⁰ In 1934, however, the Reciprocal Tariff Act initiated a snowball of legislation expanding presidential authority.⁵¹ The Trade Expansion Act of 1962 was enacted as part of the legislation stemming from the Reciprocal Tariff Act.⁵² While the Reciprocal Tariff Act granted the president the authority to negotiate unprecedented cuts to tariffs and initiate a series of trade agreements, most importantly, it authorized the president, through section 232 of the Trade Expansion Act ("section 232"), to impose tariffs on the grounds of national security grounds.⁵³ Despite its "fundamental shift away from the... protectionist posture[,]" section 232 has recently been utilized to impose unprecedented tariffs intended to protect American industry.⁵⁴

⁴⁶ See Lewis, supra note 41 (noting Constitution does not provide president authority over tariff related actions).
⁴⁷ See id. (outlining Congress’ delegation of power in regard to international trade).
⁴⁸ See id. (articulating Congress’s delegation of tariff power to president through legislation).
⁴⁹ See id. (commenting on recent expansion of presidential power).
⁵³ See 19 U.S.C. § 1862 (2012) (pointing to where section 232 of Trade Expansion Act is codified in U.S. Code); see also Taylor, supra note 8 (asserting constitutional basis by which president can exercise power over trade).
⁵⁴ See Bertrand, supra note 2 (discussing transformation of American trade policy); see also Taylor, supra note 8 (pointing to purpose behind administration’s assertion of section 232).
Protectionism encompasses governmental actions and policies that intend to benefit the domestic economy by restricting trade through taxation of foreign goods and/or competitors. Historically, this ideology has emerged from the need to protect local industries and jobs from foreign competitors in the light of rapid industrial growth, but in general, it has had a negative economic impact, both international and domestic. The most notable of these negative impacts have been several infamous trade wars.

Traditionally, protectionist policies emerge when one country interprets the trading practices of another country as unfair. In response, an affected country imposes a tax on the other country’s imports by focusing on a particular product or industry in order to alter the balance of trade. However, if the levying country’s practices are perceived as unlawful and misguided, the imposed-upon country may retaliate through tariffs. Retaliatory measures represent the onset of a trade war, which is a common “side effect of protectionism.”

In the Trump administration’s first year in office, unprecedented policies have resulted in billions of dollars in new tariffs. These actions have caused member trading nations unprecedented penalties, exposing a pattern of exploiting financial burdens “in a much more forceful and... coordinated fashion” than previous administrations. This strategy has left critics questioning (1) whether these tactics are necessary to protect national security and ultimately promote free trade, or (2) whether the tactics are simply a stunt to protect U.S. manufacturers from foreign competition.


56 *See* id. (discussing “detrimental effects” trade wars have on trading relationships between countries).

57 *See* id. (stressing that trade wars “grow to affect other sectors” of world economy).

58 *See* id. (recognizing how trade wars begin).

59 *See What Are Common Reasons for Governments to Implement Tariffs?*, INVESTOPEDIA, https://www.investopedia.com/ask/answers/041715/what-are-common-reasons-governments- implement-tariffs.asp (last updated July 15, 2019) [https://perma.cc/NQM4-5QDM] (examining “various reasons a government may choose to impose a tariff”).

60 *See* Chen, *supra* note 55 (stating successive measures taken by impacted trading nations).

61 *See* id. (suggesting actions that often signify beginning of trade war).


63 *See* Taylor, *supra* note 8 (describing unprecedented tactics and measures instituted by current administration).

64 *See* Levy, *supra* note 16 (encompassing concerns regarding tariff implementation).
Despite the Trump administration’s insistence that they are fighting for freer and fairer trade, “there is no evidence to support the idea that President Trump . . . is pushing for freer trade; in fact, all the evidence points in the opposite direction.”

IV. ANALYSIS

Despite the Trump administration’s ability to mask fiscal consequences, including (1) hiding behind strong economic and stock market growth, (2) skewing factual reality, (3) suppressing suspicion through false assertions of newfound revenue, and (4) disguising the benefits of some as benefits for all, the President’s confrontational stance is having harmful effects on numerous U.S. companies. For many businesses, “the tariffs are escalating costs, creating hardships and magnifying uncertainty[;]” the Institute for Supply Management reported that “the manufacturing index plunged [in December 2018] to its lowest point in more than two years partly because of the tariffs.” Mounting expenses have forced an increasing number of importers to decide between raising costs and risking loss of business, or absorbing extra costs and possibly sacrificing profit. In response, in order to avoid imposed tariffs on imports, several U.S. companies have decided to move production to foreign nations. Despite mounting pressure on domestic manufacturers, the Trump administration has

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65 See id. (questioning strategies employed by administration to further trade agenda).


67 See Wiseman, supra note 66 (asserting tariffs tend to hurt American companies by swelling material costs and creating competitive disadvantage).

68 See id. (explaining that tariffs harm companies who buy foreign goods for resale or as component parts). Instead of acting as a tax on foreign companies, tariffs are acting as a tax on U.S. consumers, raising prices and slowing the domestic [and global] economy. Id.

been consistent with its rhetoric that the tariffs are combating national
security concerns.\(^{70}\)

Undeterred by widespread criticism, the Trump administration
continues to cite national security concerns as justification for the
unprecedented penalties against U.S. businesses, shielding themselves with
section 232.\(^{71}\) However, a lawsuit filed by the American Institute for
International Steel, joined by SIM-TEX and LLC of Burlingame, recently
challenged the constitutionality of section 232.\(^{72}\) Accordingly, petitioners
argued that the law was being used improperly by delegating trade powers
to the executive branch.\(^{73}\) Filing in the U.S. Court of International Trade, the
petitioners asserted that Congress retains the power to impose and set tariffs,
and any delegation of this law-making ability must contain discretionary
limitations of presidential authority.\(^{74}\) However, section 232 lacks the
“intelligible principles” that set such limits on the president’s discretion.\(^{75}\)
Section 232 broadly defines national security concerns as “encompass[ing]
anything having to do with the U.S. economy.” 76 President Trump’s statements regarding his ability to impose duties, “made clear that . . . section 232 grants him unfettered power to impose tariffs or other restrictions on imports . . . in any amount, for whatever duration, and for whatever reasons he sees fit,” which is an unconstitutional delegation to the executive branch. 77 While Congress may delegate certain taxing powers to regulate foreign commerce, it is only permitted if “the statute contains an intelligible principle on how to proceed.” 78 The Court of International Trade ultimately sided with the government as courts are “generally unwilling to draw difficult lines between a constitutional delegation and an unconstitutional one.” 79 Moreover, impacted industries are not the only entities critical of the national security excuse. 80

Before Trump’s application of section 232, “which allows the president to block imports that he deems threatening to national security,” then-Defense Security James Mattis criticized a report regarding the use of this defense. 81 Mattis, in a memorandum to Commerce Secretary, Wilbur Ross, proclaimed that the “DoD [Department of Defense] does not believe that the findings in the reports impact the ability of DoD programs . . . necessary to meet national defense requirements.” 82 Jerome Powell, Federal Reserve Chairman, also expressed concerns about potential “serious risks to

76 See id. (highlighting how statute’s broad language may be used by president to meet goals).
77 See id. (elucidating administration’s understanding of presidential power under statute).
78 See Eric Boehm, This Lawsuit Could Sink Trump’s Steel Tariffs, REASON (Dec. 19, 2018, 10:00 AM), https://reason.com/blog/2018/12/19/this-lawsuit-could-sink-trumps-steel-and/ [https://perma.cc/EV9R-72ZZ] (discussing extent of congressional power and § 232’s unconstitutionality).
79 See Ilya Shapiro, Trevor Burrus, and William Yeatman, American Institute for International Steel, Inc. v. United States, CATO INST. (May 17, 2019) https://www.cato.org/publications/legal-briefs/american-institute-international-steel-inc-v-united-states [https://perma.cc/SA25-79C6] (summarizing case progress and party arguments). It is important to note that, “[t]he plaintiffs decided to appeal the case directly to the Supreme Court . . . [because] [n]ot only are the steel tariffs causing ongoing harm to the economy, but only the Supreme Court can ultimately decide the issues in this case.” Id.
81 See id. (pointing to U.S. military steel requirements and how §232 findings do not match DoD reports).
82 See id. (providing rational for § 232 inapplicability). James Mattis explained that “[t]he U.S. military requirements for steel and aluminum each represent only about 3% of U.S. production,” and it does not meet the necessary national defense requirements. Id.; see Annie Lowrey, Does Trump Even Understand How Tariffs Work?, ATLANTIC (Dec. 6, 2018), https://www.theatlantic.com/ideas/archive/2018/12/the-fog-of-trumps-trade-war/577495/ [https://perma.cc/8MAH-HTZD] (reiterating Mattis’ response that tariffs are not necessary for country’s defense).
the U.S. and global economy” due to the tariff policies.\textsuperscript{83} Under testimony, Powell advocated for the eventual removal of the tariffs, explaining that escalating tariffs have already stunted business growth in the United States.\textsuperscript{84} In furtherance, Powell and other officials acknowledged that U.S. businesses have deserted plans to expand as a result of rising costs and amplifying uncertainties.\textsuperscript{85} Additionally, business groups and agriculture exporters “expressed worries that Trump’s tariffs . . . and the retaliation . . . could cause widespread economic harm,” while lawmakers “warned . . . about the damage they had already seen inflicted on businesses in their states even as the economy expands and unemployment falls . . .”\textsuperscript{86} Powell explained that “higher tariffs across a broad range of goods and services that remain that way for a long time . . . will be bad for [the United States’] economy and other economies, too.”\textsuperscript{87} John Williams, the President of the Federal Reserve Bank of New York, elucidated that the higher tariffs have a relatively small effect on the economy, “but have hurt confidence and some business investments,” in turn, hurting U.S. employment and economic growth.\textsuperscript{88} In support, Powell described “hearing a rising level of concern’ from U.S. firms about the impact of Trump’s tariffs, which could trigger several ‘very challenging’ economic situations.”\textsuperscript{89}

Coupled with concerns regarding the impacts to U.S. businesses, there is intensifying pressure from global economists warning of the economic consequences.\textsuperscript{90} Despite the administration’s promise of


\textsuperscript{84} See id. (recognizing Powell’s defense of our global trading system).

\textsuperscript{85} See id. (pointing to damages already inflicted on U.S. businesses).

\textsuperscript{86} See id. (cautioning widespread economic harm).

\textsuperscript{87} See id. (characterizing long-lasting tariffs as overtly impactful).

\textsuperscript{88} See Harrer, supra note 20 (providing additional ways tariffs hurt U.S. economy).

\textsuperscript{89} See Lane, supra note 83 (acknowledging increasing concerns of U.S. businesses); see also Kai Ryssdal, Fed Chair Jay Powell: We’re “Independent of Political Considerations”, MARKETPLACE (July 12, 2018), https://www.marketplace.org/2018/07/12/economy/powell-transcript [https://perma.cc/LM2X-BX4T] (providing context of Powell’s statements); Kevin Kelleher, Fed Chair Says He’s Hearing ‘a Rising Chorus of Concerns’ from Companies About Trump’s Trade Wars, FORTUNE (Sept. 26, 2018), http://fortune.com/2018/09/26/fed-chair-powell-trump-trade-wars/ [https://perma.cc/B5KM-3E9W] (stressing increasing concern of trade war arising from unprecedented high tariffs). Powell noted that “[w]e’ve been hearing a rising chorus of concerns from businesses all over the country about disruption of supply chains, materials cost increases.” Kelleher, supra note 89. “[T]ariffs that remain in place for a long time, a more protectionist world, that’s going to be bad for the U.S. economy.” Id.

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economic prosperity, economists say that the president is wrong.91 Economists instead assert that tariffs "can cause higher prices, reduce trade... and hurt overall economic growth."92 Economists also contend that foreign companies sell fewer goods and services to such taxing countries.93 The Tax Foundation found that economists largely align with the notion that trade barriers reduce the level of economic input and output, with "[h]istorical evidence show[ing] that tariffs raise prices and reduce available quantities of goods and services for U.S. businesses and consumers[.""]94

Accordingly, over 1,100 economists signed an open letter to President Trump and to Congress, urging that the two reconsider the tariff

The National Association for Business Economics survey showed 91 percent of respondents said current tariffs and threats of more to come were having "unfavorable consequential impacts" on the U.S. economy...[a]bout two-thirds saw negative effects if the U.S. withdraws from...[NATO] with Mexico and Canada.


92 See Boak, supra note 91 (explaining costs of taxes borne by U.S. consumers and businesses in form of higher prices).

93 See id. (highlighting how foreign countries and companies are also impacted).


[T]he tariffs... would reduce long-run GDP by 0.26 percent ($64.11 billion) and wages by 0.16 percent and eliminate 198,700 full-time equivalent jobs. If... [Trump] acts on outstanding threats to levy additional tariffs, GDP would fall by an additional 0.24 percent ($59.40 billion), resulting in 0.17 percent lower wages and 184,200 fewer... jobs. Other countries have also announced intentions to impose tariffs on U.S. exports. If... imposed, we estimate... GDP would fall another 0.05 percent ($13.34 billion) and cost an additional 41,300... jobs. If all tariffs announced... were fully imposed, U.S. GDP would fall by 0.55 percent ($136.86 billion) in the long run... Wages would fall by 0.37 percent and employment would fall by 424,200.

Id.
Experts maintain that they have been advocating for free trade for centuries, explaining that interfering with markets is simply a misdirection of resources that force individuals to focus their time and energy on other ways to accomplish the same thing with slightly different, but less expensive materials. Moreover, allies have also expressed their frustrations with the administration’s use of national security.

In 1995, the U.S. assisted in forming the World Trade Organization (W.T.O.) as an aid to resolve trade disputes and to establish rules that keep global commerce flowing. Today, “[t]here are those who would go so far to say that the U.S. has almost effectively withdrawn from the W.T.O. by engaging in all the unilateral tariffs.” For instance, Canada, Mexico, and the European Union claim that their exports, particularly their metals, pose no threats to the national security of the U.S., focusing their argument specifically on “whether the United States’ . . . sweeping steel and aluminum tariffs are necessary to protect national security or [on] whether they are simply a ruse to protect American metal manufacturers from global competition.”

[Despite promoting its renegotiation], no progress has been made . . . [and] [j]udging by . . . [Trump’s] similarly unpopular decisions to remove the U.S. from the Paris Accord and the Iran nuclear deal, it’s now a very real possibility that the president withdraws the U.S. from NAFTA if the trade war he just created were to get worse.

Id.

feeling, stating that the implementation of such measures "is protectionism, pure and simple." The Canadian Prime Minister asserted that it "is simply ridiculous to view any trade with Canada as a national security threat" to the US in response to the close ally being named a danger to U.S. security. The World Bank warns that damaging tension could have global trading consequences equivalent to the financial crisis of 2008 explaining that "[i]nternational commerce is already weakening" and "conflict over trade . . . is one of the major risks." Calculations show a 2.5% effect on global trade as a result of the tariffs that were imposed last year, which could double if the U.S. implements additional tariffs on partner trading nations. In addition, the impact on America's longstanding allied relationships is overwhelmingly unsettling. With Canada declaring "that the tariffs mark 'a turning point in the Canada-U.S. relationship,'" Germany claiming it may be the "end of the German-American trade relationship," and Mexico deeply condemning the decision of the U.S., economists warn of severe consequences for world trade and economic growth, as well as the realistic threat to political consensus over trade. Some of the most powerful lobby groups in the United States claim "[i]t is now also increasingly clear that the way the . . . tariffs have been used will result in retaliatory tariffs from our . . . closest allies, and that retaliation will have serious negative economic impacts on the United States."
V. CONCLUSION

The Trump administration has adamantly stated that their policies on international trade will make America wealthy again, which suggests that tariffs are the road to riches. This rationalization, coupled with the questionable delegation of historically held congressional authority, has enabled the administration to proceed with their unparalleled approach of placing heavy reliance on tariffs. This approach has (1) unearthed a plethora of present and impending domestic and foreign economic implications, (2) commenced legal action incited by political opposition and constitutionality concerns, and (3) prompted condemnation by essential partner-trading nations. Yet, there is no indication that the administration has relinquished their untenable position.

In light of the administration’s unprecedented use of section 232, several members of Congress have introduced a bill that would more tightly define “national security.” In addition, this new bill would require congressional approval before such tariffs could take effect, as well as transfer authority from the Commerce Department to the Defense Department with regard to national security investigations. Moreover, another congressional member has initiated the drafting of a bill to also circumscribe the president’s authority under the statute. Although President Trump will likely veto any bill that attempts to restrict his use of section 232, the introduction of these bills demonstrates positive steps toward restraining the Trump administration’s reckless use of national security as a pretext to impose tariffs.

Notwithstanding these issues, trade plays an insurmountable role in our economy. It enables vital competition and innovation, provides for immeasurable consumer benefits in market systems, and encourages global freedom and greater opportunities. Trade, as the bedrock of the United States economic system, and the anchor to international political relations, must run freely and smoothly, in which protectionist policies have no place.

Jessica A. Mehaylo