

A Deep Dive into Trade

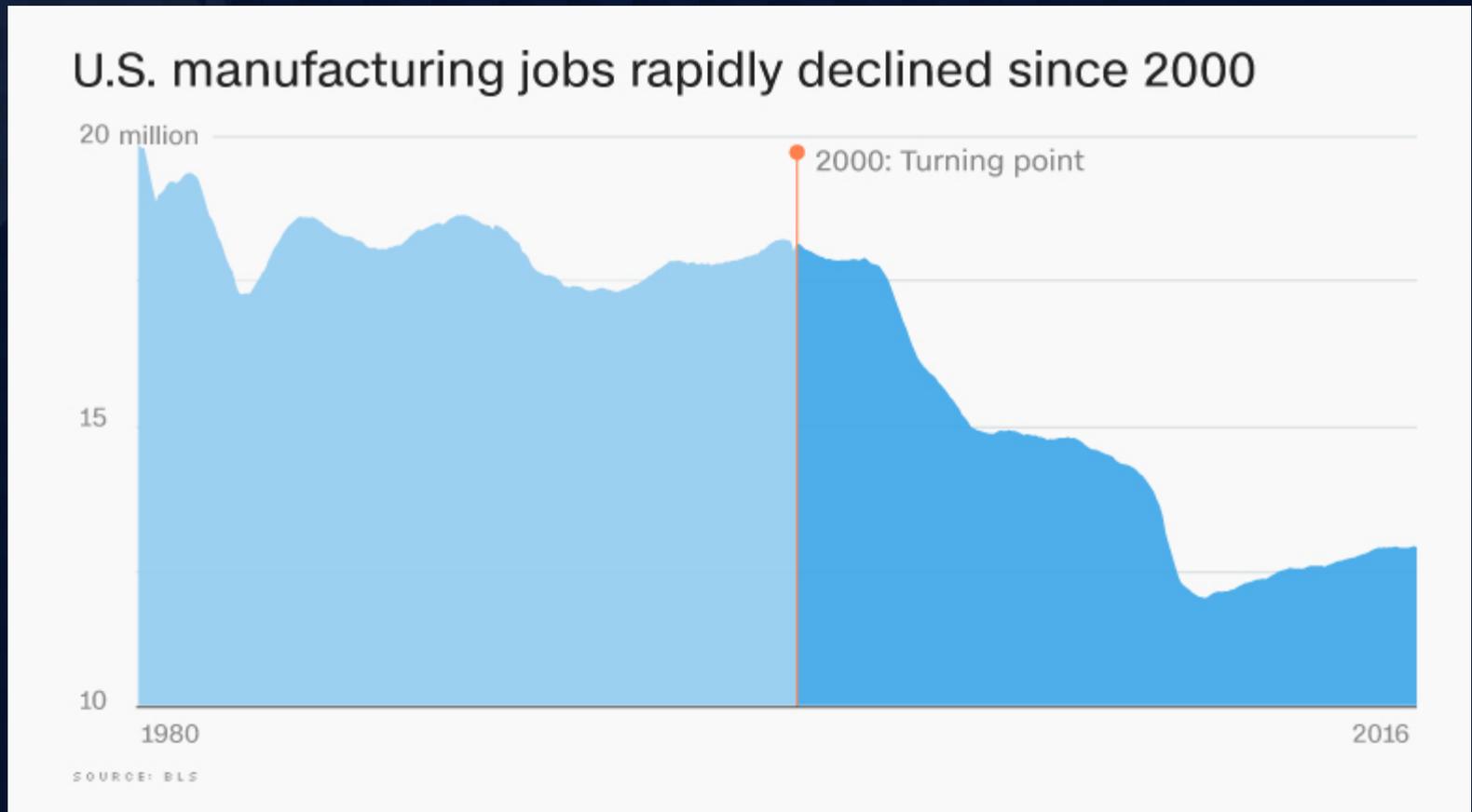
Roy Houseman,
USW Legislative Department



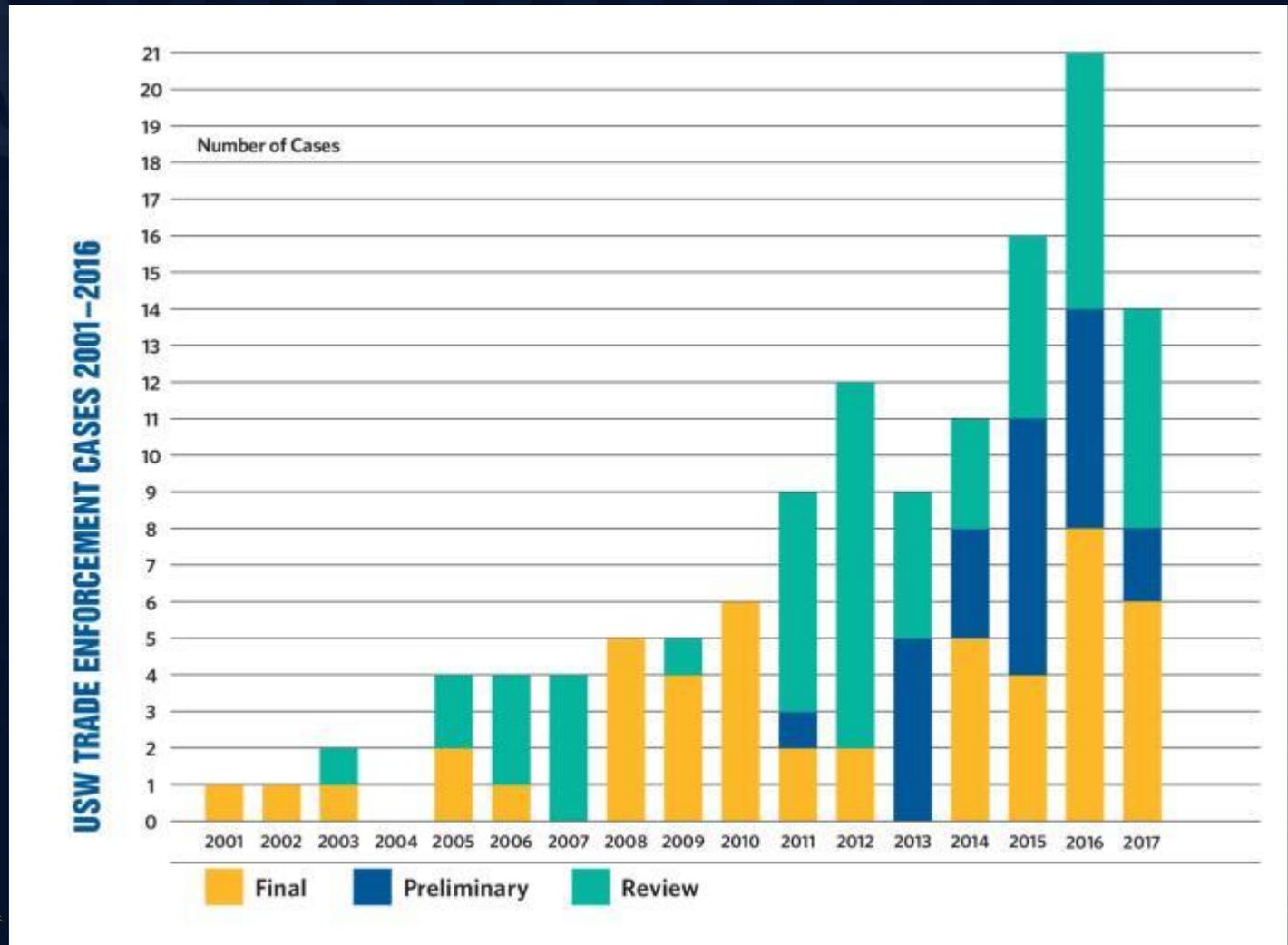
Where We've Been & Why We Fight

- In 2001, the Census Bureau counted 352,619 manufacturing establishments.
 - 2014, it counted 292,543. That's a drop of 60,076.
- USW has participated in over 80 trade enforcement cases since 2011 (AD/CVD).

Where We've Been & Why We Fight



Number of Trade Enforcement Cases (AD/CVD) where USW participated



Understanding the Threats & Using Tools to Fight Back

- What are some of the tools USW and Employers use to defend domestic industry?
 - Anti-Dumping and Countervailing Duty Cases
 - Unique Trade Enforcement Tools
 - 201
 - 232
 - 301
 - 337



Our main trade enforcement tool

- Title VII (7) of the Tariff Act of 1930 is the workhorse of our trade enforcement laws.
 - 435 total individual tariffs on 46 countries.
 - Establishes Anti-Dumping and Countervailing Duty law in the U.S.
 - Reviews three years of materials take roughly one year to adjudicate.

Antidumping (AD)

When a foreign producer sells a product in the US market below that producer's sale price in the country of origin, or at a price lower than cost of production. AKA DUMPING

Foreign Company cost of Production

\$100

Foreign Company sells product in US

\$90

Dumping margin

\$10

Department of Commerce determines the dumping margin

Subsidies AKA Countervailing Duties (CVD)

Countervailable subsidies entail a government making, or directing a private entity to make:

1. financial contribution;
2. that provides a benefit;
3. to a specific industry or group of industries, or is export contingent.

Examples: cash grants, discounted energy, free land, interest-free loans, tax credits for exports

Department of Commerce determines the Countervailing Duty (CVD) margin

US agencies involved in an AD/CVD trade case



International
Trade
Commission
(ITC)



US Customs and
Border
Protection
(Customs)



Department of
Commerce
International
Trade
Administration
(DOC)

Example of Tariffs Working

- PVLT tire case brought by USW
 - Stopped 50 Chinese million tires per year coming into U.S. market
 - \$3 billion dollars have been invested into U.S. tire plant expansions and factories.
 - Goodyear & USW reached 5 year agreement with wage improvements & extension of plant protection guarantees.

PRINT Act - Threat

- 10 Senators (Senator King/Collins led) Introduce the PRINT Act
- Would pause AD/CVD case on ground-wood paper trade case (Newsprint)
- Sets terrible precedent
 - Foreign Countries, Powerful interests run to Congress to stop trade investigations



Unique Trade Enforcement Tools

Section 232 Investigations

Section 232 cases authorize the Secretary of Commerce to conduct investigations that determine the effects of specific imports on the national security of the United States.

- Aluminum
- Steel



What does a Section 232 investigation consider?

Section 232 investigations include consideration of:

- domestic production needed for projected national defense requirements;
- domestic industry's capacity to meet those requirements;
- related human and material resources;
- the importation of goods in terms of their quantities and use;
- the close relation of national economic welfare to U.S. national security;
- loss of skills or investment, substantial unemployment and decrease in government revenue; and
- the impact of foreign competition on specific domestic industries and the impact of displacement of any domestic products by excessive imports.

Why 232

- Domestic Industry Woes
 - Foreign imports have taken record market share in recent years and domestic capacity utilization rates average for 2017 under 75%.
 - One producer of electrical steel left
 - 17 million tons of domestic steel production capacity were lost between 2000-2016
- Global Dialogue Insufficient
 - 2 years to get to definition of overcapacity

Timeline of 232

April 20th 2017
232
investigations
opened

June 30th 2017
DOC misses
self-imposed
deadline for
publishing
findings

January 11th
2018
Commerce
submits steel
report to
President

February 16th
2018 DOC
recommends
tariffs/quotas

March 1st 2018
President
Trump
announces he
intends to
implement 232

March 1st 2018



Since March 1st

- 232 Aluminum Tariff
 - 10% global tariff*
- 232 Steel Tariff
 - 25% global tariff*

Product Exclusion Process

- Commerce reviewing individual product requests
- Thousands of product exclusion requests

Country Exclusion Process

- Korea (Quota)
- Argentina (Quota)
- Brazil (Quota Steel, Tariff Aluminum)

Temporary Exclusion (June 1)

- EU
- Canada
- Mexico
- Australia

Not excluded at this time

- Japan
- China
- Turkey
- India
- Vietnam

301 –What is it?

- **Section 301** of the U.S. Trade Act of 1974, (Pub.L. 93–618, 19 U.S.C. § 2411) authorizes the President to take all appropriate action, including retaliation, to obtain the removal of any act, policy, or practice of a foreign government that violates an international trade agreement or is unjustified, unreasonable, or discriminatory, and that burdens or restricts U.S. commerce.

301 –WHY

- Joint venture requirements, foreign investment restrictions, and administrative review and licensing processes to force or pressure technology transfers from American companies.
- Discriminatory licensing processes to transfer technologies from U.S. companies to Chinese companies.
- Directs and facilitates investments and acquisitions which generate large-scale technology transfer.
- Conducts and supports cyber intrusions into U.S. computer networks to gain access to valuable business information.

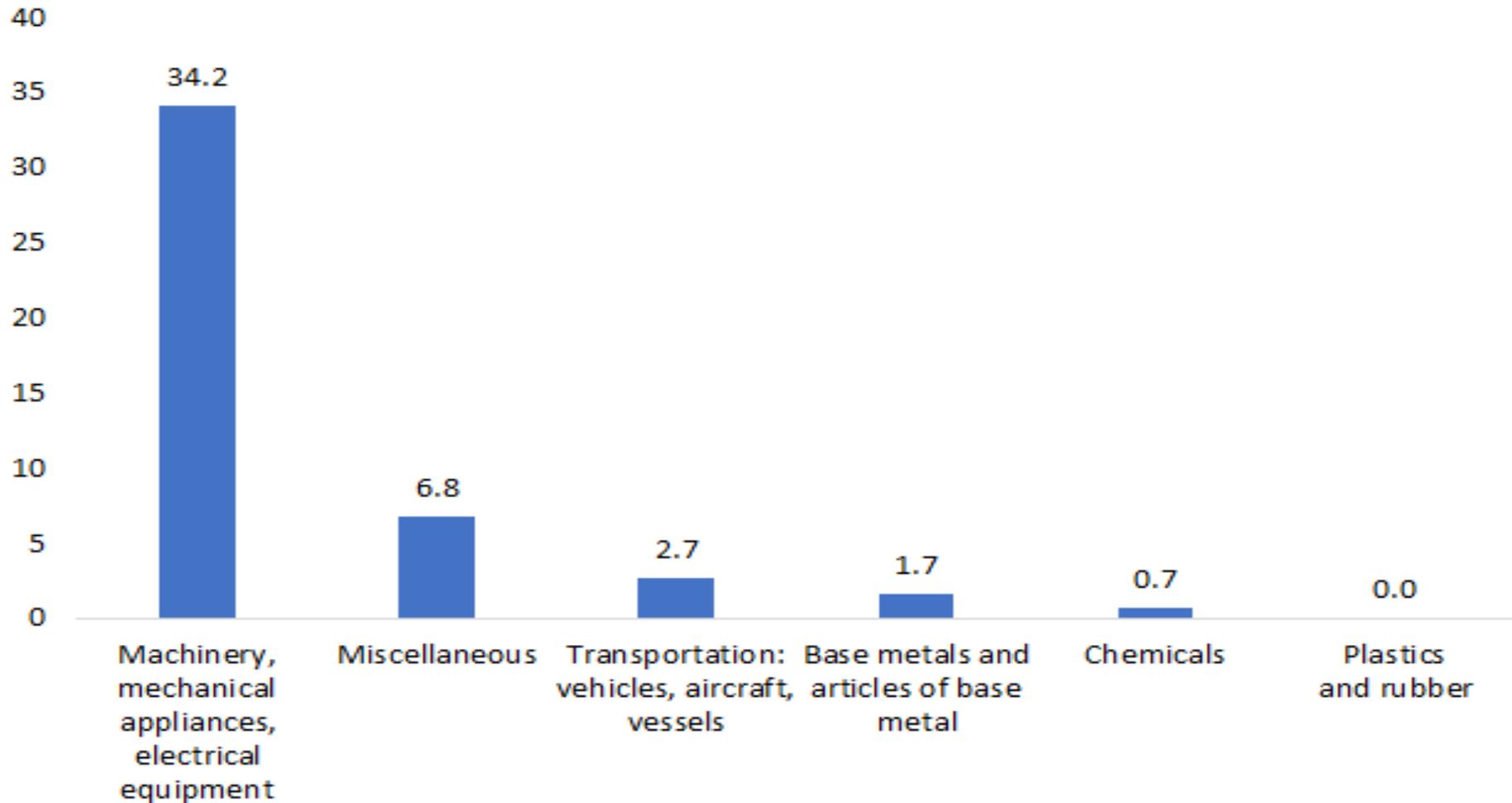
301 –Where it Stands

- US listed approximately \$50 billion in goods for tariffs
- China has responded with reciprocal tariffs

301 –Where it Stands

Figure 1 US imports from China in 2017 subject to Trump's proposed Section 301

billions of dollars

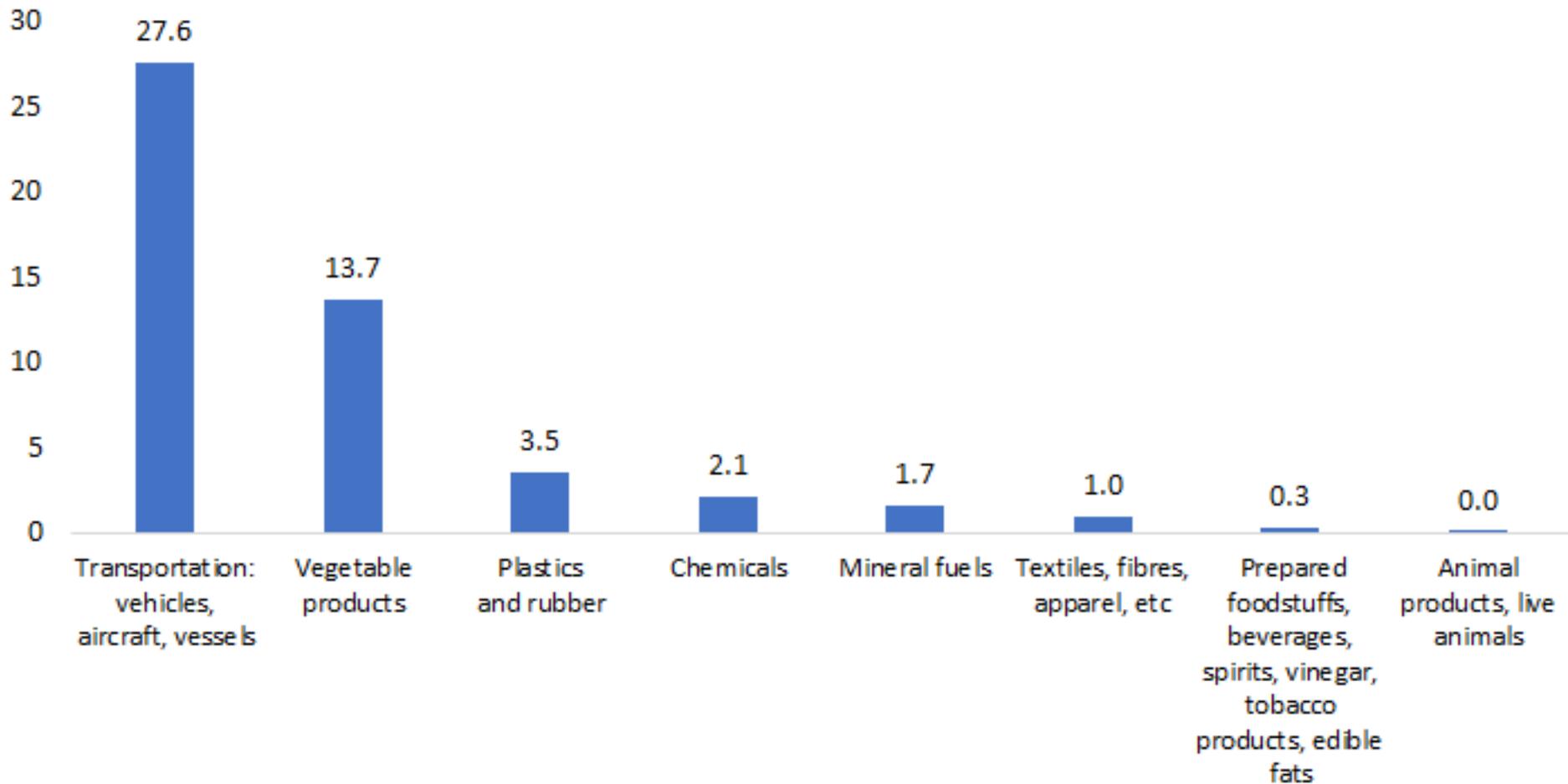


301 –Where it Stands



Figure 2 US exports to China in 2017 subject to China's tariff retaliation

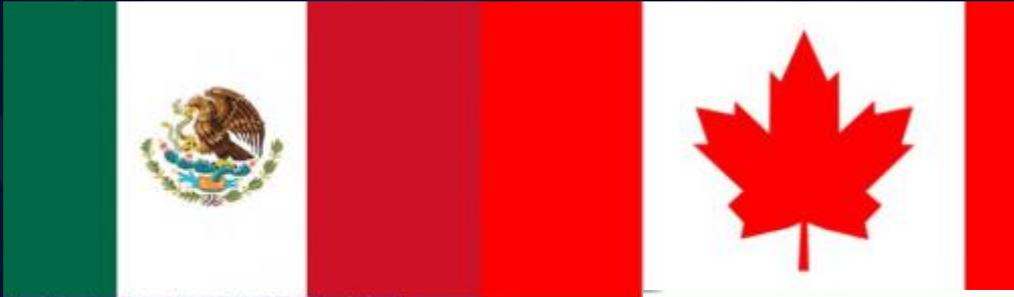
billions of dollars



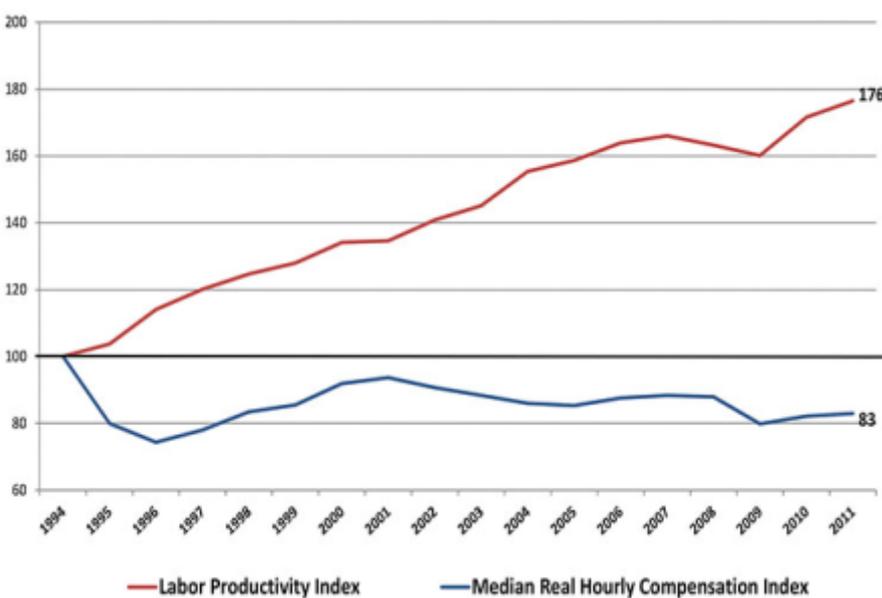
Not Covered – Today

- 201
 - Domestic industries seriously injured or threatened with serious injury by increased imports may petition the USITC for import relief.
 - Steel 201 in 2001
- 337
 - Involve claims regarding intellectual property rights, including allegations of patent infringement and trademark infringement by imported goods.

Getting Trade Agreements Right



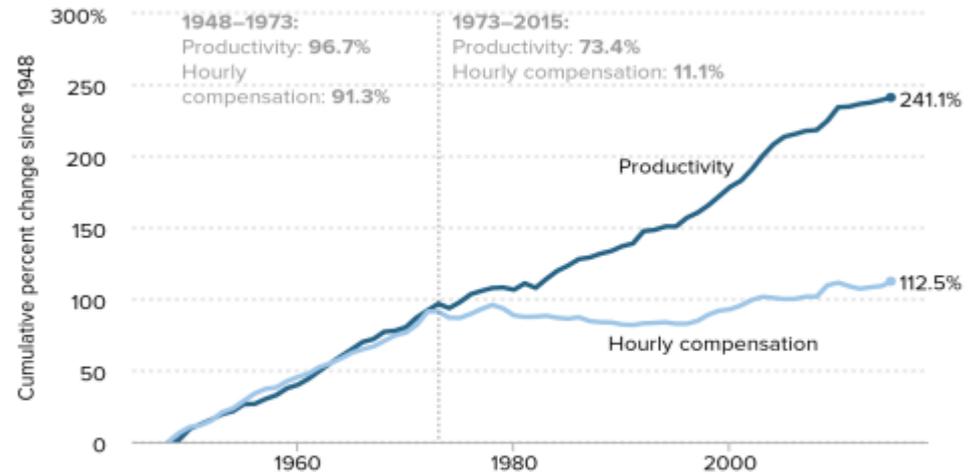
Getting Trade Agreements Right



Mexico Productivity and Compensation

The gap between productivity and a typical worker's compensation has increased dramatically since 1973

Productivity growth and hourly compensation growth, 1948–2015



Note: Data are for average hourly compensation of production/nonsupervisory workers in the private sector and net productivity of the total economy. "Net productivity" is the growth of output of goods and services minus depreciation per hour worked.

Source: EPI analysis of data from the Bureau of Economic Analysis (BEA) and the Bureau of Labor Statistics (BLS) (see the technical appendix of Bivens and Mishel 2015 for more detailed information)

Economic Policy Institute

U.S. Productivity and compensation

Improving Labor Standards in Trade Agreements

The International Monetary Fund noted in 2013: “Mexico competes directly with China in the US market.”

TABLE 1

Latin America: Average Annual Growth Per Capita 1994–2016

1	Panama	4.0%
2	Peru	3.2%
3	Chile	3.0%
4	Guyana	2.8%
5	Suriname	2.6%
6	Costa Rica	2.5%
7	Nicaragua	2.5%
8	Bolivia	2.3%
9	Uruguay	2.3%
10	Colombia	2.1%
11	El Salvador	1.9%
12	Honduras	1.9%
13	Paraguay	1.4%
14	Ecuador	1.4%
15	Mexico	1.2%
16	Brazil	1.1%
17	Argentina	1.1%
18	Guatemala	1.1%
19	Belize	1.0%
20	Venezuela	-0.4%

Source: IMF (2016).

NAFTA Renegotiations

- Labor Movement's Efforts Focus On
 - Labor Rights in Mexico
 - Enforceable
 - Eliminate Protection Unions
 - Rules of Origin
 - 75% NAFTA content
 - Steel Tracing
 - Wage Component





Questions?





Understanding Trade Cases

Each year, our union works to stem the tide of illegally and unfairly traded products into the U.S. marketplace by filing and supporting trade enforcement cases. Our union has led the way in using this aspect of our law because successful outcomes protect workers, their communities, and their companies. Each case requires careful consideration, resources, and must meet specific thresholds. The following are key types of cases:

Anti-Dumping and Countervailing Duties Cases (AD/CVD)

These laws are the backbone of U.S. international trade policy, and the type of case our union is most frequently involved in. AD/CVD penalties allow the U.S. to **counter illegally dumped and subsidized imports**. Dumped goods are sold in the United States at less than the cost of production or below the producer's sales price in its home market. Subsidized goods are artificially low-priced because foreign countries provide illegal financial support to their manufacturers like low or no cost energy, low or no cost loans, or free land. When we win these cases through the International Trade Commission (ITC) and Department of Commerce (DOC), the U.S. imposes duties (tariffs) designed to offset the impact of the illegal practices.

Sunset Review – The DOC and ITC conduct a review of anti-dumping and countervailing duties resulting from AD/CVD cases no later than five years after they are issued. They determine whether taking them away would likely lead to continuation or recurrence of the problems. We are often involved in urging continuation of tariffs.

Section 232 Case

Section 232 cases authorize the Secretary of Commerce to conduct investigations to **determine the effects of specific imports on the national security** of the United States. The Secretary of Commerce must notify and consult with the Secretary of Defense and can seek information and advice from other government agencies. The Secretary of Commerce must report national security implications to the President within 270 days of initiating the case. The President can concur or not with the Secretary's recommendations, and, if necessary, take action to "adjust the imports of an article and its derivatives" – meaning tariffs or quotas can be imposed on imports. In addition, the Secretary can recommend, and the President can take, other lawful non-trade related actions necessary to address the threat. In 2017, two of these cases were launched to determine the impact of steel and aluminum imports on our national security.

Section 201 Case

A Section 201 case is a "global safeguard" allowing for temporary import relief in situations where **increased imports of fairly traded products are causing serious injury** to an American industry. The ITC handles the investigation, and if injury is determined, recommends remedies to the President. The President makes the ultimate decision. A notable example of this type of case occurred in 2001 when then-President George W. Bush imposed steel tariffs after extensive activism by USW members. He ended those prematurely in the face of global pressure, and we never received the full benefit of the tariffs. While they were in place, they helped the industry restructure. The goal of a Section 201 case is to assist the domestic industry compete successfully with imports after a safeguard action terminates.

Section 301 Case

Section 301 cases give the U.S. Trade Representative (USTR) **broad authority to respond to a foreign country's unfair trade practices**. If USTR decides that there is unfair trade, they have the authority to take all "appropriate and feasible steps" to try to stop the unfair trade practice, subject to the direction of the President, if any. This is the key phrase – the President does not have to do anything. This provision has not been used much since 1995 when the World Trade Organizations (WTO) began resolving trade disputes. However, there has been a renewed interest by the Trump Administration in using the process since the U.S. has lost cases at the WTO. In August of 2017, USTR initiated a 301 case on whether acts, policies, and practices of the Government of China related to technology transfer, intellectual property, and innovation are unreasonable or discriminatory and burden or restrict U.S. commerce.

Section 421 Case (China Safeguard Investigation) - Expired at the end of 2013.

This law existed for a limited period of time as part of the deal to grant China Permanent Normal Trade Relations (PNTR) in 2000, allowing them to join the WTO in 2001. This type of case **determined whether products from China were causing market disruption** to domestic producers – meaning import surges. The President had the ultimate decision on any remedies. At the urging of our union, the Obama Administration took on a case involving tires, and we successfully obtained tariffs that allowed the tire industry to recover from unfair imports. As soon as the protection ended, the U.S. tire market was again inundated with imports.

WTO Dispute Settlement Process

Since the development of the World Trade Organization (WTO) in 1995, a new process to solve disputes has been developed. The WTO has a Dispute Settlement Body which **makes decisions on trade disagreements between countries**. This process takes up to three years and upon completion a country can either obey the ruling or face stiff tariff penalties. Almost half of the WTO disputes have challenged countries' trade enforcement laws. Close to 60 percent of WTO challenges to trade enforcement law have been against the U.S., such as our U.S. law that required meats to have their country of origin labeled. Many of those cases have undermined U.S. trade enforcement law.

Despite our strong track record of success, a critical problem remains with many of these cases, particularly those like the AD/CVD cases that we are often involved in: We must first lose jobs and market share to be able to prove that injury has taken place. Even when the outcome is successful, much of that never returns. As we work to find better solutions, our union will continue to lead in these efforts and every means available to protect jobs from illegal trade.