EUROPEAN UNION
DELEGATION TO THE UNITED STATES OF AMERICA

COMMENTS BY THE EUROPEAN UNION TO THE BUREAU OF INDUSTRY AND SECURITY, OFFICE OF TECHNOLOGY EVALUATION, U.S. DEPARTMENT OF COMMERCE

REQUEST FOR COMMENTS: SECTION 232 NATIONAL SECURITY INVESTIGATION OF IMPORTS OF AUTOMOBILES, INCLUDING CARS, SUVS, VANS AND LIGHT TRUCKS, AND AUTOMOTIVE PARTS

Submitted by:
The Delegation of the European Union
to the United States of America
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PREFACE

The European Union takes note of the initiation, on 23 May 2018, of an investigation under Section 232 of the Trade Expansion Act of 1962, as amended (19 U.S.C. 1862), to determine the effects on the national security of the United States of imports of Automobiles, including Cars, SUVs, Vans and Light Trucks, and Automotive parts. In response to the request for comments (Federal Register Notice 83 FR 24735 of 30 May, Federal Docket Number DOC-2018-0002), the European Union takes this opportunity to convey the following:

EU companies are well established in the US and important participants in the national economy. With EU companies producing close to 2.9 million automobiles in the US in 2017[1], they account for 26 percent of US production today[2]. If European ownership of the Chrysler brand – one of the traditional US "big three" manufacturers – is discounted, production by EU-owned companies in the United States still amounts to 16 percent of national production and 1.8 million vehicles.

Not only do EU companies contribute significantly to US production and support almost 120,000 direct and upstream jobs[3] in plants across the country, including in South Carolina, Alabama, Mississippi and Tennessee, but they are also planning further increases of production capacity. Downstream employment including car dealers and retailers of automotive parts is estimated at around 420,000. These numbers reflect the long term commitment of EU companies to the US market.

The automotive industry is not limited to big producers, as it shapes a complex ecosystem of multidimensional companies. Large manufacturing plants and small/medium upstream factories are interdependent and countless EU companies are involved in this business with the US, through trade or foreign investment. Small and medium-sized companies are often family businesses and particularly vulnerable to changes in trade policy. It is worth recalling that their investments enhance manufacturing capabilities of the US automotive sector, create further job opportunities and socio-economic stability in those communities.

EU car companies foster innovation through research and develop the local workforce. Rather than posing a threat to national security, they are a driver for securing long-term economic stability and competitiveness. Almost a fifth of research and development expenditures in the US is derived from foreign-owned subsidiaries. The EU automotive industry also actively contributes to enhancing the skillsets of the US workforce.

In addition, EU companies based in the US export a significant part of their production, thus contributing substantially to improving the US trade balance, which is a priority of the administration. Around 60 percent of automobiles produced in the US by companies with exclusive EU ownership are exported to third countries, including the EU. Measures harming these companies would be self-defeating and would weaken the US economy.

Without prejudice to the outcome of the investigation that is ongoing, the European Union wishes to stress that it does not believe restrictive action against imports would improve the conditions of the

[1] IHS Markit (2018)

[2] This includes US production of Fiat-Chrysler, BMW, Daimler, Renault-Nissan and Volkswagen.

[3] US factories of companies with exclusive EU ownership (BMW, Daimler, Volkswagen).

US motor vehicle market or of US industry. The market has in fact seen stable growth over the past several years, as the sector has recovered from the deep financial crisis of 2007-2010. During this period imports have grown alongside increased US production.

Overall the particular mix of imports and domestic production by US and foreign-owned companies responds well to the specific features of modern car production and to the preferences of US consumers. Efficient production depends on developing complex supply chains to source the 30,000 parts of which vehicles are made. Moreover, EU and US companies complement each other as they specialise in somewhat different segments, thereby providing consumers with good products at the lowest possible price.

The main driver of change in the industry is technological evolution and the increased use of automation. Trade restrictive measures would harm the competitiveness of US industry, weaken the US economy and reduce its innovation potential. Global value chains in this sector, which are highly integrated across the Atlantic as well as with other markets and sites of production, would be significantly disrupted. As markets would become fragmented, US costs would rise, US automobile exports would suffer, US consumers would pay higher prices, and jobs would be lost. Measures would in effect constitute a tax on the American people without resulting in a more competitive or innovative sector in the US.

Protective measures are equally likely to create significant distortions at the global level, with negative consequences that will ultimately impair the position of US companies seeking to remain competitive not just nationally but globally.

Regarding the question of the legitimacy of potential trade restrictive measures, the European Union would like to recall that no exception in the WTO's General Agreement on Tariffs and Trade (GATT) can justify import restrictions taken by a developed country for the purpose of protecting a domestic industry against foreign competition, unless they are taken in the form of permitted trade remedy measures. While the GATT provides for security exceptions, the scope of these exceptions has been circumscribed carefully for specific situations and conditions, which are absent in this case. We would note that the US government elsewhere is taking the position that the invocation of the GATT's security exceptions is self-judging and escapes any form of review in the WTO dispute settlement system. The European Union finds that this position is baseless and will not prevail in the WTO because it is an attempt to set aside the written conditions of these exceptions and turn them into a unilateral right to ignore WTO obligations. The European Union would therefore caution the United States against pursuing a process which could result in yet another disregard of international law, which would damage further the reputation of the Unites States and which the international community cannot and will not accept.

Further, as the recent experience with import adjustments under Section 232 with respect to steel and aluminium has shown, the Department of Commerce should factor in that other WTO Members are likely to again consider themselves allowed to take commensurate counterbalancing measures against imports from the United States, thus covering a volume of trade that is roughly six times larger than has been the case for steel and aluminium. Countermeasures in the same order of magnitude as the United States' import adjustments would cause significant losses to United States producers. If the Department of Commerce in this investigation is examining how best to support the economic welfare of the United States automobile industry, the European Union submits that the countermeasures which other countries will probably take in response are a necessary element of the considerations. They also demonstrate that the US economy cannot be helped effectively by import adjustments taken under present circumstances under Section 232 of the Trade Expansion Act of 1962.

Without prejudice, we underline that the Department of Commerce's analysis of national security must be narrowly tailored to focus on direct threats to national security, in particular defense applications. In our analysis we have not detected any nexus to national security as understood in US legislation. In addition, the Bureau should also account for factors arguing against import adjustment, and in particular, whether adequate complementary imports are available from US allies such as the EU. If so, no action should be taken. Furthermore, any remedy proposed to adjust imports should be differentiated and based on the threat posed to US national security as understood in US legislation by specific foreign suppliers. We are concerned that the Bureau may lack adequate information to perform this analysis. If this is the case, it should issue questionnaires to US users, US producers, and foreign producers. This would allow for detailed data to be collected and form the basis for conducting an in-depth analysis. The EU remains at the Bureau's disposal to provide additional information and evidence.

Beyond this, the EU wishes respectfully to register its firm opposition to the proliferation of measures taken on supposed national security grounds for the purposes of economic protection. This development harms trade, growth and jobs in the US and abroad, weakens the bonds with friends and allies, and shifts the attention away from the shared strategic challenges that genuinely threaten the market-based Western economic model.

SPECIFIC COMMENTS OF THE EUROPEAN UNION ON CERTAIN CRITERIA LISTED IN THE NOTICE OF INITIATION OF THE SECTION 232 INVESTIGATION

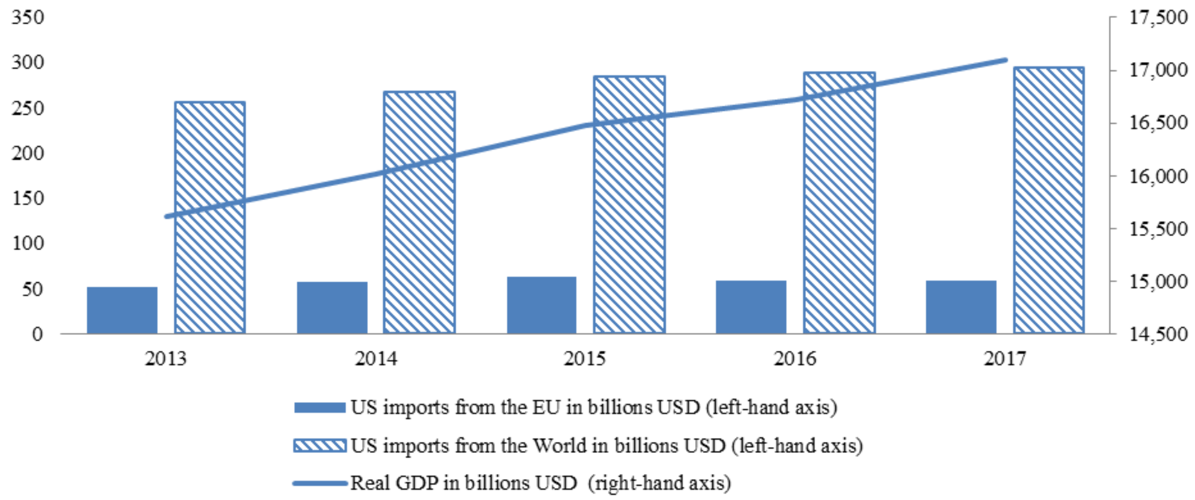
1. **Imports of European automobiles in the US are stable, in line with US production, and responding to market signals.**

The notice of initiation invites inputs pertaining to:

"The quantity and nature of imports of automobiles, including cars, SUVs, vans and light trucks, and automotive parts and other circumstances related to the importation of automobiles and automotive parts".

Automobile imports from the EU do not threaten or impair the health of the US industry and economy. Imports from the EU complement US production, responding to the free choice of individual US consumers. Indeed, the EU and US industry specialise in largely different product segments. Furthermore, US imports of passenger cars, in value terms, have not shown a dramatic increase (see Figure 1). Indeed, the trend of US car imports is correlated to the general GDP growth. This trend shows that the increase in imports is a consequence of an increased demand for cars, which could not immediately be met by domestic production, not least due to product differentiation.

Figure 1: US imports of automobiles (including passenger cars and light trucks) in billion USD and US real GDP[4]



Source: US ITC (2018), BEA (2018)

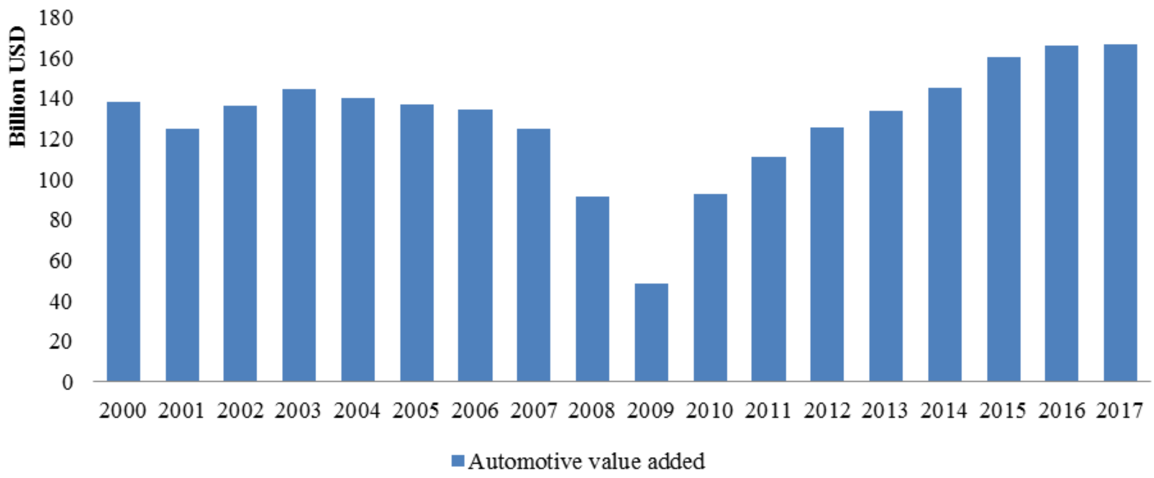
In addition, transatlantic trade in automobiles is stable. In the latest 5 years the EU exporting trend and the US importing trend were both stable and converging. This underlines that EU exports do not impair the state of US industry.

2. The US automotive industry is healthy and Section 232 measures risk undermining the welfare of the US.

Imports have not undermined the expansion of domestic production in the US, which has steadily increased in the last ten years and has fully recovered from the economic recession. The same trend can be underlined in terms of value added as shown in Figure 2: despite the slight increase in the number of imported cars, the added value of the automotive sector has been increasing since 2009 and since 2015 has exceeded the pre-crisis levels.

[4] HS codes taken into consideration are: 870321, 870322, 870323, 870324, 870331, 870332, 870333, 870340, 870350, 870360, 870370, 870380, 870390 (for cars); 870210, 870220, 870230, 870240, 870290, 870421, 870431 (for light trucks and busses); and 401110, 401120, 700910, 840733, 840734, 840820, 840991, 840999, 870600, 870710, 870790, 870810, 870821, 870829, 870830, 870840, 870850, 870870, 870880, 870891, 870892, 870893, 870894, 870895, 870899 (for automotive parts).

Figure 2: US value added in the automotive sector (USD)



Source: BEA (2018)

In the absence of a real economic threat, the imposition of an import tariff on automobiles and automotive parts could undermine the current positive trends by imposing higher costs on US automobile manufacturers and US citizens, and reducing the overall competitiveness of the sector in the US.

In this respect, economic analysis confirms that an increased tariff on these products will be harmful first and foremost for the US economy. Several economic analyses have already been published. The EU's internal analysis, based on a set of computable general equilibrium models, shows that an additional import tariff of 25 percent, applied to automobiles and automotive parts, would in first instance have a **negative impact on US GDP in the order of 13-14 billion USD**[5], and the current account balance of the US would be not affected positively. Other model analyses consistently show a negative effect on the US current account.[6]

The impact will be aggravated significantly by the likely **countermeasures** of US trading partners over a significant volume of trade. Early studies, based on the experience of the steel and aluminium Section 232 investigations, estimate that up to **294 billion USD of US exports**, i.e. the scope of products under the current investigation[7], (equal to **19% of US total exports in 2017**[8]**)** could be subject to countermeasures across sectors of the US economy. These would further amplify the negative effect on GDP**.**

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[5] Total EU exports of automobiles will be negatively impacted. However, since some exports will be redirected to other partners, this could be at the expense of automobiles currently exported by the United States.

[6] Such negative results for the US economy are comparable to the outcome found by the Peterson Institute for International Economics (https://piie.com/blogs/trade-investment-policy-watch/trumps-proposed-auto-tariffs-would-throw-us-automakers-and) and by a similar CGE analysis by the Trade Partnership worldwide (http://tradepartnership.com/reports/an-accident-waiting-to-happen-the-estimated-impacts-of-tariffs-on-motor-vehicles-and-parts).

[7] This figure is the total US import in the HS codes defined in footnote 1.

[8] I.e. 1,368 billion USD in 2017.

3. EU car companies contribute significantly to US welfare and employment.

The following considerations apply to another indicator listed in the notice, namely:

"The impact of foreign competition on the economic welfare of the U.S. automobiles and automotive parts industry;"

EU companies are important participants in the US economy and are well established. In 2017, US-based EU companies produced close to 2.9 million automobiles[9], which accounted for 26 percent of total US production. Companies with exclusive EU ownership **supported almost 120,000 US direct and upstream jobs** in plants across the country, including in South Carolina, Alabama, Mississippi and Tennessee, and with direct suppliers all over the United States[10]. And this does not take into account current plans for further increasing production capacity, which will further intensify activities in the US, or **downstream jobs** (including retailers of automotive and automotive parts), that we estimate around **420,000**. The long-term commitment of EU companies to contribute to the US economy is not only reflected in these numbers, but also through their training and apprenticeship programs which make another important contribution to a skilled labor force in the US.

Further, EU car companies foster innovation through research and development. Rather than posing a threat to national security, they are a driver for securing long-term economic stability and competitiveness. Almost a fifth of research and development expenditures in the US is derived from foreign-owned subsidiaries.

In addition, US-based EU companies not only serve the US market, but also export a significant part of production, thus contributing substantially to improving the US trade balance. Around 60 percent of automobiles produced by companies with exclusive EU ownership established in the US are exported to third countries including EU Member States. Measures that would harm US-based EU companies would be self-defeating and weaken the US economy.

Protecting the automobile and automotive parts market from foreign competition in a highly fragmented industry dominated by global value chains will weaken domestic producers which partially rely on inputs from outside the US, not least via intra-company trade. It is highly likely that protection will lead to higher input costs for US producers, the costs of which will be passed on to consumers — in effect, a tax on the American people.

This consideration also applies to another topic on which comments have been requested, namely:

"The displacement of any domestic automobiles and automotive parts causing substantial unemployment, decrease in the revenues of government, loss of investment or specialized skills and productive capacity, or other serious effects;"

Beside the above considerations of jobs supported by US production of automobile and automotive parts by US and foreign-owned companies, domestic jobs might also be at stake if imports of these products severely decline as result of a prohibitive import tariffs.

Employment in the automobile and automotive parts sectors is significant in the US, and is currently on the rise. The US Bureau of Labour Statistics (2018) reports that manufacturing jobs in these two sectors have

[9] IHS Markit (2018)

[10] German Association of the Automotive Industry (VDA), 2018.

increased by 2.3 percent in 2017 compared to the previous year, and have reached a total of 956,700 jobs. Employment in these sectors is of course not limited to manufacturing, but also includes retail trade which mainly consists of automobile and automotive parts dealers. Employment related to retail trade in these two sectors increased respectively by 10 and 22.4 percent in 2017 compared to the previous year. Overall, retail trade in the sector accounts for more than 3.3 million jobs, of which a significant portion will be impacted in the event US trade restrictions would be imposed.

In fact, the major cause of job displacement in industrialized economies is technological development, whereby the economic impact of knowledge transfers is much more important than the movement of goods and services. In this context, protecting part of the local production by raising tariffs would by and large not bring back delocalised jobs (which often are low-skilled jobs), but will only make the required inputs more expensive. Import competition does not automatically lead to the displacement of domestic production of automobile and automotive parts.

4. The link between the automotive industry and national security is weak.

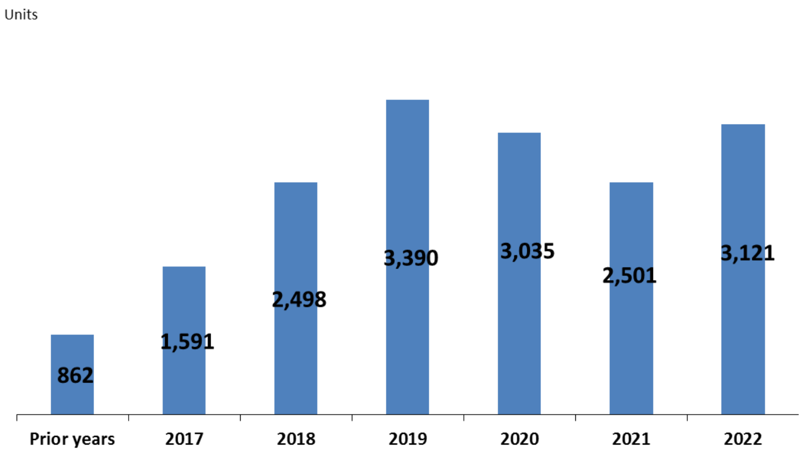
The national security question aims to assess whether US domestic production and productive capacity, including research and development, are sufficient to cover projected national defense requirements. As far as the big three US manufacturers – Ford, General Motors and Fiat Chrysler – are concerned, the national security market is marginally relevant. Tactical Wheeled Vehicles are mainly employed by the Army and the US Marine Corps, and about 50% of those are Light Tactical Vehicles used for the transport of troops, armament, missiles or wounded personnel. Only US-based manufacturers are serving this market. Annual purchases are extremely small compared to the overall commercial automobile market. **Producers are specialized niche enterprises and the direct relevance of commercial light vehicle producers to national security production capabilities is non-existent**. Their supply chain is secured by the fact that sub-system suppliers are largely common with the commercial market with a few specialized ones catering to specific military needs.

5. Light Tactical Vehicles needs are not relevant for the "Big Three"

The current model used, the HMMWV or Humvee, represents a stock of ca. 120,000 units across all echelons of the Army, with the company AM General having produced more than 280,000 units since 1984. Its production peaked at 64,000 units over the period 2003-2009 (operations in Iraq), i.e. on average 9,100 units per year. The Army plans to continue using it until 2030 at least and progressively replace it with the Joint Light Tactical Vehicle (JLTV) produced by Oshkosh Defense starting in 2019. Deployment of the 56,454 JLTV units on order is expected to be completed no earlier than 2040, with a program cost of 21 billion USD.

Figure 3

Joint Light Tactical Vehicle procurement by the U.S. Army



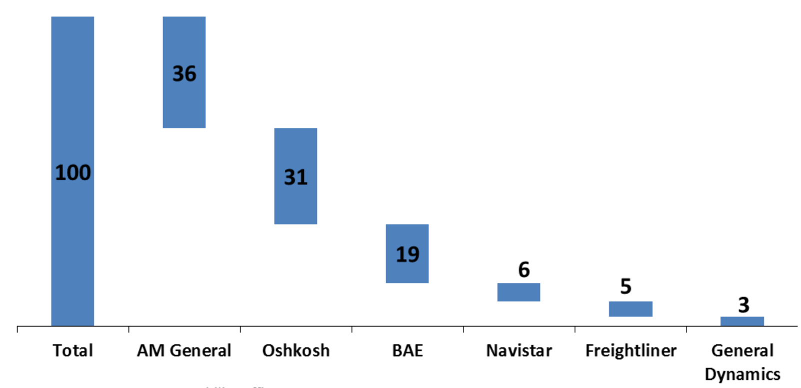
Source: Army FY 2019 budget proposal

6. Six specialized US based suppliers cover all the defense tactical needs

Over the period 2007 to 2011, the top three military vehicle producers (AM General, Oshkosh and BAE) represented 86% of the supplies across the full spectrum of light, medium and heavy tactical vehicles. None is a subsidiary of any of the big three Automobile industry (Ford, General Motors or Fiat Chrysler). In the light tactical vehicle segment, AM General produces the Humvee and Oshkosh Defense has the contract for the JLTV. Manufacturers also rely on the revenues from the assembly of commercial vehicles for niche markets (wreckers, school buses, firetrucks, cranes, dump trucks, etc.).

Figure 4

Percent of Department of Defense purchases by manufacturer – 2007 to 2011

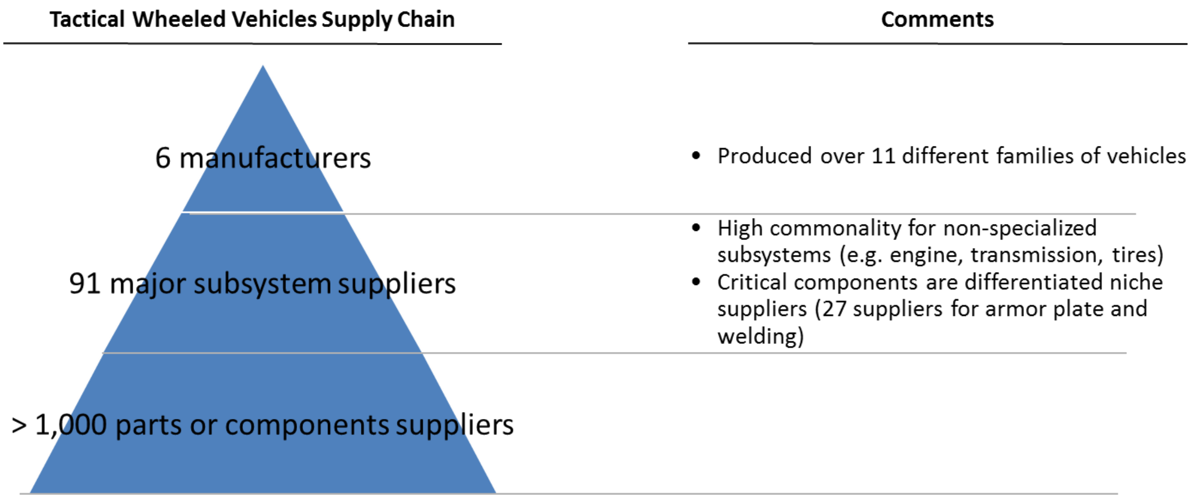


Source: Government Accountability Office, report GAO-12-859

7. Few common general subsystem suppliers with numerous specialized ones

Some major subsystems – powertrain, suspension – are provided by a few suppliers that the manufacturers largely share. For example, they rely on only three providers for the transmission. Given the very small number of units involved, the security of the defense supply chain is largely ensured by the mere existence of the commercial market. However, for a few specialties such as armor welding, as many as 27 different suppliers intervene in the value chain. It is worth noting that armaments and mission equipment (e.g. communications and situational awareness) are provided by the Department of Defense as government furnished items and rely on completely different supply chains.

Figure 5



Source: Governement Accountability Office, report GAO-12-859

8. Conclusion

The above analysis confirms that restricting imports of cars, light trucks and car parts under Section 232 would be counterproductive, as protective measures would undermine US growth, negatively impact job creation, and not improve the trade balance. Automobiles and automotive parts imported from the EU and other parts of the world do not threaten US producers' ability to satisfy national security needs, or even the long term viability of the sector serving civilian customers. Imports from Europe and elsewhere have not prevented a healthy US automobile and automotive parts industry from expanding its footprint and recovering well from the Great Recession of 2008. In fact imports have grown alongside US production—covering largely different product segments. Raising tariffs will make the required imports more expensive and therefore potentially jeopardise up to 1 million jobs in manufacturing and 3.3 million jobs in retail trade.

The US automobile and automotive parts sector is not impaired by the presence of international competitors. The presence of European manufacturers has further strengthened the US economy, and European companies with production facilities in the US have been fully committed and reliable partner to meet domestic demand for automobiles, and they export about 60% to third countries, including the EU. They are well integrated in US and global value chains and provide an important contribution to the US production and employment with 120,000 direct upstream jobs in plants and 420,000 downstream with dealers. Trade restrictions in these sectors are likely to result in higher prices for US consumers, and an overall loss for the US economy as a result of reduced export opportunities for US based producers of automobile and automotive parts. Finally, in case trading partners adopt countermeasures, which is a credible scenario if the reactions to the recent steel and aluminium Section 232 measures are any guide, then up to 290 billion USD of US exports (i.e. 20% of the US total) could be at risk of analogue measures.

Finally, as explained in our analysis, producers of military vehicles and related parts are independent of the US automotive industry. As only products from US-based manufacturers are used by the US military, the US industry is sheltered from international competition and any trade restrictions imposed on the passenger car, light trucks and car parts markets cannot be justified on national security grounds.