ALUMINUM EXTRUDERS COUNCIL

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Mr. Brad Botwin
Director, Industrial Studies
Office of Technology Evaluation
Bureau of Industry and Security
U.S. Department of Commerce
1401 Constitution Avenue, NW
Room 1093
Washington, DC 20230

PUBLIC DOCUMENT

RE: Comments of the Aluminum Extruders Council Regarding the Section 232 National Security Investigation on Imports of Aluminum

Dear Mr. Botwin:

The Aluminum Extruders Council ("AEC"), on behalf of its members, respectfully submits the following comments regarding this important investigation being conducted by the U.S. Department of Commerce's Bureau of Industry and Security (the "Department") to determine the effects on the national security of imports of aluminum pursuant to Section 232 of the Trade Expansion Act of 1962, as amended ("Section 232").[1] AEC represents U.S. manufacturers of aluminum products, including products that are vital to the production of U.S. military equipment. In addition, AEC assists manufacturers, engineers, architects and others to understand why aluminum extrusion is the preferred material process for better aluminum

[1] 19 U.S.C. § 1862; *see also* 15 C.F.R. parts 700 to 709); *Notice of Request for Public Comments and Public Hearing on Section 232 National Security Investigation of Imports of Aluminum,*" 82 Fed. Reg. 21,509 (May 9, 2017) ("Hearing Notice").

products. The AEC has more than 120 member companies and represents aluminum extruders operating hundreds of extrusion presses in hundreds of plants in 35 states in the United States.

I. INTRODUCTION

The AEC strongly supports this Section 232 investigation and applauds President Trump and the Administration's determined efforts to assist the U.S. aluminum industry. Aluminum is critical to U.S. national security. The Fact Sheet accompanying President Trump's Memorandum for the Secretary of Commerce was correct when it stated that "[a]luminum is critical for U.S. national defense, from Army ground vehicles and Air Force jets to Navy warships." The U.S. Department of Homeland Security ("DHS") has also identified aluminum as a core part of the "Critical Manufacturing Sector," which is "crucial to the economic prosperity and continuity of the United States," further confirming aluminum's importance to national security.

Yet today the U.S. aluminum industry is in crisis. The industry has been devastated. Numerous plants have closed. Thousands of well-paying jobs have been lost. And unless the Administration takes meaningful and *appropriate* action, the future of this critical industry is in doubt. The Administration has correctly recognized that this crisis did not just happen by accident. It was caused by imports of aluminum. These imports, in the words of Section 232, threaten to impair U.S. national security by further weakening the U.S. aluminum industry.

Not all imports are to blame, however. As discussed by the AEC and numerous other interested parties at the Department's public hearing on June 22, 2017, the real underlying problem in the aluminum market is China and the policies of the Chinese government. The Chinese government massively subsidizes its aluminum industry and maintains a range of restrictive trade measures, which have generated vast excess aluminum production capacity in

China and led to unprecedented volumes of aluminum imports flooding the U.S. market.

In this regard, the AEC wishes at the outset to highlight its letter, submitted jointly with the Aluminum Association, to Secretary of Commerce Ross on June 21, 2017. As leaders of the U.S. aluminum industry, the AEC and the Aluminum Association emphasized in their joint letter that any measures taken pursuant to Section 232 must acknowledge and address the reality that the damage to the U.S. aluminum industry stems from China, including its protectionist trade policies; its illegal, rampant subsidies to aluminum producers; its massive, non-economic, excess capacity; and the persistent practice of Chinese exporters evading U.S. customs tariffs and existing antidumping ("AD") and countervailing ("CVD") duties. The joint letter also stressed the need to minimize unintended consequences, both for integrated U.S. aluminum supply chains and imports from responsible U.S. trading partners. In particular, any action that needlessly impedes the flow of metal between the U.S. and Canada would seriously damage supply chains that the domestic industry has built over decades, and put at risk 97 percent of the jobs in the U.S. aluminum industry.[2] In its testimony at the public hearing, Century Aluminum, the main U.S. producer of primary aluminum, agreed that Canada should be excluded from any import-adjusting measures imposed pursuant to this investigation.

The following comments build on this joint letter and the AEC's remarks at the Department's hearing. In so doing, the AEC urges that any measures taken pursuant to this Section 232 investigation properly address the threat to U.S. national security caused by China's protectionist trade policies and its imports, including directly from China and transshipments through third-countries such as Malaysia and Vietnam.

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[2] Joint Letter to the Honorable Wilbur L. Ross, Secretary of Commerce, from the AEC and The Aluminum Association, June 22, 2017 ("Joint Aluminum Industry Letter").

II. LEGAL REQUIREMENTS

Section 232 authorizes the Department to investigate the effects of imports of an item or items on the national security of the United States and to determine whether those imports threaten to impair the national security.[3] As the Department has stated, implicit in this mandate is the need to resolve three issues: (1) what constitutes "national security"; (2) what "effects of imports" should be considered; and (3) when do those imports "threaten to impair" the national security.[4]

A. The Meaning of "National Security"

The Department noted in its Iron Ore Report that Section 232 does not define the key term "national security," thus stressing the need "to employ a definition that is consistent with the statute and the intent of the drafters, and reasonable under the circumstances."[5] The Department found that this includes a military or "national defense" component, which, the Department determined, should be defined broadly. The Department also found that "national security" should be defined "to include the general security and welfare of certain industries, beyond those necessary to satisfy national defense requirements, that are critical to the minimum operations of the economy and government ('critical industries')."[6] National security should be defined similarly in the instant investigation, as further discussed below.

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[3] *See* 19 U.S.C. § 1862(b).

[4] U.S. Department of Commerce, *The Effect of Imports of Iron Ore and Semi-Finished Steel on the National Security*, at 4 (2001) ("Iron Ore Report").

[5] *Id.* at 5.

[6] *Id.* (*quoting* 19 U.S.C. § 1862(d)). In support of this broad definition, the Department cited Section 232(d), which directs it to "recognize the close relation of the economic welfare of the Nation to our national security." Although the Department did not equate "national security" with the "national interest," it cited the legislative history of Section 232, including its predecessor provisions, as indicating that "national security" was intended to "encompass certain domestic economic concerns, in addition to national defense concerns." *Id.* (*citing* S. Rep. No. 85-1838, at 12 (1958)).

B. The "Effects of Imports" That Should Be Considered

The Department next explained in its Iron Ore Report that "Section 232 does not articulate precisely what 'effects' must be considered nor does it articulate when or how imports may 'threaten to impair' the national security." The Department, therefore, determined that it is necessary "to employ definitions that are consistent with the statute and the legislative intent, and that are reasonable under the circumstances."[7]

On this basis, the Department highlighted the factors required by Section 232(d) to be considered, "in light of the requirements of national security and without excluding other relevant factors," as follows:

- Domestic production needed for projected national defense requirements;
- The capacity of domestic industries to meet such requirements;
- Existing and anticipated availabilities of the human resources, products, raw materials, and other supplies and services essential to the national defense;
- The requirements of growth of such industries and such supplies and services including the investment, exploration, and development necessary to assure such growth; and
- The importation of goods in terms of their quantities, availabilities, character, and use as those affect such industries and the capacity of the United States to meet national security requirements.[8]

The Department noted that Section 232 also directs it to recognize the "close relation of the economic welfare" of the United States to national security, and to take into consideration:

- The impact of foreign competition on the economic welfare of individual domestic industries; and
- Any substantial unemployment, decrease in revenues of government, loss of skills or investment, or other serious effects resulting from the displacement of any domestic products.[9]

These considerations are among the factors listed in section 705.4 of the National Security Industrial Base Regulations, as noted by the Department in its Hearing Notice, along with

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7 *Id.* at 6.

8 *Id.*

9 *Id.*

"[r]elevant factors that are causing or will cause a weakening of our national economy" and "[a]ny other relevant factors."[10] These factors are addressed generally below.

C. Determining When Imports "Threaten to Impair" the National Security

According to the Department, given the above list of statutorily mandated considerations and the statute's "broad intent," imports can reasonably be found to "threaten to impair" the national security in either of two ways. The first is when "the United States is excessively dependent on imports from unreliable or unsafe sources, and thereby is vulnerable to a supply disruption."[11] The second way that imports can threaten to impair national security is when "they fundamentally threaten the viability of U.S. industries and resources needed to produce domestically goods and services necessary to ensure U.S. national security."[12] This concept of "threaten to impair" is most relevant here with regard to the effects of imports of aluminum.

III. "ALUMINUM" INCLUDES BOTH PRIMARY AND SEMI-FABRICATED ALUMINUM PRODUCTS

The scope of this Section 232 investigation should be defined to include both primary and semi-fabricated aluminum products. The President's Memorandum to the Secretary of Commerce of April 27, 2017, describes the product subject to the investigation as simply "aluminum." The Fact Sheet accompanying the President's Memorandum describes "semi-fabricated aluminum" as among the relevant aluminum products being imported. Similarly, in his remarks at the White House, Commerce Secretary Ross described the increase in imports of "semi-fabricated aluminum products" as helping to prompt the investigation. These references to semi-fabricated aluminum products confirm the Administration's understanding that

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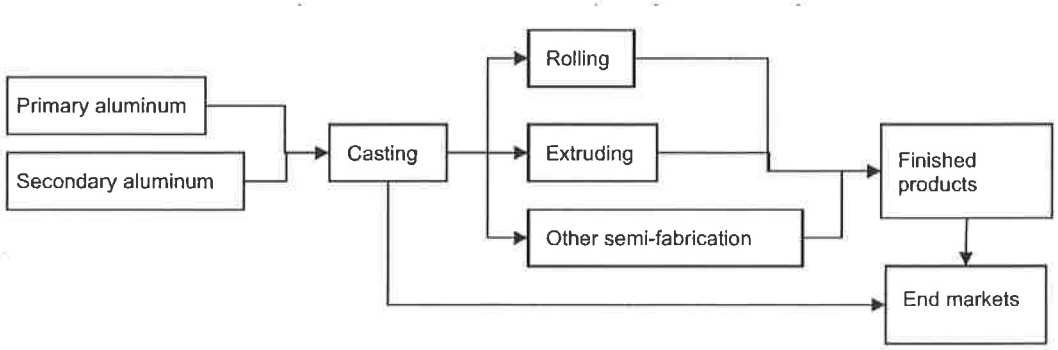
[10] 82 Fed. Reg. at 21,510.

[11] Iron Ore Report at 6-7. The Department explained that this concept of "threaten to impair" figured prominently in its three Section 232 investigations in 1988, 1994 and 1999 assessing the effect of imports of crude oil and refined petroleum products on national security. *Id.* at 7.

[12] *Id.* at 7 (*citing* U.S. Department of Commerce, *The Effect of Imports of Gears and Gearing Products on the National Security* (1992)).

"aluminum," as an article, includes semi-fabricated products, which were intended to be included in the scope of the investigation. Including semi-fabricated products in the scope is also consistent with the aluminum production process.

"Aluminum" consists of various products at different stages of production that are subsequently incorporated as inputs or components into a tremendous number of finished products. The U.S. aluminum industry, in turn, uses capital and energy intensive smelting, forging, rolling and extruding processes to produce all of these upstream products. Indeed, aluminum in the United States and elsewhere is produced on a production *continuum*, as illustrated by the following diagram:



Source: U.S. International Trade Commission, "Unwrought Aluminum" (Industry and Trade Summary), USITC Pub. ITS-06 (March 2010).

At one end of the continuum is primary or "unwrought" aluminum.[13] Primary aluminum is "unalloyed aluminum produced from alumina, typically by electrolysis, and with an aluminum content of 99.7%."[14] Primary aluminum is mainly produced in the form of ingots and billets, and is the starting block for the production of actual aluminum products. The manufacturing process for primary aluminum starts with aluminum-containing ore (bauxite) that is first mined then

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[13] Unwrought aluminum is made either through primary or secondary smelting processes. Primary production uses raw materials (bauxite and aluminum), while secondary production relies on recycled aluminum scrap, which is remelted into unwrought aluminum. These comments focus on primary aluminum.

[14] Global Advisory Group, GAG Guidance Document 001, Terms and Definitions (3rd ed. 2011-01) at 2.4.1 ("GAG Terms and Definitions").

refined into aluminum-oxide (alumina) through what is known as the "Bayer process."[15] The aluminum oxide is then smelted to remove oxygen and heated to produce molten aluminum metal in the Hall-Héroult electrolytic process.[16] The molten aluminum may be alloyed with different metals, including copper, zinc and magnesium, to augment certain properties and qualities. The molten aluminum is then cast into semi-finished forms, including as ingots and billets, that become semi-fabricated aluminum through rolling, extruding and other processes.

Primary aluminum is intended almost exclusively for further processing into a semi-fabricated form, which is at the other end of the continuum, before being used as inputs for the production of finished, downstream products. These semi-fabricated products include the following:

- Extrusions are produced from heated aluminum alloy billets forced under pressure through a metal die by a hydraulic extrusion press. The pressure capacity of a specific press determines the size of extrusion it can produce while the die inserted in a press determines the profile of the shape produced.[17] Extrusion shapes include bar, rod, pipe, tube and hollow and solid profiles such as angles, tees, I-beams, H-beams, channels, tracks, rails, and gutters. Aluminum extrusions are used in a wide variety of finished good applications such as aerospace (truss structures in the International Space Station), military (t-sections, hull, and superstructure of navy combat ships) , energy (electrical connectors in renewable and conventional energy systems), construction (windows, doors, highway and bridge construction) and transportation (parts for cars, buses, trucks, trailers, and rail), among others.[18]
- Sheet is rolled aluminum, usually from an ingot, that is rectangular in cross section with nominal thickness of 0.20 mm to 6 mm (0.15 mm to 6.3 mm in the US) and with slit, sheared or sawn edges.[19] Sheet is a widely used form of aluminum and includes applications for aerospace (the skins of planes), transportation (auto body sheet), packaging (can bodies and ends) and

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[15] The Aluminum Association, "Primary Production," http://www.aluminum.org/industries/production/primary-production (accessed June 21, 2017).

[16] *Id.*

[17] *See Certain Aluminum Extrusions from China*, Inv. Nos. 701-TA-475 and 731-TA-1177 (Review), USITC Pub. 4677 (March 2017) ("ITC Extrusions Review"); *and* AEC, "Extrusions Basics- Extrusions Process," http://www.aec.org/?page=basics_basics (accessed June 21, 2017).

[18] AEC, "Applications," http://www.aec.org/?page=ea_index (accessed June 21, 2017).

[19] GAG Terms and Definitions at 2.6.1.

construction (building facades).[20]

- Plate, like sheet, is rolled aluminum that is rectangular in cross section with thickness not less than 6 mm (not less than 6.3 mm in the United States) and with sheared or sawn edges.[21] Plate is used, *inter alia*, in heavy-duty applications such as aerospace (skins of jets and spacecraft fuel tanks), military (armor for vehicles) and transportation (structural sections for railcars and ships).[22]
- Foil, like sheet and plate, is flat rolled, but thinner. It is rolled aluminum of rectangular cross-section with uniform thickness equal to or less than 0.20 mm.[23] Aluminum foil is used in food and pharmaceutical packaging because it provides a complete barrier to light, oxygen, moisture and bacteria.[24] Foil is also used in industrial applications such as thermal insulation, cables and electronics, because of its reflectivity and barrier protection properties.[25]

Based on the above-described production continuum, and as confirmed by the Administration's references in initiating this Section 232 investigation, "aluminum" for purposes of the investigation is properly defined to include both primary and semi-fabricated aluminum products.

IV. ALUMINUM IS CRITICAL TO U.S. NATIONAL SECURITY

The President in his "Memorandum for the Secretary of Commerce Regarding Aluminum Imports and Threats to National Security," issued on April 27, 2017, stated that the aluminum industry is critical to the manufacturing and defense industrial bases. Commerce Secretary Ross echoed this recognition. In addition, most of the speakers at the Department's public hearing agreed that national security should be defined sufficiently broadly as to encompass aluminum. The following discussion demonstrates that, indeed, under the definition employed by the

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[20] The Aluminum Association, "Sheet and Plate," http://www.aluminum.org/industries/processing/sheet-plate#sthash.hxnd8iaq.dpuf (accessed June 21, 2017).

[21] GAG Terms and Definitions at 2.6.3.

[22] The Aluminum Association, "Sheet and Plate," http://www.aluminum.org/industries/processing/sheet-plate#sthash.hxnd8iaq.dpuf (accessed June 21, 2017).

[23] GAG Terms and Definitions at 2.7.1.

[24] The Aluminum Association, "Foil and Packaging," http://www.aluminum.org/product-markets/foil-packaging (accessed June 21, 2017).

[25] *Id.*

Department in previous Section 232 investigations, aluminum is critical to the U.S. national security.

A. Aluminum Is Critical To The National Defense

Aluminum is a critical strategic material for the United States' national defense. At only one-third the weight of steel, aluminum has a high strength-to-weight ratio, which in turn eases fabrication and assembly, and enhances performance and fuel efficiency. Aluminum's corrosion-resistance also minimizes maintenance requirements. These characteristics provide aluminum a significant advantage over other materials when used in defense applications and under battlefield conditions. Aluminum-based products are less expensive to ship and easier to handle and assemble without heavy equipment, compared to a similar steel design. Advanced aluminum facilities produce extensively reviewed and tested specialized alloys with critical military uses that range from defense-grade armor to aerospace and other applications that provide the foundation for our defense-industrial base.

High purity aluminum is among the most widely recognized aluminum products considered critical to the national defense. It is used to manufacture certain types of fighter aircraft, such as Boeing's F-18 and Lockheed Martin's F-35, as well as armored vehicles. The United States now has only one remaining domestic facility manufacturing high purity aluminum, Century Aluminum's plant in Hawesville, Kentucky, which is currently operating at 40 percent capacity.[26] As Secretary of Commerce Ross aptly stated in a press briefing announcing the current Section 232 aluminum investigation, "It's very, very dangerous, obviously from a national defense point of view, to only have one supplier of an absolutely

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[26] *Cheap Chinese Aluminum Is a National Security Threat*, Foreign Policy, May 8, 2017, http://foreignpolicy.com/2017/05/08/cheap-chinese-aluminum-is-a-national-security-threat/ (accessed June 20, 2017).

critical material."[27]

However, high purity aluminum is not the only aluminum product that is critical to the national defense. Aluminum extrusions and other semi-fabricated aluminum products are used to manufacture numerous other products, including:

- A single-piece forged hull for combat vehicles that was developed as a joint project between Alcoa and the U.S. Army Research Laboratory and will replace the assembled hulls currently in use. The single-piece hull provides two times better protection against blasts, such as those caused by improvised explosive devices (or "IEDs"), primarily by eliminating welded seams. The hull is part of the Army's Affordable Protection from Objective Threats Manufacturing Technology or "ManTech" program, created to improve the military's defense against modern threats using affordable, advanced materials and manufacturing technologies. The hull can be used to produce new vehicles or retrofit existing combat and technical vehicles. In addition to increasing survivability after a blast, the new hull can be optimized to reduce vehicle weight and assembly time and, thus, overall cost;[28]
- The Rapid Deployment Military Bridge, which arrives onsite as a kit of parts and can be deployed by 10-12 soldiers in as little as one hour and 20 minutes. The bridge is 18 meters (60 feet) in length and has the ability to support the passage of small motorized vehicles; up to 137 soldiers can cross at the same time;[29]
- Littoral Combat Ships ("LCS"), the Navy's newest vessels. LCS vessels are designed to be speedy, flexible, relatively inexpensive, and operate with shallow draft. The use of aluminum makes LCS vessels easily reconfigurable for varying roles, ranging from anti-submarine warfare to reconnaissance, maritime intercept, and special operations. In addition to standard armaments, they can accommodate two Seahawk helicopters, launch/recover small boats, and deploy a small force of armored fighting vehicles;[30]

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[27] *See, e.g., US will investigate aluminum imports as national security hazard*, The Hill, April 26, 2017, http://thehill.com/policy/finance/330809-us-will-investigate-dumping-of-foreign-aluminum-as-national-security-hazard (accessed June 20, 2017). In his remarks on initiating the Section 232 aluminum investigation, Secretary Ross also stated: "High-strength aluminum alloys have become among the most commonly used materials to make military aircraft and aluminum armor plate is used to protect against explosives and other threats." https://www.commerce.gov/page/section-232-investigation-effect-imports-aluminum-us-national-security#remarks (accessed June 20, 2017).

[28] Press Release, Arconic, *Alcoa Manufactures World's Largest Single-Piece Forged Aluminum Hull for Combat Vehicles to Improve Troop Protection* (October 13, 2014), http://www.arconic.com/global/en/news/news_detail.asp?pageID=20141013000236en&newsYear=2014 (accessed June 20, 2017).

[29] Aluminum Extruders Council, *Rapid Deployment Military Bridge Shows Off Aluminum Extrusion's Advantages* (Nov. 2016), http://www.aec.org/?page=lib_milbridge (accessed June 20, 2017).

[30] Aluminum Extruders Council, *Aluminum Makes a Splash ... From Pontoons to Palaces* (Apr. 2017), http://www.aec.org/?page=Lib_AlMakesSplash (accessed June 20, 2017).

- Armored vehicles and other applications that require lightweight, high-density options for improving military platform survivability in unstable environments.[31] For example, ballistic-resistant aluminum is used in bullet-proof windows, doors and other building applications;[32]
- Components for military aircraft like the F-35 joint strike fighter and Boeing F/A-18 Super Hornet and for armor plating on army vehicles;[33]
- Vehicles for space exploration, including launch vehicles, propulsion and crew capsules;[34] and
- Missile containers and launcher rails.[35]

B. Aluminum Is Among the "Critical Infrastructure Sectors," Which Have Been Recognized as Crucial to National Security

The Department also recognized in its Iron Ore Report that certain "critical industries" are "beyond those necessary to satisfy national defense requirements," but are still considered "critical to the minimum operations of the economy and government."[36] The Department interpreted the definition of "national security" in Section 232 as sufficiently broad to encompass these "critical industries."

Aluminum is one such industry. DHS has described the concept of "critical industries" in terms of "critical infrastructure sectors." According to DHS:

> There are 16 critical infrastructure sectors whose assets, systems, and networks, whether physical or virtual, are considered so vital to the United States that their incapacitation or destruction would have a debilitating effect on security, national economic security, national public health or safety, or any combination thereof.[37]

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31 Letter from Ron Wyden, et al., U.S. Senator to the Honorable Jacob Lew, Secretary of Treasury, U.S. Department of the Treasury (Nov. 2, 2016) at p. 1, http://www.usw.org/news/CFIUS-Aluminum-11-2-2016.pdf (accessed June 20, 2017).

32 Letter from Leo W. Gerard, International President, United Steelworkers to the Honorable Jacob Lew, Secretary, U.S. Department of Treasury (Sept. 15, 2016), http://usw.bytrilogy.com/assets/pdfs/references/16-09-15-USW-ltr-to-Sec-Lew-requesting-CFIUS-Investigation-of-Aleris-Corp-sale.pdf (accessed June 20, 2017).

33 Leo W. Gerard, *Stop China's Stealth Invasion*, Huffington Post, May 15, 2017, http://www.huffingtonpost.com/entry/stop-chinas-stealth-invasion_us_59188889e4b0bd90f8e6a67f (accessed June 20, 2017).

34 Arconic, http://www.arconic.com/global/en/what-we-do/defense.asp (accessed June 20, 2017).

35 Taber Extrusions, http://taberextrusions.com/industries-served/ (accessed June 20, 2017). *See* "Government/Military/Department of Defense."

36 Iron Ore Report at 5.

37 DHS, "Critical Infrastructure Sectors," https://www.dhs.gov/critical-infrastructure-sectors (accessed June 20, 2017).

Representatives of the Department instructed the AEC and its members that DHS's critical infrastructure sector standard will guide the Department's definition and assessment of national security in this investigation. Toward this end, according to DHS, "Alumina and Aluminum Production and Processing" are at the "core" of the "Critical Manufacturing Sector," which is expressly described as "crucial to the economic prosperity and continuity of the United States."[38]

Moreover, the United States depends on aluminum, including many types of aluminum extrusions, to meet the needs of a range of other critical infrastructure sectors, including transportation systems, energy, construction, and industrial manufacturing industries.[39] For example, less than 20 percent of AEC members were able to provide data during the limited time available for this investigation. Nevertheless, these producers reported that they used more than 500,000 short tons of aluminum extrusions during 2016 in these critical infrastructure sector applications.

1. Transportation Systems

Highway and Motor Carrier: Evaluations funded by the U.S. Federal Highway Administration show that decking made from aluminum extrusions is viable for many bridge applications and countless infrastructure projects.[40] Aluminum bridge technologies are a strong alternative to traditional steel and concrete construction. Aluminum facilitates rehabilitation as an alternative to full replacement, decreased dead load allows old bridges to be widened on

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[38] https://www.dhs.gov/critical-manufacturing-sector (accessed June 20, 2017). According to DHS: "A direct attack on or disruption of certain elements of the manufacturing industry could disrupt essential functions at the national level and across multiple critical infrastructure sectors." *Id.*

[39] Letter from Leo W. Gerard, International President, United Steelworkers to the Honorable Jacob Lew, Secretary, United States Department of Treasury (Sept. 15, 2016), http://usw.bytrilogy.com/assets/pdfs/references/16-09-15-USW-ltr-to-Sec-Lew-requesting-CFIUS-Investigation-of-Aleris-Corp-sale.pdf (accessed June 20, 2017).

[40] Leo W. Gerard, *Stop China's Stealth Invasion*, Huffington Post, May 15, 2017, http://www.huffingtonpost.com/entry/stop-chinas-stealth-invasion_us_59188889e4b0bd90f8e6a67f (accessed June 20, 2017).

existing substructures, and pre-assembly options for bridge decks or bridge replacement dramatically cuts assembly time and cost.[41] Aluminum solutions are also used for light poles, "smart" poles for cities and complete systems for traffic installations, including traffic signal poles, sign posts, cantilever poles and gantries.[42] Using aluminum instead of steel in trucks and trailers creates much lighter vehicles that allow for a heavier load, use less fuel and are more environmentally safe. Aluminum components are used in dry vans, refrigerated trailers and platform/flatbed trailers in all shapes and sizes.[43]

Rail: Aluminum extrusions are among the main materials used in the construction of train bodies and rail cars. Use of aluminum in train car bodies provides a lightweight and uniformly smooth surface, with no "waves" in the metal. This means less finishing work after assembly and reduced production time. Aluminum construction and specialty welding technology allows for the construction of super-large rail components with thin walls, which provides tight tolerances and lower costs.[44]

Aviation: Aluminum extrusions have a number of aviation applications, including wing spars, seats, and aerospace extrusions,[45] as well as aircraft landing mats, heliport decking, air-droppable pallets and airport structures.[46]

Vessels: Aluminum extrusions are used in a wide variety of vessel applications, including

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41 Sapa Group, https://www.sapagroup.com/en-US/find-your-industry/infrastructure/bridges/ (accessed June 20, 2017).

42 Sapa Group, https://www.sapagroup.com/en-US/find-your-industry/infrastructure/poles/ (accessed June 20, 2017).

43 Sapa Group, https://www.sapagroup.com/en-US/find-your-industry/transportation/trailer/ (accessed June 20, 2017).

44 Sapa Group, https://www.sapagroup.com/en-US/find-your-industry/transportation/rail/ (accessed June 20, 2017).

45 Taber Extrusions, http://taberextrusions.com/industries-served/ (accessed June 20, 2017). *See* "Aircraft/Aerospace."

46 Taber Extrusions, http://taberextrusions.com/industries-served/ (accessed June 20, 2017). *See* "Platforms/Decking."

hovercraft, work boats, tug boats, barges, floating dock boats, boat lifts and superstructure components.[47]

Other Transportation Systems: Aluminum is also used in the production of shipping containers, buses and light rail systems.[48]

2. Energy Infrastructure

The properties of aluminum make it an important material for the energy sector. Aluminum extrusions are widely used in the production of renewable energy, including in photovoltaic mounting systems, wind turbine structures and components, solar panel/module frames and components, concentrated solar power collectors, inverter housings and components,[49] and in fan blades and airfoils.[50]

Aluminum's properties also facilitate its use in traditional energy production and exploration. For example, an aluminum barge was designed for use as a pump and equipment support vessel on oil sands mining tailing ponds. The barge design allows the deck to carry heavy loads. Aluminum's cryogenic strength (it gets stronger as the temperature drops) allows the barge to be left frozen in place in winter, withstanding the pressure of up to minus 40 degrees Fahrenheit. The aluminum oil sands barge has an operating life of 10 years with minimal maintenance and a possible life extension to 50 years.[51]

Aluminum is also used in a range of power station components, electrical conductors and transmission equipment, including bus bars and bus pipe and tube. Bus bar is a system of

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47 Taber Extrusions, http://taberextrusions.com/industries-served/ (accessed June 20, 2017). *See* "Marine/Shipbuilding."

48 Taber Extrusions, http://taberextrusions.com/industries-served/ (accessed June 20, 2017). *See* "Transportation."

49 Sapa Group, https://www.sapagroup.com/en-US/find-your-industry/energy/ (accessed June 20, 2017).

50 Taber Extrusions, http://taberextrusions.com/industries-served/ (accessed June 20, 2017). *See* "Electrical/Power Transmission/Electronics."

51 Aluminum Extruders Council, *Aluminum Makes a Splash ... From Pontoons to Palaces* (Apr. 2017), http://www.aec.org/?page=Lib_AlMakesSplash (accessed June 20, 2017).

electrical conductors in a generating or receiving station on which power is concentrated for distribution, while bus pipe and tube is used to convey electricity.[52]

3. Other Critical Infrastructure Uses

Aluminum extrusions are also used to create a range of products for other critical infrastructure sectors. For example, aluminum I-beams, seamed-structural pipe and tube, concrete forms and decking are used in the construction of commercial facilities, government facilities and critical manufacturing.[53] Other widely reported uses include applications in emergency services and nuclear facilities.

V. IMPORTS OF CHINESE-ORIGIN ALUMINUM THREATEN TO IMPAIR THE NATIONAL SECURITY OF THE UNITED STATES

Imports of Chinese-origin aluminum threaten to impair U.S. national security. Indeed, China is at the heart of the crisis confronting the U.S. aluminum industry, as stated by numerous interested parties at the Department's public hearing. In recent testimony before the Senate Finance Committee, AEC was pleased to see press reports that U.S. Trade Representative Lighthizer "stressed that the administration's focus in the 232 investigations is the 'huge non-economic excess capacity' that China has created in both [the aluminum and steel] sectors, adding that 'the normal tools don't seem to be able to get to it.'"[54] This is because the Chinese government orchestrates and controls virtually every aspect of its aluminum industry. Through illegal subsidies, selective export tariffs and other measures, the Chinese government effectively dictates which aluminum products are produced and which products may be exported. The

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52 Taber Extrusions, http://taberextrusions.com/industries-served/ (accessed June 20, 2017). *See* "Electrical/Power Transmission/Electronics."

53 Taber Extrusions, http://taberextrusions.com/industries-served/ (accessed June 20, 2017). *See* "Structural Components."

54 Inside US Trade's World Trade Online, *Lighthizer expects 'exclusion process' for some U.S. manufacturers in 232 outcomes* (June 21, 2017) https://insidetrade.com/daily-news/lighthizer-expects-%E2%80%98exclusion-process%E2%80%99-some-us-manufacturers-232-outcomes (accessed June 21, 2017).

Chinese government exercises such tight control over the industry as part of a broader strategic initiative to achieve global economic dominance in the sector. China's policies controlling the production and export of primary and semi-fabricated aluminum products have resulted in a crushing volume of semi-fabricated exports to the United States, which "fundamentally threaten the viability" of the U.S. aluminum industry and the "resources needed to produce domestically goods and services necessary to ensure U.S. national security."[55]

A. China's Subsidies and Other Protectionist Trade Policies Enable Chinese Aluminum Imports to Threaten U.S. National Security

China's protectionist trade policies and the threat posed by Chinese imports implicate a number of the factors listed in Section 232 and highlighted by the Department for determining what "effects" of imports should be considered in assessing the threat to national security. These include the domestic production and capacity needed to meet projected national defense requirements; the existing and anticipated availability, in particular, of primary aluminum inputs essential to the production of extrusions and other semi-fabricated aluminum products and thus to the national defense; the requirements of growth of all segments of the U.S. aluminum industry, including the investment and development necessary to assure such growth; the demonstrated Chinese willingness to flood the U.S. market with imports of aluminum extrusions and other semi-fabricated products, and the injurious impact of those imports on the U.S. industry and its capacity to meet national security requirements; the devastating impact of Chinese imports on the economic welfare of U.S. aluminum extrusion manufacturers, as well as other segments of the domestic aluminum industry; and the harm caused to our national economy as a direct result of China's protectionist trade policies. Accordingly, China is the single greatest cause of the aluminum crisis in the United States, and should be the principal focus of any

[55] *See* Iron Ore Report at 7 (*citing* U.S. Department of Commerce, *The Effect of Imports of Gears and Gearing Products on the National Security* (1992)).

import-adjusting measures recommended by the Department and imposed by President Trump.

To start, China artificially supports its aluminum producers and exporters by providing massive amounts of illegal, market-distorting subsidies, as the Department has repeatedly found pursuant to its CVD investigation and the resulting order on aluminum extrusions.[56] China's comprehensive subsidization of its aluminum industry extends well beyond just extrusions. China also heavily subsidizes producers and exporters of primary aluminum and other semi-fabricated aluminum products. In January of this year, the United States initiated a dispute settlement proceeding before the World Trade Organization ("WTO") against China, and identified literally dozens of low interest, subsidized loans from state-owned Chinese banks to specific producers of primary aluminum in China.[57] The United States also described China's practice of providing producers key aluminum inputs, including coal, electricity, and alumina, at below market, subsidized rates. China is also known to provide land to aluminum producers either free or at highly subsidized prices. Moreover, the Department is presently conducting a CVD investigation, initiated in March of this year, against imports of aluminum foil from China, based on a total of 26 alleged subsidy programs.[58]

Chinese producers and exporters also have a history of dumping mainly semi-fabricated aluminum products on the U.S. market. The Department issued an AD order on aluminum extrusions from China in 2011, at the same time as its CVD order.[59] The Department and the

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[56] *See, e.g.*, *Aluminum Extrusions from China: Countervailing Duty Order*, 76 Fed. Reg. 30,653 (May 26, 2011) ("*CVD Extrusions Order*"); *Aluminum Extrusions from China: Final Results and Partial Rescission of Countervailing Duty Administrative Review; 2014*, 81 Fed. Reg. 92,778 (December 12, 2016).

[57] United States Request for Consultations, *China – Subsidies to Producers of Primary Aluminum*, WT/DS519/1, G/SCM/D113/1, G/L/1173, 17 January 2017.

[58] *Certain Aluminum Foil from China: Initiation of Countervailing Duty Investigation*, 82 Fed. Reg. 15,688 (March 30, 2017).

[59] *See, e.g.*, *Aluminum Extrusions from China: Antidumping Duty Order*, 76 Fed. Reg. 30,650 (May 26, 2011) ("*AD Extrusions Order*"); *Aluminum Extrusions From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review and Rescission of Review in Part; 2015-2016*, 82 Fed. Reg. 26,055 (June 6, 2017).

International Trade Commission ("ITC") have conducted one five-year, sunset review of these two orders and determined that revocation of either would likely lead to continuation or recurrence of dumping by Chinese aluminum extrusion exporters and material injury to the U.S. industry.[60] The Department and ITC are also currently conducting an AD investigation of aluminum foil from China.[61]

The Chinese government administers various other discriminatory policies essentially designed to prohibit the export of primary aluminum, while facilitating the export of extrusions and other semi-fabricated products. China grants a 15 percent value-added tax ("VAT") rebate on exports of certain aluminum products, including extrusions, while denying any VAT rebate to primary aluminum exports. China also imposes a 15 percent tariff or tax on exports of various primary aluminum products. China periodically revises the exact coverage of this export tax, depending on how the government seeks to manipulate the market at any particular time. The coverage of this export limitation remains broad, however, and in 2017 included the following primary aluminum products: non-alloy aluminum, having aluminum content less than 99.95% by weight (HTS 7601.10.90); other unwrought aluminum (HTS 7601.20.00); and waste and scrap aluminum (HTS 7602.00.00).[62] These are each among the key inputs, normally produced in the form of ingots or billets, used in the production of aluminum extrusions and other semi-fabricated products.

China's aluminum policies, including restrictions on primary aluminum exports, have resulted in an overwhelming increase both in Chinese aluminum production and excess

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60 *Aluminum Extrusions from China: Continuation of Antidumping and Countervailing Duty Orders*, 82 Fed. Reg. 19,025 (April 25, 2017); *Certain Aluminum Extrusions from China*, Inv. Nos. 701-TA-475 and 731-TA-1177 (Review), USITC Pub. 4677 (March 2017) ("ITC Extrusions Review").

61 *See Certain Aluminum Foil from China: Initiation of Antidumping Duty Investigation*, 82 Fed. Reg. 15,691 (March 30, 2017); *Aluminum Foil from China*, Inv. Nos. 701-TA-750 and 731-TA-1346 (Preliminary), USITC Pub. 4684 (May 2017).

62 *See* Metal Bulletin, "Chinese 2017 aluminum export tariffs – an explanation" (January 5, 2017).

production capacity. This is despite a softening of China's own economy and decline in domestic demand over the past decade. Rather than cutting back, China has simply responded by exporting its problems to the United States.

As reported by the U.S. Geological Survey, China produced only around 11 percent of the world's primary aluminum in 2000, most of which was absorbed internally. By 2015, China had become the world's leading producer of primary aluminum, accounting for over 55 percent of global production. By comparison, Russia, Canada, the UAE and India, the four other largest foreign producers, together accounted for only 19 percent of global production in 2015.[63] As noted, China does not typically export this primary aluminum. Rather, it is used to manufacture increasing quantities of extrusions and other semi-fabricated products that are exported. The ITC reported in its 2011 affirmative injury determination that dumped and subsidized Chinese imports of aluminum extrusions to the United States increased from 89,000 tons in 2008 to over 200,000 tons in 2010, after spiking to almost 212,000 tons in 2009.[64] These extrusion imports led to a tremendous increase in Chinese market share in this country, which grew by volume from 6.7 percent in 2008 to 19 percent in 2009, before falling somewhat to 15.8 percent in 2010 after the Department initiated its AD and CVD investigations on extrusions.[65]

As soon as the Department issued its AD and CVD orders, imports of aluminum extrusions directly from China fell dramatically. The ITC in its sunset review determination in March of this year found that only 6,100 tons of aluminum extrusions entered the United States from China in 2015. That is only 0.4 percent of total market share, which represents a 98 percent

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63 U.S. Geological Survey, Minerals Yearbook, Vol. I, at 5.4 (2015) ("USGS 2015 Yearbook").

64 ITC Extrusions Investigation at IV-1 through IV-2 (Table IV-1). For convenience, all weights herein are reported in short tons.

65 *Id.* at Table IV-2.

decline in Chinese market share since 2009.[66] Yet primary aluminum production in China remained robust during this period. Indeed, according to the USGS, the Chinese produced 34.2 million tons of primary aluminum in 2015, 11 percent more than in 2014. The Chinese also continued increasing primary smelting capacity, by a total of around 9 percent to 41.9 tons/yr by the end of 2015.[67]

B. China's Evasion of AD/CVD Duties on Extrusions and Other U.S. Customs Duties Also Threaten to Impair U.S. National Security

The increasing volumes of primary aluminum being produced in China still mainly serve as inputs for semi-fabricated exports, including to the United States. Indeed, since the Department issued the aluminum extrusion AD and CVD orders, the Chinese have worked overtime devising transshipment and other evasion schemes to avoid the duties. To start, the Department originally agreed with the domestic petitioner that the scope of the orders should be as broad as practical to help prevent the Chinese from evading duties. By its terms, the scope covers aluminum extrusions made from aluminum alloys having metallic elements corresponding to the alloy series designations published by the Aluminum Association commencing with the numbers 1, 3, or 6. The scope excludes "finished merchandise containing aluminum extrusions as parts that are fully and permanently assembled and completed at the time of entry."[68]

Subsequently, however, pursuant to petitioner's requests, the Department has issued a number of affirmative scope determinations, finding that Chinese producers and exporters are seeking to avoid the duties, usually by importing other extruded aluminum products for use in covered applications or by slightly modifying extrusions. Most recently, on June 13, 2017, the

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66 ITC Extrusions Review at Tables I-9 and I-10.

67 USGS 2015 Yearbook at 5.5.

68 *See AD Extrusions Order*, 76 Fed. Reg. at 30,650; *CVD Extrusions Order*, 76 Fed. Reg. at 30,653.

Department determined that extruded aluminum profiles made of 6xxx-series aluminum, when welded together in the form of a pallet, do not qualify as "finished merchandise" and thus are within the scope of the orders. Among other things, the Department found that these imported products are not suitable for use as a pallet.[69] The Department reached the same conclusion in a scope inquiry concluded in December 2016 regarding 1xxx-series aluminum profiles that had also been welded together in the form of a crude pallet.[70]

Also in 2016, at the petitioner's request, the Department initiated an anti-circumvention inquiry into whether China Zhongwang Holdings Ltd. ("Zhongwang"), the world's second largest producer of aluminum extrusions, was importing 5050-series aluminum extrusion products in circumvention of the AD and CVD orders. After Zhongwang failed even to respond to the Department's questionnaire, the Department determined preliminarily in November that heat-treated extruded aluminum products from China, which meet the chemical specifications of 5050-grade aluminum alloy, regardless of producer, exporter, or importer, are within the scope of the AD/CVD orders.[71] The AEC fully expects the Department to finalize this affirmative determination in the near future.

Zhongwang and its founder, Chinese aluminum magnate Liu Zhongtian, are also the subject of a broad, multi-tiered criminal investigation being led by the Department, DHS and the Department of Justice concerning various alleged duty evasion schemes. For one, "thousands of tons of aluminum at a factory in a Philadelphia suburb are part of an alleged scheme by [Zhongtian] to evade tariffs by disguising the metal as shipping pallets and then remelting them

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69 *AD and CVD Orders on Aluminum Extrusions from China: Final Scope Ruling on Certain Aluminum Pallets* (June 13, 2017).

70 *AD and CVD Orders on Aluminum Extrusions from China: Final Scope Ruling on Certain Aluminum Pallets* (December 7, 2016).

71 *Anti-Circumvention Inquiry Regarding the AD and CVD Orders on Aluminum Extrusions from China: Preliminary Affirmative Determination Decision Memorandum* (November 3, 2016).

for other uses."[72] Also being investigated are allegations that Zhongtian stockpiled nearly one million tons of Chinese extrusions in the Mexican desert, which it intended to transship across the border duty-free under NAFTA, as if the products had been manufactured in Mexico.[73] Not surprisingly, according to UN Comtrade statistics, China exported almost 386,000 tons of aluminum extrusions to Mexico in 2011 and over 378,000 tons in 2012.[74] These export volumes declined dramatically to around 25,000 tons per year between 2014 and 2016. It has also been widely reported that the huge desert extrusion stockpile was later re-exported to Vietnam.[75] Most recently, U.S. customs officials seized $25 million worth of aluminum as part of the ongoing investigation into whether U.S. companies connected to Zhongtian are illegally avoiding the AD and CVD duties by routing their aluminum products through other countries.[76]

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[72] *New Jersey Factory Linked to Chinese Aluminum Probe (The Commerce Department is investigating whether Aluminum Shapes helped Chinese metals giant China Zhongwang evade U.S. tariffs by importing disguised products)*, Wall St. Journal, September 15, 2016 https://www.wsj.com/articles/new-jersey-factory-linked-to-chinese-aluminum-probe-1473963640 (accessed June 20, 2017); *Homeland Security Probes U.S. Aluminum Firms Over Chinese Imports (Investigation focuses on whether Zhongwang-made products were disguised to avoid punitive U.S. tariffs)*, Wall St. Journal, October 26, 2016 https://www.wsj.com/articles/homeland-security-probes-u-s-aluminum-firms-over-chinese-imports-1477486917 (accessed June 20, 2017); *Large Chinese Aluminum-Products Maker Zhongwang Under U.S. Investigation On "Unfair" Trade Practices*, Forbes, December 2, 2016 https://www.forbes.com/sites/xiangwang/2016/12/02/large-chinese-aluminum-products-maker-zhongwang-under-u-s-investigation-on-unfair-trade-practices/#670c387d1a24 (accessed June 20, 2017).

[73] *Chinese Billionaire Linked to Giant Aluminum Stockpile in Mexican Desert*, Wall St. Journal, September 9, 2016 https://www.wsj.com/articles/chinese-billionaire-linked-to-giant-aluminum-stockpile-in-mexican-desert-1473356054 (accessed June 20, 2017).

[74] For purposes of this analysis, references to exports of aluminum extrusions are based on the seven HTS categories identified by the ITC in its original investigation and five-year review as accounting for approximately 96 percent of the aluminum extrusion imports into the United States, including from China: 7604.21, 7604.29, 7608.20, 7610.10, 7610.90, 7615.19, 7615.20 and 7616.99. *See* ITC Extrusions Investigation at I-8 n. 8; ITC Extrusions Review at I-20 n. 33.

[75] *Money From Chinese State Giants Helped Fund Aluminum Stockpile (A complex web of deals shows how aluminum firm China Zhongwang was able to route metal around the globe)*, Wall St. Journal, May 11, 2017 https://www.wsj.com/articles/money-from-chinese-state-giants-helped-fund-aluminum-stockpile-1494500580 (accessed June 20, 2017); *Giant Aluminum Stockpile Was Shipped From Mexico to Vietnam (Unusual moves are connected to businesses associated with family of Chinese billionaire Liu Zhongtian)*, Wall St. Journal, December 1, 2016 https://www.wsj.com/articles/giant-aluminum-stockpile-was-shipped-from-mexico-to-vietnam-1480588228 (accessed June 20, 2017).

[76] *U.S. Seizes $25 Million Worth of Aluminum Linked to Chinese Billionaire (The move is the most potent action yet by federal authorities investigating aluminum shipments to the U.S.)*, Wall St. Journal, January 13, 2017 https://www.wsj.com/articles/u-s-seizes-25-million-worth-of-aluminum-linked-to-chinese-billionaire-1484303409 (accessed June 20, 2017).

As these ongoing U.S. government investigations demonstrate, the Chinese are clearly exporting massive volumes of aluminum extrusions to third countries for transshipment to the United States. In addition to the well-documented Mexican scheme described above, China's evasion efforts are also focused on Malaysia and Vietnam. This is clear, first, from the huge increase of Chinese aluminum extrusion exports to these two countries. China's exports to Malaysia jumped from around 37,000 tons in 2011 to almost 311,000 tons in 2014, an increase of 848 percent. Export levels have remained high, at 133,900 tons in 2015 and almost 110,200 tons in 2016. The increase in China's exports to Vietnam has been even greater, going from 14,800 tons in 2011 to almost 586,000 tons in 2015, a staggering 3,852 percent increase. Then, in 2016, China exported more than 607,300 tons to Vietnam – 3,998 percent more than in 2011.

There is no reasonable basis to believe that either Malaysia or Vietnam is consuming aluminum extrusions at even close to these levels. This huge surge of exports to Malaysia and Vietnam clearly demonstrates the lengths to which Chinese producers and the Chinese government will go to evade U.S. duties. Only the aggressive efforts by the U.S. industry and the U.S. government to block China's duty-evasion efforts have likely prevented this enormous volume of Chinese aluminum extrusions stockpiled in Malaysia and Vietnam from flooding the U.S. market. Still, while U.S. imports from Malaysia were generally stable between 2011 and 2016, extrusion imports from Vietnam over this period steadily increased. Vietnamese imports went from 2,639 tons in 2011 to over 20,800 tons in 2016, a 7,783 percent increase.

VI. RECOMMENDED IMPORT-ADJUSTING MEASURES TO ADDRESS THE ALUMINUM CRISIS

The AEC urges the Department, in preparing its report on this Section 232 investigation, to provide recommendations to the President that directly address the core problem posed by China and to do so in a manner that avoids reinforcing or exacerbating China's distortive trade

policies. Indeed, members of the Congressional Aluminum Caucus wrote to Secretary Ross on June 20, 2017, concerning this very issue. This bipartisan group of thirteen House Members cited China's government subsidies, aluminum overcapacity, and other distortive policies as the most notable trade-related developments adversely affecting the U.S. aluminum industry. These Members of Congress also properly emphasized that the "U.S. aluminum industry is a diversified manufacturing sector, with manufacturing facilities engaged in production of aluminum products up and down the value chain. Chinese oversupply affects the full value chain." This strongly worded letter concluded: "If not for Chinese policies that distort the global market, the U.S. industry would compete successfully in a globally integrated market."[77]

This, of course, is precisely the AEC's position, as set forth herein and in the joint letter submitted by the AEC and the Aluminum Association to Secretary Ross on June 21.[78] Accordingly, the AEC believes that the imposition of tariffs or other restrictions on imports of primary aluminum would inadvertently reinforce and support China's protectionist policies. As noted, China's policies include restricting exports of primary aluminum, which effectively subsidizes Chinese semi-fabricated aluminum manufacturers, as part of its policy of attempting to dominate the global market for aluminum extrusions and other semi-fabricated aluminum products. Therefore, restrictions on U.S. imports of primary aluminum will increase primary aluminum prices and make U.S. producers of semi-fabricated aluminum products even less competitive versus the already overwhelming unfair competition they face from China. Measures that would further weaken or reduce the ability of U.S. manufacturers to compete against imports from China would lead to the closures of U.S. aluminum manufacturing operations, force U.S. producers to relocate offshore, and ultimately cause demand for U.S.

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77 Congressional Aluminum Caucus Letter to Commerce Secretary Ross (June 20, 2017).

78 Joint Aluminum Industry Letter.

primary aluminum to decline as the U.S. manufacturers that currently rely on U.S. primary aluminum cease to operate. Thus, the entire U.S. aluminum industry would be impaired and unable to produce the products necessary to support U.S. national security.

The AEC respectfully submits that the Administration should instead seek to restore the economic viability of the U.S. aluminum industry as a whole, by comprehensively addressing the underlying regulatory environment that retards the ability of the industry to compete. There are viable and much more sustainable actions that can and should be taken, which will not reinforce China's protectionist policies and will support the ability of the U.S. aluminum industry to produce the products necessary to support U.S. national security. Among other actions, the AEC recommends that the Administration:

- Directly address the root cause of the aluminum crisis by taking steps that blunt the goals of China's subsidization and other policies that are incentivizing the production and export of certain aluminum products over others.
- Seek to ensure that whatever actions the Administration takes do not reinforce China's policy of exporting more aluminum extrusions, including to third-countries for the purpose of evading the Department's AD/CVD orders.
- Address fundamental constraints on the U.S. industry, including the negative impact of regulations that increase energy and other production costs.
- As proposed at the Department's public hearing, a tariff should be assessed on the value of aluminum content of all imported Chinese products.

To the extent the Department recommends that tariffs and/or other restrictions on imports of primary aluminum are necessary, it should seek to ensure that U.S. producers of semi-fabricated aluminum products, including extrusions, are not negatively impacted. The Department should, therefore, also recommend that tariffs and/or other restrictions be imposed on semi-fabricated aluminum imports at or above the level imposed on primary aluminum to mitigate any loss of competitiveness by U.S. semi-fabricated producers. Century Aluminum testified at the public hearing that relief imposed pursuant to this investigation should benefit the entire aluminum value chain.

Regarding extrusions, the scope of product coverage of any tariffs or other relief should be crafted sufficiently broadly to prevent transshipment and other forms of evasion by Chinese and other foreign exporters. Along these same lines, the AEC urges the Department to recommend that the Administration more effectively address third-country transshipment, particularly of Chinese-sourced aluminum extrusions through Malaysia, Vietnam and elsewhere.

Finally, as the AEC and the Aluminum Association emphasized in their joint letter to Secretary Ross, the Section 232 investigation should minimize any unintended consequences, both for integrated U.S. aluminum supply chains and imports from responsible U.S. trading partners. In particular, as the joint letter noted, the U.S. aluminum industry has long relied on Canada as a vital trading partner. For instance, it is estimated that the average car part will cross the U.S.-Canadian border six times before final use. After noting that Canadian factories are defined under U.S. law as part of our National Defense Technology and Industrial Base, the letter concluded: "Any action that needlessly impedes the flow of metal between the U.S. and Canada would seriously damage supply chains that the domestic industry has built over decades, and put at risk 97 percent of jobs in the U.S. aluminum industry."[79]

The AEC reiterates this important concern about Canada. AEC members have established cooperative and mutually beneficial economic relationships with key partners in the Canadian aluminum industry. Therefore, the AEC urges the Department, in recommending any import-adjusting measures pursuant to this investigation, to avoid endangering the integrated supply chain between the U.S. and Canadian aluminum industries. No import-reducing measures should be imposed on U.S. imports of any aluminum products from Canada. As noted in the introduction above, Century Aluminum also agreed in its testimony at the public hearing

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[79] Joint Aluminum Industry Letter.

that Canada should be excluded from any import-adjusting measures imposed pursuant to this investigation.

VII. CONCLUSION

The appropriate remedy to address the threat posed by aluminum imports to the U.S. national security requires is not imposition of tariffs or other restrictions on imports of primary aluminum. The real problem, as the Administration knows, is China. China's subsidization, overcapacity and other distortive trade practices have had a devastating impact on U.S. aluminum extrusion producers and other segments of the domestic aluminum industry. This has resulted in the shuttering of production U.S. facilities, layoffs of workers and reduced capacity. The Department's AD/CVD orders have provided U.S. extrusion producers some relief. However, China's global dominance has so distorted the aluminum market, including in the United States, that other aluminum products face a fundamentally distorted market, which renders many of their operations uneconomic. The ability of all U.S. aluminum producers to supply the products critical to U.S. national security is, therefore, severely threatened. Only by addressing the problem of China, as outlined above, can the Administration hope to resolve the aluminum crisis and deter the threat caused by Chinese aluminum imports to U.S. national security.

If there are any questions concerning this submission, please do not hesitate to contact the undersigned.

Respectfully submitted,

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