

June 23, 2017

BY E-MAIL

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

Re: ***Section 232 Investigation on the Effect of Imports of Aluminum on US National Security***

Dear Director Baldwin:

On behalf of Aluar Aluminio Argentino S.A.I.C. ("Aluar"), Argentina's sole producer/exporter of primary aluminum, we submit the following comments for consideration in the Section 232 investigation on the effects of imports of aluminum on US national security.

Aluar is headquartered in Buenos Aires, Argentina. Aluar has over 2,000 employees and an annual production capacity of approximately 460,000 tons. Aluar's production facility is located in Puerto Madryn, in Argentina's Patagonia region where it anchors economic and social development in that region.

Aluar's imports to the United States consist of primary aluminum in various forms including, ingots, T-bars, primary foundry alloy, billets and wire rod. As set forth below, Aluar has been a steady and responsible supplier to the US market since 1996. Aluar's exports do not pose a national security risk to the US aluminum industry. To the contrary, Aluar ensures a steady, reliable and safe source of high quality primary aluminum to the US market from Argentina - a designated major non-NATO ally.¹

Aluar complements US production. Aluar shares the US industry's concern about global overcapacity in the aluminum sector but it does not contribute to that overcapacity. Aluar

¹ 20 CFR § 120.32.

consistently operates at 85 percent or greater capacity utilization. Aluar is a publicly traded company whose shareholders are primarily Argentine nationals and also includes the International Finance Corporation. It is not a state owned enterprise and is not subject to antidumping duties, countervailing duties or safeguard measures in the United States or anywhere else in the world. Simply put, Aluar has been a responsible market actor in the United States. To the extent the Secretary finds an adverse effect on national security and recommends relief, Argentina should be excluded from any measures consistent with its status as a major non-NATO ally, a reliable and safe source of supply and a market participant that does not rely on dumping or subsidies.

I. The Secretary Should Take Special Care In Defining National Security for This Investigation.

Pursuant to 19 USC § 1862, Section 232 of the Trade Expansion Act of 1962 gives the Secretary of Commerce (the “Secretary”) the “authority to conduct investigations to determine the effects on the national security of the United States of imports of any article.”² “National security” is not defined under 19 USC § 1862. The Secretary has traditionally used a broader definition of “national security” that does not just consist of “national defense” but also of “general security and welfare of certain industries.”³

In these rare Section 232 investigations, the Secretary must determine what effects the aluminum imports have on national security. In making this determination, the Secretary considers several factors, such as:

- Quantity of domestic aluminum production;
- Domestic aluminum production needed to meet projected national defense requirements;
- Capacity of domestic aluminum to meet projected national defense requirements;
- Existing and anticipated availability of human resources, products, raw materials, production equipment and facilities to produce aluminum essential to the national defense;
- Growth requirements of the domestic aluminum industry to meet national defense requirements and/or requirements to assure such growth;
- Impact of foreign competition on the economic welfare of the aluminum industry essential to our national security;
- Displacement of any domestic aluminum causing substantial unemployment, decrease in the revenues of government, loss of investment or specialized skills and productive capacity, or other serious effects; and
- Any other relevant factors that are causing or may cause a weakening of the US economy.

The Secretary must also determine when the aluminum imports “threaten to impair” the national security. The Secretary determines that the subject imports threaten to impair the national security when the US is “excessively dependent on imports from unreliable and unsafe sources” and therefore “vulnerable to a supply disruption,” and when imports “threaten the viability of US

² *The Effect of Imports of Iron Ore and Semi-Finished Steel on the National Security*, U.S. DEP’T OF COMMERCE (Oct. 2001), available at <https://www.bis.doc.gov/index.php/forms-documents/section-232-investigations/81-iron-ore-and-semi-finished-steel-2001/file>, 3.

³ *Id.* at 5.

industries and resources needed to produce domestically [produced] goods and services necessary to ensure U.S. national security.”⁴

The Secretary has held 15 Section 232 investigations since 1981, the most recent one in 2001. The Secretary has consistently found threat in investigations on imports of crude oil and petroleum, while the Secretary generally found no threat in investigations on imports of other products. Crude oil and petroleum imports generally come from unstable regions,⁵ whereas other investigated products where no threat was found, such as gears and gearing products and plastic injection molding machines, generally come from reliable and safe US allies such as Canada, Japan, Germany, and Italy.

Even in investigations where the Secretary determined that there was threat, the Secretary distinguished the treatment of US allies such as Argentina. In 1989, the Secretary found that due to the growing dependence on potentially insecure sources of crude oil, imports of crude oil threatened to impair the national security, and reiterated US policy of encouraging US allies to build up their government-owned strategic stockpiles.⁶

The Secretary has previously determined that when subject imports come from the allies of the US, who are reliable and safe sources, they do not threaten to impair the national security. In 1992, where the Secretary found that the imports of gears and gearing products did not threaten to impair the national security, German-owned ZF Industries had commented that the petitioner had neglected “the vital importance of our relationships with our NATO allies” and that “restricting trade with NATO partners is contrary to both mutual agreements and good management practices.”⁷ The Secretary underlined that:

Department of State considers Germany, Japan, France, Italy, the United Kingdom (UK), Belgium and South Korea to be politically stable, reliable allies of the United States. In general, and without reference to a specific military conflict or mobilization scenario, State reports that these countries can be expected to trade with the United States in times of peace as well as in periods in which our country is engaged in military conflict. The United States has longstanding ties with each of these countries that involve very close cooperation on national security matters. As members of the North Atlantic Treaty

⁴ *Id.* at 6-7.

⁵ In the 1989 Section 232 investigation on crude oil, the Secretary noted that the “United States and many of its allies and trading partners are likely to become more dependent on imports, particularly from low-cost suppliers in the Persian Gulf... the dependence on potentially insecure oil supplies by our friends and allies on whom we rely for base access in military emergencies can affect their willingness to provide base access and overflight rights for U.S. military forces in certain situations” See *The Effect of Crude Oil and Refined Petroleum Imports on the National Security*, U.S. DEP’T OF COMMERCE (Jan. 1989), available at <https://www.bis.doc.gov/index.php/forms-documents/section-232-investigations/78-crude-oil-and-petroleum-products-1989/file>, IV-10.

⁶ *Id.* at ES-5.

⁷ See *The Effect of Imports of Gears and Gearing Products on the National Security*, U.S. DEP’T OF COMMERCE (1992), available at <https://www.bis.doc.gov/index.php/forms-documents/section-232-investigations/80-gears-and-gearing-products-1992/file>, D-5.

Organization (NATO); Germany, Italy, the UK and Belgium are committed to the mutual defense of all NATO members including the United States. Our country also has a number of agreements with Japan and South Korea providing for close defense cooperation and the stationing of U.S. troops in those countries.⁸

Argentina is a similarly reliable US ally. While Argentine is not a NAFTA party or NATO member, it has been designated a "major non-NATO ally." In recent years, US-Argentina relations have strengthened greatly. According to USTR, "Argentina is currently our 37th largest goods trading partner with \$13.2 billion in total (two way) goods trade during 2016. Goods exports totaled \$8.6 billion; goods imports totaled \$4.7 billion. *The U.S. goods trade surplus with Argentina was \$3.9 billion in 2016.*"⁹

In March 2016, the United States and Argentina signed a bilateral Trade and Investment Framework Agreement ("TIFA"). USTR said the TIFA "reflects . . . strong interest in improved bilateral relations with one of the most important economies in the Western Hemisphere and to promoting increased economic opportunities between us."¹⁰ The US also signed a tax information exchange agreement with Argentina in December 2016, "signaling Washington's approval of" President Macri's economic reforms.¹¹

The U.S.-Argentina relationship has strengthen during the Trump Administration. On April 3, 2017, a resolution reaffirming the US-Argentina partnership and recognizing Argentina's economic reforms unanimously passed the House of Representatives.¹² The United States is Argentina's third largest trading partner.

Thus, it would be consistent with the Secretary's previous Section 232 investigation decisions to find that aluminum imports from reliable allies such as Argentina do not "threaten to impair" US national security.

II. Aluar is a Safe and Reliable Source of Primary Aluminum

Aluar has been a safe and reliable supplier of primary aluminum to the United States since 1996. From 2014 to 2016, Aluar has consistently maintained its share of imports into the United States. Aluar's share of imports varies from 2 percent to 6 percent, depending on the year and tariff classification.¹³ This level of imports complements US production. It does not threaten US producers. Aluar has a large home market that accounts for 30 percent of its sales and well

⁸ *Id.* at VII-17

⁹ See <https://ustr.gov/countries-regions/americas/argentina> (emphasis supplied).

¹⁰ "United States and Argentina Sign Trade and Investment Framework Agreement," USTR (Mar. 2016), available at <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2016/march/united-states-and-argentina-sign>

¹¹ Hugh Bronstein, "Argentina, U.S. affirm ties with new tax information deal" (Dec. 23, 2016), REUTERS, available at <http://www.reuters.com/article/us-argentina-usa-tax-idUSKBN14C1GZ>.

¹² Resolution Reaffirming U.S.-Argentina Relationship Passes in the House of Representatives, Congressman Albio Sires Office Press Release (Apr. 3, 2017), available at <https://ar.usembassy.gov/sires-resolution-reaffirming-u-s-argentina-relationship-passes-house-representatives/>.

¹³ See Attachment 1.

developed export markets in Brazil, Mexico, Japan and Germany (to name a few) in addition to its US sales.

Aluar has long standing commercial relationships with trading companies that purchase its products for distribution to US end users. Sales are generally made pursuant to annual contracts that provide predictability and security to Aluar's customers. Aluar generally ships a *single* vessel per month to the Gulf region ports for subsequent delivery/distribution in the Midwest. This well established channel of distribution supports logistics and port-related jobs in addition to the US manufacturing jobs of the end users that consume Aluar's primary aluminum products.

As recognized at the hearing, the United States relies on imports of primary aluminum to meet US demand. Unlike other regions or countries that are potentially unstable or even hostile, Argentina's long standing and stable presence in the US market shows that it is a reliable supplier. The recent events in Qatar demonstrate the potential supply disruptions from suppliers located in the Middle East or Gulf region. Argentina does not present similar risks. Like Canada, Argentina is in a stable region and is a US ally.

Finally, we note that Aluar does not produce the high purity aluminum (over 99.9 percent) usually required for military applications. Aluar poses no threat to US production of high purity aluminum. Aluar produces the standard aluminum for industrial applications. Not only does Aluar directly benefit US end users that purchase its primary aluminum, but also it indirectly benefits the secondary aluminum market because any scrap and/or recycling associated with Aluar products are remelted in the United States.

III. Conclusion

Aluar does not contribute to global overcapacity. It consistently operates at near full capacity and has long standing, stable channels of distribution in the United States, Argentina and other markets. Aluar is a safe and reliable supplier of primary aluminum and Argentina is a major non-NATO ally of the United States. To the extent the Secretary recommends relief, Argentina should be excluded.

Please do not hesitate to contact us if you have any questions or require additional information.

Sincerely,



Yohai Baisburd

Counsel to Aluar Aluminio Argentino S.A.I.C.

Attachment 1

HTS - 76011060: Aluminum (o/than alloy), unwrought nesoi
 Customs Value by Customs Value
 for ALL Countries

U.S. Imports for Consumption

Annual Data

Country	2014		2015		2016	
	<i>In Actual Dollars</i>					
Customs Value where quantities are collected in kilograms						
Canada	2,454,607,865	74%	2,195,440,414	76%	2,326,327,239	59%
Russia	339,359,266	10%	160,084,894	6%	879,380,726	22%
United Arab Em	50,690,515	2%	114,609,628	4%	300,324,925	8%
Argentina	84,425,703	3%	73,023,904	3%	159,929,929	4%
Venezuela	177,050,558		110,728,764		62,449,086	
Malaysia	0		2,728		42,922,611	
India	0		63,218,470		33,320,303	
Brazil	45,653,505		7,558,189		25,547,568	
South Africa	56,084,182		24,338,623		25,320,266	
Bahrain	2,790,585		0		24,338,971	
New Zealand	21,431,972		16,095,511		13,887,916	
Korea	37,544,249		34,166,926		13,588,428	
Australia	0		6,932,206		8,028,567	
France	7,567,673		9,212,380		7,166,262	
Germany	1,636,617		2,506,777		3,706,266	
Austria	0		0		1,892,675	
Colombia	0		0		1,544,216	
Oman	0		0		424,309	
China	987,012		431,451		242,877	
Norway	527,916		377,581		242,855	
Singapore	0		2,020		216,964	
Vietnam	0		0		123,722	
Italy	57,850		430,255		55,545	
United Kingdom	214,575		3,815		47,170	
Taiwan	3,225		15,996		46,897	
Sweden	0		0		39,168	
Thailand	0		0		12,064	
Romania	0		0		8,640	
Japan	5,911		23,508		5,302	
Mexico	98,983		140,653		3,228	
Netherlands	0		367,368		0	
Saudi Arabia	14,097,756		53,005,068		0	
Chile	0		2,374		0	
Peru	0		100,350		0	
Greece	53,998		0		0	
Israel	5,950		0		0	
Switzerland	2,016,199		0		0	
Tajikistan	0		29,845,958		0	
Subtotal kilograms	3,296,912,065		2,902,665,811		3,931,144,695	
Total	3,296,912,065		2,902,665,811		3,931,144,695	

HTS - 76012090: Aluminum alloys nesoi, unwrought nesoi
 Customs Value by Customs Value
 for ALL Countries

U.S. Imports for Consumption

Annual Data

Country	2014		2015		2016	
	<i>In Actual Dollars</i>					
Customs Value where quantities are collected in kilograms						
Canada	2,663,052,018	61%	2,483,309,251	56%	1,903,713,368	48%
United Arab Em	570,002,335	13%	547,211,011	12%	713,598,489	18%
Russia	362,570,766	8%	458,471,354	10%	378,689,532	10%
Qatar	202,359,766	5%	224,177,160	5%	300,731,028	8%
Bahrain	122,350,934	3%	167,567,604	4%	170,674,866	4%
Argentina	74,674,075	2%	113,920,084	3%	143,149,545	4%
Saudi Arabia	22,653,259		114,288,940		98,380,884	
France	62,826,329		78,422,037		79,073,580	
Venezuela	40,649,087		13,873,751		49,365,927	
Brazil	0		857,259		23,211,268	
Mexico	63,493,339		44,182,932		18,373,948	
Korea	47,917		1,237,199		16,329,697	
Norway	22,444,090		31,142,827		14,663,124	
India	696,816		14,128,297		11,121,203	
Belgium	7,800,271		7,760,601		5,371,182	
Netherlands	5,019,803		4,728,931		4,042,567	
Spain	6,777,617		14,964,285		3,777,335	
China	4,372,417		4,166,493		3,154,498	
United Kingdom	3,140,620		2,443,683		2,984,319	
Malaysia	1,621,781		151,628		2,952,311	
Australia	69,478,327		37,868,939		2,915,646	
Iceland	0		5,294,530		2,731,640	
New Zealand	2,195,524		8,612,332		1,977,265	
Thailand	725,422		2,473,342		1,620,177	
Italy	16,881,452		18,212,571		1,027,742	
Germany	2,098,772		15,980,599		976,621	
Singapore	0		0		874,129	
Japan	933,236		635,285		499,024	
Taiwan	1,479,502		1,189,096		478,522	
Vietnam	6,382		0		404,164	
Tunisia	0		0		157,578	
Turkey	1,067,548		1,775,900		100,396	
Panama	495,530		223,504		50,414	
Chile	35,245		0		28,476	
Switzerland	8,203		0		26,711	
Pakistan	0		0		5,685	
Romania	13,334		0		3,816	
Kuwait	347,190		80,889		0	
Czech Republic	2,035		0		0	
Peru	0		88,027		0	
South Africa	129,078		0		0	
Sweden	0		7,510		0	
Austria	345,136		6,761		0	
Kazakhstan	0		654,156		0	
Reunion	3,661,520		0		0	
Paraguay	93,874		0		0	
Ecuador	59,897		0		0	
Ukraine	2,579,521		40,836		0	
Israel	0		18,624		0	
Hungary	15,685,070		0		0	
Denmark	2,354		7,000		0	
Colombia	165,478		0		0	
Subtotal kilograms	4,355,042,870		4,420,175,228		3,957,236,677	
Total	4,355,042,870		4,420,175,228		3,957,236,677	

HTS - 76051100: Aluminum (o/than alloy), wire, with a maximum cross-sectional
dimension over 7 mm
Customs Value by Customs Value
for ALL Countries

U.S. Imports for Consumption

Annual Data

Country	2014		2015		2016	
	<i>In Actual Dollars</i>					
Customs Value where quantities are collected in kilograms						
Canada	315,715,852	77%	282,102,362	78%	293,425,471	65%
Bahrain	24,579,053	6%	9,665,698	3%	66,393,799	15%
Australia	4,366,600	1%	33,880,361	9%	27,318,536	6%
Argentina	16,573,582	4%	11,107,738	3%	26,929,065	6%
Russia	27,482,995		11,464,113		12,391,340	
Korea	5,026,000		7,553,771		7,034,321	
Mozambique	0		0		6,264,001	
Oman	14,549,841		1,073,385		3,878,484	
Venezuela	1,373,598		1,595,426		3,310,945	
Brazil	0		0		981,387	
Spain	651,091		820,862		812,996	
China	178,883		924,056		406,682	
United Arab Em	0		0		106,403	
Germany	91,084		40,303		82,885	
Austria	0		13,579		22,876	
Taiwan	0		6,750		6,750	
Sweden	49,182		62,492		6,520	
France	0		0		4,692	
Italy	0		0		3,763	
Hungary	6,307		3,495		3,359	
Indonesia	0		0		3,034	
Japan	0		0		2,813	
Malaysia	3,450		0		2,800	
Slovak Republic	0		0		2,671	
Netherlands	0		0		2,545	
Mexico	156,927		19,510		0	
India	224,412		53,440		0	
Subtotal kilograms	411,028,857		360,387,341		449,398,138	
Total	411,028,857		360,387,341		449,398,138	