



EUROPEAN UNION
DELEGATION TO THE UNITED STATES OF AMERICA

Trade and Agriculture Section

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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 Ave, NW
Washington, DC 20230

Submitted via e-mail to: Aluminum232@bis.doc.gov

Re: Notice of Request for Public Comments on Section 232 National Security Investigation of Imports of Aluminum (82 FR 21509)

Dear Mr. Botwin,

The European Union takes note of the initiation, on 19 April 2017, 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 imports of aluminium, and of the issues set out in Federal Register Notice of 9 May 2017 (82 FR 21509). In response to the request for comments, the European Union takes this opportunity to convey the following concerns:

The European Union would like to recall that no exception in the General Agreement on Tariffs and Trade (GATT) is capable of justifying an import restriction taken outside of the framework of trade remedies for the purpose of protecting a domestic industry against foreign competition. While the GATT provides for security exceptions, the scope of these exceptions is circumscribed for specific situations and conditions that appear to be absent in this case.

Furthermore, the European Union does not believe that restrictive actions based on national security would provide the lasting solution the US aluminium industry needs. On the contrary, their impact could create further distortions at global level with negative consequences, ultimately affecting the position of US companies – both producers and users of aluminium.

Global imbalances in the aluminium sector are largely caused by overcapacity, with a distinction between primary aluminium products on the one hand, and downstream products on the other.

Regarding primary aluminium, global overcapacity is depressing world prices, which fell by over 40 per cent from 2008 to 2016¹. Imposing import restrictions under sec. 232 on primary

¹ London Metal Exchange, cash price, average per tonne.

aluminium imports would not only fail to address this issue, but generate pernicious effects for the US and its allies alike. Such action would simply displace primary aluminium onto other world markets, further lowering the world price outside the US. US manufacturers and exporters in the automotive, aerospace and other sectors would as a result become less cost competitive. This would also reduce pressures to tackle the market distortions in the regions generating overcapacity which would emerge stronger from the greater cost pressures on competing fairly priced primary producers outside the US.

Regarding downstream aluminium products (semi-fabricated and fabricated), some US imports are already subject to trade defence measures. Import restrictions under sec. 232 would harm market priced imports into the US without directly targeting overcapacity. Such measures would not address the imbalances in the US aluminium sector, would negatively affect US allies and would harm the numerous US businesses that incorporate specialised European aluminium imports in their products. This cannot be in the interests of US industry.

As regards imports of aluminium products from the EU, they only constituted 4% of total US imports in 2016. Furthermore, the EU is a longstanding and reliable source of aluminium products which do not undermine US national security but rather serve to meet demand from specialized US customers. The Presidential memorandum issued in conjunction with the initiation of the sec. 232 investigation raised particular concern with regard to the "high purity aluminium needed for many national security applications". The EU produces just under 5000 tonnes of such products annually. While these products are not exported to the US at present, they could be a useful source of alternative supply from a close ally, thus supporting (rather than undermining) US national security.

It is also worth noting that the majority of EU Member States are defined by US defence procurement rules as "qualifying countries" for some procurement purposes, with the result that their products and services are considered as acceptable, under certain conditions, as those made in the US².

Any consideration to adjust imports should be differentiated and based on the threat posed to US national security by specific foreign aluminium suppliers. If the Bureau requires further information to complete this analysis, 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 full disposal to provide additional information and evidence.

Without prejudice, we also underline that the analysis of national security should be narrowly tailored to focus on direct and genuine threats to national security, in particular defence applications. If a strong, direct national security nexus is established, the Bureau should then determine whether US producers have sufficient capacity to meet the relevant needs. In addition, the Bureau should also account for factors arguing against import adjustment in particular, whether adequate complementary imports are available from US allies like the EU. If so, no action should be taken.

Past experience with the safeguards instrument shows that shielding industry from fair competition will not strengthen a sector - on the contrary. In our experience, fostering competitiveness is essential. The industry faces challenges which require continued investment in breakthrough technologies. An environment conducive to the necessary

² See [DFARS 225.872](#). Contracting with qualifying country sources.

research and innovation can be crafted while respecting international obligations. The same can be said of efforts to promote energy efficiency and the recycling of raw materials to reduce costs of production. Combined with the effective use of targeted anti-dumping and countervailing duties, such measures would genuinely enhance the competitiveness of the industry in the long run, securing a sustainable future.

To conclude, the EU is extremely concerned that this is the second recent investigation under Section 232. Restrictive measures in these cases (and a possible proliferation of such actions) would have grave systemic consequences that would be unacceptable to the EU and ultimately damaging to the US.

Yours Sincerely,

-Signed-
Damien Levie
Head of the Trade and Agriculture
Section

Copy:

H.E. Secretary of Commerce Wilbur Ross
H.E. United States Trade Representative Robert Lightizer
H.E. Secretary of Defense James Mattis
H.E. Secretary of State Rex Tillerson