

June 23, 2017

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

RE: Section 232 of the Trade Expansion Act of 1962 investigation of imports of Aluminum; Comments

Dear Mr. Botwin:

Thank you for the opportunity to submit comments on the above referenced action. These comments supplement the testimony provided by the Flexible Packaging Association (FPA) at the June 22, 2017 public hearing (testimony attached hereto and incorporated by reference). FPA is the voice of U.S. manufacturers of flexible packaging and their suppliers. The Association's mission is connecting, advancing, and leading the flexible packaging industry. Flexible packaging represents over \$30 billion in annual sales in the U.S., and is the second largest and fastest growing segment of the packaging industry. The industry employs over 80,000 workers in the United States. Flexible packaging is produced from paper, plastic, film, aluminum foil, or any combination of these materials, and includes bags, pouches, labels, liners, wraps, rollstock, and other flexible products. With respect to aluminum foil, this packaging includes everyday food and beverage products such as Hershey Kisses; Pringles; Dannon Yogurt; and Capri Sun, as well as health and beauty items and pharmaceuticals, such as Tylenol; Clinic Plus; and Gillette Shaving Cream. Aluminum foil is also used by the flexible packaging industry for medical device packaging to ensure that the products packaged, such as absorbable sutures, human tissue, and artificial joints, maintain their efficacy at the time of use. Even pet food and treats use this substrate to deliver fresh and healthy meals to a variety of animals.

Introduction

This Section 232 investigation has been initiated under the Trade Expansion Act of 1962, an obscure law that has rarely been invoked since it was enacted. When it has been invoked, a total of 26 times, prior investigations have involved multiple hearings across the United States and has taken the full statutory period to determine what, if any, action should be taken. In fact, most prior investigations under Section 232 have not resulted in action by the President. FPA is concerned that the Aluminum investigation appears to be rushed – with only 5 minutes allotted to testify at the hearing, and only one hearing scheduled. In addition, the time for submission of these comments was shortened amid reports that the investigation would not be taking the statutorily allowed 270 days to report to the President, but some faster, undisclosed timeline. FPA believes that the Administration needs to slow down and fairly and accurately investigate whether or not imports of aluminum have any effect on national security. If not, the unintended consequences of any Presidential action, will most likely be U.S. job loss and higher costs to consumers for everyday goods.

FPA supports efforts to protect domestic manufacturing and ensure national security. However, any such efforts must consider the impact and consequences on all U.S. manufacturing industries. Accordingly, the scope of these actions must be limited to address the specific objectives. FPA is not aware of any impacts aluminum foil imports for use in the packaging industry has on U.S. national security. Thus, aluminum foil imports necessary for the

packaging industry, and without application for national defense, should be excluded from consideration. In its investigation, the Administration is to consider a range of factors related to national security including the economy and the effects of foreign competition on the economic welfare of domestic industries, including impacts on employment. Any import restrictions on aluminum foil will have a significant negative impact on the flexible packaging industry and its employment in the U.S. Restrictions will impede packaging innovation and U.S. flexible packaging manufacturers' ability to compete with foreign companies that do not have similar restraints, and will not result in any benefit to U.S. aluminum companies.

Aluminum Foil in Flexible Packaging is a Critical Substrate

U.S. end-users of aluminum foil are "converters," which coat, laminate, or print aluminum foil to make flexible packaging. As discussed above, flexible packaging is then used for a variety of purposes including food and beverage packaging, tobacco, pharmaceutical and medical device applications, as well as many others. Aluminum foil is a crucial component because it provides a superior moisture and oxygen barrier. This extends the shelf-life and ensures freshness of the products inside the package. Because FPA members are producing packaging for food, beverage, and medical use, the qualification process is long and the material components are critical – literally a matter of life and death in the case of medical packaging. Medical packaging, like food packaging, has to be sterile, but unlike food packaging, it will not have the telltale signs of spoilage. If the aluminum foil used for medical device packaging is defective, microbes can pass through the package, and there is nothing to alert the end-user that the supposedly sterile product, is in fact, not sterile. Shortened shelf life and spoilage of food and beverages may not mean life or death, but increases the very real problem of food waste and adds to a drain on the economy.

Aluminum foil provides a very real and necessary purpose in flexible packaging, and substitution of this substrate is not a viable option. As stated above, suppliers and converters of aluminum foil and flexible packaging go through rigorous vetting, both by U.S. regulatory agencies, such as the Federal Food and Drug Administration, as well as their customers. Suppliers must meet the needs of flexible packaging manufacturers and flexible packaging manufacturers must meet the needs of the consumer product companies. No other substrate provides equal barrier protection, and even if one did; changing a supplier or substituting a substrate is akin to changing a formula – the vetting process, which can easily take a year – if not 2 years or longer for pharmaceutical and medical packaging, would have to be started again. A good example is powdered infant formula, which is considered a pharmaceutical – the qualification process for any new supplier, let alone a new substrate, is long and rigorous and would take over 2 years. In short, flexible packaging manufacturers need a consistent, quality supply of aluminum foil to produce the products consumers use and rely on every day.

Domestic Production of Aluminum Foil Cannot Meet the Needs of the U.S. Flexible Packaging Industry

Consistent quality of aluminum foil necessary to meet the needs of the flexible packaging industry is simply not available from domestic producers. In some cases, for fine gauge aluminum foil (below .0003"), it is simply not manufactured in the U.S. Paralleling the Section 232 investigation is an International Trade Commission (ITC) investigation of Chinese aluminum foil imports based on a petition from The Aluminum Association, claiming that dumped and subsidized aluminum foil from China is causing or threatening injury to the domestic aluminum foil industry. At the ITC's preliminary hearing on March 30, 2017, the staff found that domestic ultra-thin foil production "may be limited or nonexistent." Gauge is the primary product characteristic that drives purchasing decisions for the aluminum foil that converters use. For other gauges, quality issues with the domestic supply have driven flexible packaging manufacturers to source overseas, including from China.

The conversion process can be summarized as unrolling large rolls of foil, often at high speeds, and coating, laminating, or printing on the foil. Quality is essential to ensure that the process is optimized. Domestic aluminum foil has a history of poor unwinding, causing web breaks that result in expensive machine downtime, and in some

cases missed deliveries or recalls. Sheet flatness is important because when baggy material goes through the rolls, a wrinkle is created. Flexible packaging manufacturers can try to correct for bagginess by putting more tension on the web and stretching the rest of the material. However, there is a point where so much tension is applied that the material tears or the equipment is just not capable of applying the required tension. Domestic foil can also have residual rolling oil, which undermines bonding and ink adhesion, resulting in substandard finished products that will not be accepted by the customer. Other reasons for package rejection include baggy edges, mill splice tear-outs, sticky foil, wrinkles in the foil, oxidation (brown spots), and foil stingers, which are lines of punctures in the foil. Rejection rates reported by FPA members through the ITC investigation range from 10% to 50%. This substandard product has a significant impact on plant efficiency and productivity, as well as the finished product being produced. This translates into lost time, wages, and profits for the U.S. flexible packaging industry.

Absence of Investment by the U.S. Aluminum Industry Lead to Lack of Competitiveness with Imports

U.S. supply of foil is not available in the quantities and quality necessary for the U.S. flexible packaging industry because of strategic decisions U.S. aluminum foil producers made decades ago. Over the last many years, domestic producers of aluminum foil have retreated from the production of thin gauge foil, and some have exited the market altogether. In some cases, they have exited while U.S. flexible packaging manufacturers were actively purchasing from them with little to no notice, leaving the flexible packaging industry with minimal time to find new sources. A lack of investment by the U.S. aluminum industry in the necessary capital to keep up with technological advances and not upgrading facilities so that they could produce a product of sufficient quantity and quality to meet the needs of U.S. customers left the U.S. aluminum foil producers vulnerable to foreign competition. Chronic underinvestment, especially in machinery – with many U.S. mills tracing their last significant equipment purchase to the 1970s – has forced the domestic packaging industry to rely on imports to fill their needs.

By contrast, Chinese and other non-U.S. mills have invested heavily in modern machinery to serve the needs of U.S. converters. These imports offer superior quality, product selection, and sufficient volume. Chinese producers of aluminum foil can produce the gauges that converters need at the level and quality that converters can trust. Ongoing investment in modern machinery and the latest techniques allows Chinese producer to roll foil in widths that cannot be duplicated by the machinery in the U.S. Simply put, even if a robust domestic supply of aluminum foil was available, which it is not, the quality of the aluminum foil domestic flexible packaging manufacturers are able to get from China and other non-domestic suppliers far exceeds the quality of domestic aluminum foil, and that quality is mission critical for domestic flexible packaging manufacturing. Underinvestment has been prevalent for years – the suggestion now, that unfairly priced imports are the cause, is specious at best.

Since domestic producers made strategic decisions not to participate in the ultra-thin gauge aluminum foil market – they cannot now blame imports for filling a void left by their own actions. Failure to invest, and quality lapses, including gauge, width, and lack of appropriate alloys all contribute to the fact that the U.S. producers of aluminum foil are not able to serve the U.S. flexible packaging industry.

Restrictions on Aluminum Foil Will Not Benefit the U.S. Aluminum Industry and Will Harm the U.S. Flexible Packaging Industry

In the ITC's investigation of the Chinese imports, their report found that despite The Aluminum Association's arguments about economic harm by imports, domestic aluminum foil manufacturing jobs declined by only "137 workers from 2014-2016." To put this number in perspective, again – flexible packaging manufacturing jobs in the U.S. exceed 80,000. The negative impact on American jobs of cutting off the supply of Chinese aluminum foil for flexible packaging manufacturing will far outweigh any job benefits that are envisioned by either the ITC or the Section 232 investigations. High tariffs or quotas will only lead to U.S. companies sourcing aluminum foil from

other non-U.S. manufacturers. For example, there are several rolling mills that are currently supplying, or willing to supply, thin gauge foils to the U.S. from Europe and Korea. Since the domestic foil industry cannot meet the quantity or quality needs of U.S. flexible packaging manufacturers, the only option is to pay the increased costs of imports and pass these costs along the supply chain to the consumer.

Other real possibilities will be Chinese and other non-U.S. suppliers of printed or otherwise converted aluminum foil products entering the U.S. market, since these products are not included in the actions. Increased import competition of finished flexible packaging would be immediate upon any restrictions of aluminum foil imports. The market is global for these packages, and since there is not a significant difference in freight costs between foil and packaging stock, there are ready entrants in Canada, Europe, and Asia. Lastly, U.S. companies may move flexible foil packaging production outside the U.S. altogether to avoid the higher costs and restrictions on the import of aluminum foil. There is simply no scenario where U.S. aluminum foil manufacturers benefit, and in most cases, U.S. flexible packaging jobs will be lost and consumer prices will increase.

Conclusion

FPA shares the same goal as domestic aluminum producers who want more American jobs and understands the importance of U.S. manufacturing to national security. The Administration should find ways to work together to improve our country's competitiveness. Everybody loses in unfair trade cases, especially the American consumer. The ITC's preliminary findings make it clear that its case is not going to result in any benefit to aluminum foil producers and the unintended consequences of including aluminum foil in any Section 232 remedy will be more damaging to the U.S. manufacturing industry and the economy than the benefits sought.

Please do not hesitate to contact Alison Keane, President and CEO of FPA (akeane@flexpack.org) with questions or for more information.

Sincerely,



Alison Keane, Esq.
President and CEO

** Sent via email **