



## **WRITTEN SUBMISSION OF THE NATIONAL FOREIGN TRADE COUNCIL**

### **Comments Regarding the Section 232 National Security Investigation of Imports of Aluminum June 23, 2017**

#### **Introduction and Summary**

These comments are submitted by the National Foreign Trade Council (“NFTC”) to assist in the *Section 232 National Security Investigation of Imports of Aluminum* (the “Aluminum Investigation”). On April 26, 2017, the Secretary of Commerce initiated this investigation under Section 232 of the Trade Expansion Act of 1962, as amended, to determine the effects on the national security of the imports of aluminum. Pursuant to a Federal Register notice, published on May 9, 2017 (the “FR Notice”), interested persons have been asked to submit comments in connection with the investigation.

NFTC is dedicated to making America more competitive in the global economy by ensuring the adoption of forward-looking tax and trade policies, by strengthening global rules and by opening foreign markets to U.S. products and services. Our strong support for these objectives, and our belief that their fulfillment is essential to our members’ success in a globalized economy, have been unwavering for decades. We therefore believe that it is critical to provide policymakers in the Administration with our clear views about the role trade and tax policies play in unleashing a new era of U.S. competitiveness.

NFTC represents more than 200 companies and our membership spans the breadth of the national economy. It includes sectors such as energy products, capital goods, transportation, consumer goods, technology, healthcare products, services, e-commerce and retailing. Our

companies account for more than \$3 trillion in total sales worldwide, employ over five million Americans and produce a huge share of our nation's total exports. Our stake in ensuring a healthy national economy and promoting our global leadership is enormous.

NFTC's membership includes some of America's largest manufacturers of autos, consumer products and industrial goods. Aluminum now plays a key role in reducing the weight of autos, trucks and commercial vehicles, thereby improving fuel efficiency and reducing costs. In the consumer goods sector, aluminum cans and other forms of packaging provide important benefits to consumers. Aluminum is also an important material in the construction sector, in the manufacture of aircraft frames and engines, and in a wide range of capital goods, such as power-generating equipment. In today's highly sophisticated manufacturing plants, aluminum is used in products such as robotics, and in other sophisticated manufacturing applications. All of these sectors are represented in our membership, and they employ millions of skilled American workers in well-paid jobs. Our member companies source a major portion of their aluminum needs from domestic producers. However, they also rely to some degree on imported aluminum, especially in those cases where domestic sources are insufficient or products cannot be supplied competitively within the time constraints required by production demands. Thus, imports fill a limited but important gap in the supply chain for these companies.

NFTC member companies who rely on competitively-priced aluminum are extremely concerned about the impact of significant restrictions on aluminum imports. While we fully appreciate that global overcapacity, supported in many cases by subsidies, presents a significant problem for our own aluminum producers, we believe that imposition of high tariffs or restrictive quotas on aluminum products is not an appropriate response, causing significant damage to sectors of our economy that cumulatively account for a far larger share of U.S. manufacturing and employ far more workers than the U.S. aluminum smelting industry itself. In addition, many of the industries that rely on aluminum as an input are themselves suppliers for

our nation's defense-related needs, building the ships, aircraft, machinery, high technology weapons and other goods that a modern military demands. These downstream industries are equally critical to the U.S. industrial capacity, and the nation's security is weakened if their production capacity is curtailed.<sup>1</sup> Because of these two factors – employment effects and national security needs – it is of utmost importance to weigh carefully the potential effects of higher aluminum tariffs or restrictive quotas on these aluminum-consuming sectors. To that end, we are providing the following comments about the potential impact on our member companies' operations.

### **Analysis**

At the outset, we want to emphasize that NFTC members recognize the importance of ensuring that global trade in aluminum and other input products is fair, and that U.S. trading partners play by the rules. To the extent that our trading partners are engaged in dumping or subsidization of aluminum exports, those imports are rightly subjected to trade remedies under the U.S. statutes governing antidumping and countervailing duty investigations. Further, to the extent that significant downward pressure on aluminum commodity prices is being felt due to overcapacity of aluminum production in China, a global solution, such as a multilateral agreement on orderly capacity reduction, should be found. We strongly endorse efforts by the Administration to pursue reasonable outcomes through both the WTO dispute settlement system and in the context of the G-20 Hamburg Summit in Germany.<sup>2</sup>

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<sup>1</sup>As is the case with steel, aluminum is a critical input in many defense products and systems. Imposing trade-restrictive measures under Section 232 on aluminum would increase the cost of a crucial intermediate good for supply chains that support the defense industry. See *Issue Brief: Steel imports Do Not Threaten National Security*, The Heritage Foundation (June 16, 2017) (making a similar argument with respect to steel inputs).

<sup>2</sup>We encourage the U.S. government to continue to pursue the pending U.S. dispute settlement case, filed in January 2017 against China, concerning subsidized financing and feedstocks provided to primary aluminum producers in China. We also support the joint request of the Aluminum Association, European Aluminum and the Aluminum Association of Canada, dated March 15, 2017 to the G-20 Sherpas for the U.S., the European Union and Canada,

We are, however, extremely concerned about the notion of seeking to remedy unfair trade or global overcapacity through an overly broad definition of “national security” and the use of sweeping trade restrictions under Section 232.3 As stated in NFTC’s submission on the Section 232 investigation now underway on steel products,<sup>4</sup> we do not believe that this is the proper role of a “national security” related remedy, which should be more narrowly focused on two considerations: (a) what specific national security needs are not being met; and (b) whether a targeted remedy that is not unduly disruptive to the rest of our national economy can ensure essential supply to our defense sector. If the focus is something different, such as to remedy unfair trade practices, we believe the proper course of action is for the industry to seek relief under the laws established for those purposes, such as the antidumping and countervailing duty laws. These laws have well-established procedural requirements for determining injury and assessing the appropriate scope and level of remedies.

It is important to understand the potential impact that significant restrictions on aluminum imports could have on our companies’ domestic manufacturing or sales. Aluminum is a critical input for the manufacture of vehicles and automotive components and the U.S. auto industry is a leading consumer of U.S. aluminum. Aluminum’s strength, durability and light weight is likely to create greater needs for aluminum as an input in the near future for the auto sector. Given the significant role that automakers play in the U.S. aluminum industry, any increase in the price

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that leaders at the upcoming G-20 Hamburg Summit create a Global Forum on Aluminum Excess Capacity, similar in type to the Global Forum on Steel Excess Capacity that was created last year after the G-20 Summit.

<sup>3</sup>We note that, under current U.S. law, military procurement needs allow the Department of Defense to give preferential treatment in procurement to U.S.- based suppliers. See J. Hasik, *Is Imported Aluminum a Threat to American National Security*, Atlantic Council (June 15, 2017); See also *Issue Brief: Steel imports Do Not Threaten National Security*, The Heritage Foundation (June 16, 2017) (making a similar argument with respect to steel inputs).

<sup>4</sup> See Comments Regarding the Section 232 National Security Investigation of Imports of Steel (filed May 31, 2017 by NFTC).

of aluminum will have an immediate and negative impact on the industry and its workers. In the case of U.S. beverage manufacturers, while most of the cansheet used in aluminum cans and bottles is sourced domestically, imported primary aluminum is an essential input. Trade-restrictive measures limiting the importation of primary aluminum or cansheet will directly hurt the jobs these industries support. Further, current exports of cansheet to Canada and Mexico would be reduced if primary aluminum costs go up. In the case of aluminum inputs for the oil and gas industry, new trade-restrictive measures could raise the costs of these inputs which may in turn impact affordable energy for consumers. More broadly, companies in the supply chain who fabricate products with aluminum will be affected by trade restrictions on aluminum. For example, U.S.-based machine and tool manufacturers who fabricate parts using aluminum will no longer be competitive and this may force U.S. companies to look to foreign sources for their machining and tooling manufacture needs.

Given the relative importance of aluminum as an input in such production, higher costs for aluminum will significantly affect the cost structure of the manufacturers and exert downward pressure on output, production and employment. Higher aluminum prices will also undermine their ability to produce for export and to compete internationally. In fact, many aluminum-consuming industries compete in a global economy and do not rely on high levels of import protection to maintain their global competitiveness or U.S. production base. A number of trade associations representing these aluminum-consuming industries have filed useful comments in this regard, which we urge you to review very carefully. These include the following: Written Submission of American Automotive Policy Council (dated June 23, 2017); Written Submission of the American Petroleum Institute, et al. (dated June 23, 2017); Written Submission of the Beer Institute, et al. (dated June 23, 2017); Written Submission of Can Manufacturers Institute (dated June 23, 2017); Written Submission of Ball Corporation (dated June 23, 2017).

These submissions make the clear and convincing case for balancing the interests of consuming industries against the advisability of restrictions for national security reasons. First, as noted earlier, aluminum-consuming companies employ millions of American workers who will be directly impacted by the inability of their U.S. employers to obtain needed aluminum inputs or, if those companies can obtain the inputs, to pay significantly more for the cost of these inputs. The submissions also underscore why any introduction of trade barriers at the U.S. border will create enormous business uncertainty for manufacturing companies who, by nature of their production schedules, must make commodity-sourcing decisions far in advance of their manufacturing timelines. Further, broad-based remedial measures will not be able to take account of situations where an aluminum input (a) is not made in the United States, (b) is in short supply in the United States, or (c) cannot be produced within the production-driven time frames of U.S. manufacturers.<sup>5</sup>

Trade-restrictive measures affecting aluminum imports will also have an effect on the ability of U.S. companies who use aluminum as an input to export U.S.-made products. Often, aluminum-derived products are made in the United States for export to foreign markets where they compete with foreign-manufactured products. If tariffs or quotas are used to raise the costs of imported primary aluminum, and U.S.-based manufacturers are compelled to pay more for aluminum inputs than their foreign competitors, the U.S. companies will be at a competitive disadvantage. As a result, these companies will face fewer export sales or be priced out of the global markets entirely, potentially leading to the relocation of some U.S. production overseas. In the product packaging area, there is likely to be product packaging substitution, such as the

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<sup>5</sup> We note that the Department of Commerce has not announced any specific process to provide companies with a means to ask for exclusions from a determination. The imposition of import restrictions without the possibility of seeking an exclusion from the determination, such as for aluminum products that are unavailable in the quantities or with the product specifications required by U.S. end-users, would have immediate and damaging effects upon a broad range of U.S. industries and would put U.S. manufacturing jobs at risk.

use of more plastic instead of aluminum packaging, which will also reduce aluminum demand. All of these results, in turn, could decrease domestic demand for aluminum, jeopardizing the very aluminum jobs that sweeping trade restrictions would be aiming to protect. This is surely not the result that a Section 232 investigation aims to achieve.

In addition, introduction of new remedies against U.S. trading partners who have not been found to be engaged in dumping or subsidization runs the risk of inviting retaliation from those trading partners. Our trading partners who export aluminum products and have not engaged in unfair trade practices, while other aluminum-exporting countries, such as China, have been found to do so under U.S. law, should not find their exports burdened by additional tariffs or other trade-restrictive measures when they have, in fact, been playing by the rules.

There is also the danger that trade-restrictions imposed on imports to our market will create an incentive for similar actions to be taken by our trading partners. If the United States tries to justify a broad-based tariff or quota for all aluminum products on the grounds of “national security,” it will embolden other countries to use the same justification on other categories of products – whether on our exports of capital goods, civil aircraft, technology products, pharmaceuticals or agricultural products. This reaction may create a new wave of non-tariff protectionism, which could harm a large number of America’s most competitive sectors in ways we do not anticipate. The Administration should carefully weigh the adverse effects of signaling to the world that it is appropriate to use broad, generalized protection for any particular sector by justifying its actions on national security grounds.

### **Conclusion**

In conclusion, we want to summarize our main concerns with the potential imposition of trade restrictions on a broad range of aluminum products under Section 232:

- First, national security restrictions should be imposed only selectively on a limited range of products where a critical need is identified and where import restrictions are the most

appropriate remedy and are tailored to the threat to the national security with an appropriate process for determining needed exceptions;

- Second, the impact on aluminum users, which comprise a far greater share of total manufacturing and GDP than U.S. aluminum smelters, must be carefully considered, thus assuring that increased prices and reduced availability of aluminum products will not cause damage that could far outweigh the national security benefits of trade restrictions;
- Third, the use of broad-based Section 232 remedies to severely limit aluminum imports will affect hundreds of aluminum-consuming companies, creating significant disruptions to their production schedules and on their ability to meet their own customers' demands for products. Trade-restrictive measures of this type will significantly affect the cost structure of the manufacturers and exert downward pressure on output, production and employment. Higher aluminum prices will also undermine their ability to produce for export and to compete internationally;
- Fourth, sweeping restrictions on aluminum imports that are justified on national security grounds will risk reciprocal actions by our trading partners in other sectors, including actions based on similarly broad and unjustified national security grounds, which would have major impacts on our most competitive export sectors.

Thank you for the opportunity to present our comments. If you have any questions regarding our comments, please contact Rufus Yerxa, President of the NFTC, at (202) 887-0278.