

June 20, 2017

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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: Request for Comment: Section 232 National Security Investigation of Imports of Aluminum, 82 Fed. Reg. 21509 (May 9, 2017) & 82 Fed. Reg. 25597 (June 2, 2017)

Rio Tinto appreciates the opportunity to offer comments to assist the Department of Commerce and Department of Defense in the Section 232 national security investigation into imports of aluminum and highlight the essential nature of the North American integrated supply chain of aluminum for the defense industrial base. Rio Tinto commends President Trump, Secretary Ross and Secretary Mattis for focusing attention on the vital role that aluminum plays in defense programs and the industrial base that ensures that the United States has the manufacturing capability and capacity to meet defense-related requirements.

I. Rio Tinto background

Rio Tinto is a leading global mining and metals company that focuses on finding, mining and processing mineral resources that are the essential materials for our customers around the world. Rio Tinto has been in business for more than 140 years, with some of our longest operating assets located in the United States. We produce a diverse suite of minerals and metals that are the necessary inputs for everything from telecommunications to transportation. One of our major products is aluminum, largely produced in North America. Rio Tinto Aluminum operates large-scale, high-quality bauxite mines and alumina refineries and the world's most modern and competitive aluminum smelter portfolio.

A. Rio Tinto's operations in the United States

Rio Tinto is proud to have operations in the United States that have provided critical minerals to U.S. customers for well over 100 years. The heart of our global borates business is based in Boron, California, where the Boron mine began operations in 1872. Our Bingham Canyon mine in Salt Lake City, Utah is a fully integrated copper, gold and molybdenum mine that has been in operation for 110 years and today produces 13% of the United States' demand for copper. At its Salt Lake City operations, Rio Tinto operates one of only three copper smelters in the United States, a smelter that is recognized as one of the cleanest operating copper smelters in the world.

Rio Tinto has invested more than \$1.3 billion to date to develop the Resolution Copper Mine in Superior, Arizona – a project that will require a total of \$6-8 billion of investment over the next several years. The Resolution project is one of the largest single private investments currently pending in the U.S. permitting process and has the potential to supply 25% of U.S. copper demand. Rio Tinto is also investing for the future, prioritizing mineral exploration in North America that will support future U.S. manufacturing demand.

Rio Tinto's operations, such as those in Utah, California, and Arizona are strong contributors to the United States economy and employment. Rio Tinto contributes to the local communities in which it operates through local procurement, community partnership and sustainable development practices. Through such partnerships, Rio Tinto strives to contribute to the local communities, in which it operates, not only as a job creator, but as a partner.

B. Rio Tinto's role in the North American supply chain

Rio Tinto's aluminum smelting operations play an important role in the United States economy as a significant contributor to the integrated manufacturing supply chain in North America. Rio Tinto is the largest producer of primary aluminum in North America through our aluminum smelting operations in Quebec and British Columbia. These primary aluminum smelters have a long history of supplying U.S. manufacturers – particularly U.S. defense-related manufacturing. Rio Tinto is proud of its history as a reliable supplier of high quality, competitively priced primary aluminum to our U.S. customers.

The integrated North American supply chain provides tremendous benefits for the United States economy and American workers. According to the Aluminum Association, North American primary aluminum production supports over 150,000 manufacturing jobs in the United States. Exports to Canada support key industries of the United States and now account for nearly 20% of all U.S. exports. In 2016 alone, the United States exported \$48 billion in vehicles to Canada, and \$40 billion in machinery. Aluminum supplies from Canada, including those from Rio Tinto, are vital inputs to many U.S. exports and help create American jobs, as well as quality American products for consumers and businesses in both Canada and the United States.

II. **Historic Defense Cooperation between the United States and Canada**

The United States and Canada have treated each other as indispensable partners in national defense matters for nearly a century. The Canadian-American defense industrial alliance, known as the Defense Production Sharing Program, pre-dates the U.S. entry into the Second World War. In 1940, Canada and the United States established the Permanent Joint Board on Defense, which still operates today. The Hyde Park Declaration of 1941, which allowed American-made war material to be produced in Canada and provided to Great Britain under Lend-Lease, was an antecedent to “a coordinated program of requirements, production and procurement.”¹

¹ Statement of Principles for Economic Cooperation, U.S.-Can., Oct. 26, 1950, 1 U.S.T. 716.

Close coordination between the U.S. and Canada continued after the Second World War. In a 1953 memorandum, the U.S. National Security Council (NSC) concluded that a “continental” approach to defense materiel—including aluminum—was in the United States’ national interest.² As NSC staff wrote at the time, sourcing aluminum from Canada “is in consonance with the long standing plan of the United States and Canada to share their resources in time of war on a continental rather than on a national basis.” Since this time, the United States and Canada have become even more integrated in defense matters.

A. U.S. Law Respects the Mutual Benefit of the Integrated North American Defense Industrial Base

For over twenty years, U.S. law governing the armed forces has defined the U.S. national technology and industrial base (“NTIB”) to include Canada.³ Indeed, Canada was the only country to receive such treatment until 2017, when Congress expanded the definition to include the United Kingdom and Australia. In the Department of Defense’s (DoD) Annual Industrial Capabilities Report to Congress, Canada has long been part and parcel of its analysis of the industrial defense capability.⁴

Recent legislation reinforces strong Congressional support for the NTIB and reflects the increasing integration of U.S. and Canadian manufacturing bases. The Fiscal Year 2017 National Defense Authorization Act requires DoD to “develop a plan to reduce the barriers to the seamless integration” of the NTIB by, “increasing integration of the national technology and industrial base” and by “enhancing allied interoperability of forces through changes to . . . agreements among the countries comprising the national technology and industrial base.”⁵

Defense cooperation between the United States and Canada also goes beyond the NTIB. In 1987, the two countries established the North American Technology and Industrial Base Organization, which “promote[s] a cost effective, healthy technology and industrial base that is responsive to the national and economic security needs of the United States and Canada.”⁶ The organization’s leaders recently reiterated the organization’s commitment to goals such as “leverag[ing] resources through cost sharing and economies of scale.”⁷ Separately, in a 2006 instruction, DoD reiterated its policy to “maintain and strengthen defense cooperation with

² Memorandum from the Executive Secretary of the National Security Council (NSC) to the NSC, (Oct. 16, 1953).

³ 10 U.S.C. § 2500(1).

⁴ 10 U.S.C. § 2504; *see also* 10 U.S.C. § 2505 (describing the annual “defense capability assessment” prepared by the Secretary of Defense, in collaboration with the Secretary of Commerce and the Secretary of Energy).

⁵ Pub. L. No. 114-328, § 881.

⁶ North American Technology and Industrial Base Organization, *available at* <http://www.acq.osd.mil/mibp/natibo/>.

⁷ North American Technology and Industrial Base Organization, 2014 Annual Report, *available at* http://www.acq.osd.mil/mibp/natibo/docs/2014_Annual_Report_Final.pdf.

Canada ... based on the recognition that the United States and Canada have a mutual interest in the defense of North America.”⁸ As these actions make clear, Canada is a strong partner to the United States in national security matters, and imports from Canada have long enhanced U.S. national security.

This longstanding and deep cooperation between the United States and Canada has been recognized in prior Section 232 investigations. In the most recent Section 232 investigation before this Administration, the Department of Commerce described Canada as a “‘safe’ foreign supplier” of iron ore and semi-finished steel.⁹ In another investigation, the Department of Commerce recognized that “Canada is largely integrated with the United States in the defense arena and is considered part of the North American industrial base in defense planning.”¹⁰ Similarly, in a recent Section 232 investigation into crude oil, Commerce applauded energy cooperation between the United States and Canada, and stated that this cooperation “provides significant security benefits for both nations, and clearly demonstrates that the United States and Canada are developing an integrated and secure North American energy market.”¹¹ Accordingly, in this investigation, Canada should be viewed as part of the U.S. defense industrial base. Indeed, such an approach is consistent with Canada’s treatment in prior Section 232 investigations.

III. Rio Tinto plays a critical role in supporting the U.S. defense and manufacturing bases

Rio Tinto plays a critical role in supporting the U.S. manufacturing base. Seventy-five percent of Rio Tinto’s Canadian aluminum production is shipped to the U.S., where we have sales in more than 35 states. Canada is host to 70% of North American smelting capacity, powered by renewable hydropower that ensures reliable, cost-competitive aluminum that is in close proximity to major American manufacturing centers to facilitate “just in time” delivery.

Among many historical examples regarding Rio Tinto’s operations in North America and their connection to the defense supply chain is our Shipshaw hydropower plant. This plant has a direct linkage to the mutual defense coordination of the United States and Canada. Built in 1943, with the encouragement and support of both the U.S. and Canadian governments, the Shipshaw hydropower plant was a vital part of the ramp-up of allied defense manufacturing capability and today it is a key component of our Saguenay-Lac-Saint-Jean hydroelectric power network. This

⁸ DoD Instruction No. 2035.01 (Feb. 27, 2006).

⁹ U.S. Department of Commerce, *The Effect of Imports of Iron Ore and Semi-Finished Steel on the National Security: An Investigation Conducted Under Section 232 of the Trade Expansion Act of 1962, as amended* (October 2001), at 2.

¹⁰ U.S. Department of Commerce, *The Effect of Imports of Plastic Injection Molding Machines on the National Security, An Investigation Under Section 232 of the Trade Expansion Act of 1962, as amended* (January 1989), at VII-5.

¹¹ U.S. Department of Commerce, *The Effect on the National Security of Imports of Crude Oil and Refined Petroleum Products: An Investigation Conducted Under Section 232 of the Trade Expansion Act of 1962, as Amended* (November 1999), at ES-4-ES-5 & II-9.

power network feeds the aluminum smelter network that provides reliable, high quality and low Co2 aluminum to North American manufacturing customers.

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Section 232 investigations involve taking stock of domestic industrial capacity. Numerous provisions of U.S. law as well as longstanding U.S. policy make clear that Canada's resource and manufacturing capabilities have long been considered part of the North American defense industrial base, and underscore the value of the border security and defense partnership between the two countries.

Consistent with U.S. law and policy, Rio Tinto has been a proud partner to the U.S. government, private industry, and local communities. We look forward to continuing and deepening these relationships.

Best regards,



Alf Barrios
Chief Executive
Rio Tinto Aluminum