

**Section 232 National Security Investigation of Imports of Aluminum
Office of Technology Evaluation, Bureau of Industry and Security**

U.S. Department of Commerce

**WRITTEN SUBMISSION OF THE MINISTRY OF COMMERCE OF THE PEOPLE'S
REPUBLIC OF CHINA**

The Ministry of Commerce of the People's Republic of China files this written statement pursuant to the request of the Bureau of Industry and Security, U.S. Department of Commerce ("BIS") in its notice of *Change in Comment Deadline for Section 232 National Security Investigation of Imports of Aluminum*, 82 Fed. Reg. 25,597 (June 2, 2017).

I. U.S. NATIONAL SECURITY REQUIREMENTS FOR ALUMINUM ARE SAFELY SUPPLIED BY U.S. ALUMINUM PRODUCERS AND REPRESENT A SMALL AMOUNT OF U.S. TOTAL CONSUMPTION OF ALUMINUM

The U.S. national security requirements for aluminum are entirely and safely supplied by U.S. domestic enterprises. The amount of aluminum required for national defense purposes is small, accounting for less than two percent of the U.S. total domestic consumption.¹ For this reason, imports do not undermine U.S. national security.

II. THE U.S. ALUMINUM INDUSTRY HAS COMPETITIVE ADVANTAGES IN THE GLOBAL MARKETPLACE

The aluminum industry is strong and enjoys a clear competitive advantage. This ensures a continued and reliable supply of U.S. domestic aluminum.

¹ See Written Submission of the China Non-Ferrous Metals Industry Association (CNIA), Section I (June 23, 2017).

For many years, the U.S. industry has enhanced its position by acquiring significant, high quality bauxite in Australia, Brazil, and other countries. In addition, U.S. companies have shifted their primary aluminum production to energy-rich regions, such as Iceland and the Middle East. Furthermore, U.S. aluminum producers possess the most up-to-date technology and expertise. They maintain a dominant position in manufacturing high-precision aluminum sheet and plate used for vehicles and aircraft.

In short, the U.S. aluminum industry is highly competitive in the global marketplace for aluminum.

III. ALUMINUM-RELATED TRADE STRENGTHENS THE U.S. ECONOMY AND DOES NOT IMPAIR U.S. NATIONAL SECURITY

International trade related to aluminum strengthens the U.S. domestic economy, and does not impair U.S. national security.

The United States exports a significant amount of high-value aluminum products. In 2016, the total value of U.S. exports of aluminum semi-products amounted to 6.8 billion U.S. dollars, creating a 1.4 billion U.S. dollars trade surplus.² In addition, the U.S. imports bauxite, alumina, and primary aluminum, as well as common aluminum semi-products from many different countries. Aluminum products imported from China are general products with civilian uses, such as trailers, packaging, roofing, road signs, and consumer durables. These products do not implicate national security.

² See Written Submission of CNIA, Section III-D.

In short, trade related to U.S. aluminum is a net benefit for the U.S. economy, and does not impair U.S. national security.

IV. ABUSIVE INVOCATION OF THE NATIONAL SECURITY EXCEPTION UNDER THE WORLD TRADE ORGANIZATION FRAMEWORK WOULD UNDERMINE GLOBAL TRADE RULES AND THE U.S. ECONOMY

If the United States abusively imposes aluminum import restrictions under the guise of national security, this would undermine the multilateral trade framework established under the World Trade Organization (WTO) agreements. Such action also would harm the U.S. economy.

A. The GATT Exception for National Security Related Measures Does Not Support Import Restrictions on Aluminum

Under the multilateral trade system, the GATT contains a narrowly-drawn national security exception for action that a WTO member deems is “necessary” to protect “essential security interests.”³ Such action, moreover, must relate to traffic in nuclear materials, defense items or supplies to the military, or must relate to a time of war or emergency in international relations.⁴

None of these conditions for action on imports of aluminum under the GATT security exception are present in this case. We note further that this security exception has not been the subject of interpretation under WTO dispute settlement, namely because WTO members have refrained from broadly restricting imports by invoking the GATT security exception.

³ General Agreement on Tariffs and Trade 1994, art. XXI(b), Apr. 15, 1994, Marrakesh Agreement Establishing the World Trade Organization, Annex 1A, 187 U.N.T.S. 154, 33 I.L.M. 1153 (1994) (“GATT”).

⁴ GATT, art. XXI(b)(i)-(iii).

B. World Trade Rules Provide Ample Protection From Import Injury

Since the establishment of the WTO, member countries have refrained from initiating trade remedy investigations by invoking the national security exception. Instead, trade remedies are legitimately pursued under the WTO Antidumping Agreement,⁵ the Agreement on Subsidies and Countervailing Measures⁶ and the Agreement on Safeguards.⁷ The very purpose of these agreements is to establish the circumstances under which the domestic industries of WTO members may be legitimately protected from imports. These detailed agreements establish procedures and substantive conditions that must be met prior to imposing trade remedy relief. The United States should not bypass these procedures by restricting aluminum imports as a result of a national security investigation.

C. Abusively Invoking the National Security Exception Will Cause Other Countries to Follow, and Undermine the U.S. Economy

In light of the lack of a unified definition of “essential security interests”⁸ among WTO members, import restrictions by the United States may trigger other countries to invoke similar national security interests to protect their own allegedly critical industries from imports. U.S. action under the guise of national security could, therefore, cause a cascade of similar actions by other WTO members, undermining the rules-based WTO system, and the U.S. economy.

⁵ Agreement on the Implementation of Article VI of the GATT 1994, Apr. 15, 1994, Marakesh Agreement Establishing the World Trade Organization, Annex 1A, Legal Instruments – Results of the Uruguay Round, 1868 U.N.T.S 201 (1994).

⁶ Agreement on Subsidies and Countervailing Measures, Apr. 15, 1994, Marakesh Agreement Establishing the World Trade Organization, Annex 1A, Legal Instruments – Results of the Uruguay Round, 1869 U.N.T.S 14 (1994).

⁷ See Agreement on Safeguards, Apr. 15, 1994, Marakesh Agreement Establishing the World Trade Organization, Annex 1A, Legal Instruments – Results of the Uruguay Round, 1869 U.N.T.S 154, (1994).

⁸ GATT, art. XXI(b).

MOFCOM hopes that the United States will carefully assess the impact of this section 232 investigation on the multilateral trading system, and play a positive role in the global order of international trade and commerce.

Moreover, MOFCOM believes that unilateral trade restrictions are not conducive to solving the problems of the global aluminum industry. Global overcapacity is the result of many factors, including weaknesses in global economic growth and sluggish demand. The solutions to these challenges entail global joint efforts. The Government of China has proactively undertaken many measures to eliminate excess domestic aluminum production capacity and to encourage broader application of aluminum products. MOFCOM appeals to all global stakeholders to join hands in addressing the industry's challenges through dialogue and constructive engagement.

V. CONCLUSION: ALUMINUM IMPORT RESTRICTIONS ARE UNWARRANTED

In conclusion, import restrictions on the basis of national security concerns are unwarranted and should not be imposed.