ALUMINUM ★ NOW

American Primary Aluminum Association

The American Primary Aluminum Association (APAA) offers the following comments on the Commission's evaluation of the United States-Mexico-Canada Agreement (USMCA).

From a policy perspective, it is worth pointing out that the tariffs are working as intended. As discussed further below, production of primary aluminum in the United States will have increased by over 60% by the end of the first quarter of 2019, as compared to 2017. Three smelters are restarting production, another has announced a capacity expansion, and over 1,000 new jobs are being created. In the meantime, domestic downstream producers are also undertaking projects to create new capacity or expand existing capacity. The manufacturing sector as a whole added 176,000 jobs between February and October.

Notwithstanding the success of the aluminum tariffs, it should be noted that, as a threshold matter, the statute authorizing the Commission to undertake this analysis limits such analysis to the USMCA itself. It does not authorize the Commission to include analysis of ancillary issues, such as the Section 232 tariffs on steel and aluminum. Therefore, the comments of parties such as the Aluminum Association and the Beer Institute to have the Commission opine on the Section 232 steel and aluminum tariffs are outside of the scope of the Commission's review.

A. Trade Promotion Authority authorizes the Commission to look at the four corners of the USMCA and does not authorize any "link" to the steel and aluminum 232 tariffs.

The Commission is undertaking this analysis pursuant to Section 105(c) of the Bipartisan Congressional Trade Priorities and Accountability Act of 2015 (TPA). Section 105(c)(2) provides that:

> The Commission shall submit to the President and Congress a report assessing the likely impact of the agreement on the United States economy as a whole and on specific industry sectors . . . . [1]

The "agreement" is described in Section 105(c)(1), which refers to "the details of the agreement" provided by the President to the Commission.[2] These details were transmitted from United States Trade Representative Robert Lighthizer to Chairman Johanson on August 31, 2018.

The Section 232 tariffs on steel and aluminum are not part of the agreement. That stands in contrast to other Section 232 side letters on autos and *future* Section 232 measures.[3]

The statute requires the Commission to assess the agreement and its effect on the economy. The statute does not authorize the Commission to assess the impact of what is not in the agreement. As such, the steel and aluminum tariffs are not within the scope of the Commission's review, as established by Section 105(c) of TPA.

While the Aluminum Association and the Beer Institute may want the Commission to assess the impact of the Section 232 aluminum tariffs, Congress has not authorized the Commission to do so as part of this review.

B. **The three parties to the USCMA agree that the Section 232 tariffs are not linked to the agreement.**

Not only are the Section 232 tariffs not within the scope of the Commission's report as a matter of law, but the three parties to the USCMA have themselves taken the position that the Section 232 tariffs on steel and aluminum are not linked to the agreement.

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1 S. 995, 114th Cong. § 105(c)(2).

2 *Id.* at § 105(c)(1).

3 Even these provisions are not "integral" parts of the agreement and therefore are arguably not within the scope of the Commission's report.

The APAA made this point in its post-hearing brief,[4] but subsequent events further confirm it. The heads of government of the three parties signed the agreement on November 30, 2018 without making any change to the application of these duties to imports from Canada and Mexico. Indeed, leaders from all three nations have been quite clear that the Section 232 tariffs are unrelated to the USMCA.

C. **The Section 232 tariffs are not having an adverse effect on trade with Mexico and Canada, nor on the domestic economy.**

Doomsday predictions foretold the demise of downstream producers if the tariffs were imposed.[5] These predictions have proven inaccurate, not only for downstream American producers but for producers in Canada and Mexico as well. As the Economic Policy Institute recently explained:

- North American shipments of aluminum extrusions are up 6.3% from January through October 2018, compared to the same period in 2017.
- North American shipments of aluminum sheet and plate are up by 4.6% over the same period.[6]

The Aluminum Association itself cited growth in shipments as evidence of NAFTA's success;[7] by the Aluminum Association's own standard, then, the tariffs are also a success.

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[4] Letter from American Primary Aluminum Association to Sec'y to the Commission, re: *Posthearing Brief in Inv. No. TPA-105-003: United States-Mexico-Canada Agreement: Likely Impact on the U.S. Economy and on Specific Industry Sectors* (Nov. 23, 2018) at 1 ("APAA Post-Hearing Brief").

[5] *See, e.g.*, Joseph Francois and Laura M. Baughman, *Does Import Protection Save Jobs? The Estimated Impacts of Proposed Tariffs on Imports of U.S. Steel and Aluminum*. The Trade Partnership (Mar. 2018).

[6] Robert E. Scott, *Aluminum Tariffs Have Led to a Strong Recovery in Employment, Production, and Investment in Primary Aluminum and Downstream Industries*, Economic Policy Institute (Dec. 11, 2018) at 1.

[7] Testimony of Heidi Brock, President and CEO of the Aluminum Association, at 1.

The tariffs are having positive effects at home. According to EPI, U.S. primary aluminum production is expected to increase by 67% from pre-tariff levels at the end of 2017.[8] Three smelters are being restarted, another has announced a capacity expansion, and over 1,000 new jobs are being created.[9]

In terms of downstream producers, 22 new expansion projects have been announced. This will generate 2,000 new jobs.[10]

In terms of the economy as a whole, the U.S. manufacturing sector has added 176,000 jobs between February and October 2018.[11] Of these, 8,500 were in the motor vehicle and parts sector[12] – one of the sectors predicted to be hit with losses.[13]

These results are not surprising to those who analyzed the tariffs without putting a thumb on the scale. EPI critiqued the doomsday data by pointing out that the modeling used to generate the numbers was an "outlier in studies of tariffs" and that it was not consistent with how the vast majority of these studies are done.[14] EPI itself indicated when the tariffs were first imposed that they would have only a "minor" effect on the economy.[15]

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8 *Id.*

9 *Id.*

10 *Id.*

11 *Id.* at 13.

12 *Id.* at 11.

13 Joseph Francois and Laura Baughman, *Does Import Protection Save Jobs? The Estimated Impacts of Proposed Tariffs on Imports of U.S. Steel and Aluminum*, Trade Partnership (Mar. 2018) at 2.

14 Robert E. Scott, *Estimates of Jobs Lost and Economic Harm Done by Steel and Aluminum Tariffs are Wildly Exaggerated*, Economic Policy Institute (Mar. 21, 2018) at 9.

15 *Id.*

The fact is, in aggregate, the aluminum tariffs have worked as intended. They are restoring the U.S. primary aluminum sector, stabilizing prices, and are not destroying downstream demand for aluminum-containing products. Advocates that certain countries should be completely excluded from the tariffs simply seek to shift the positive effects of the tariffs to those other countries, to the detriment of the U.S. industry.

D. <u>Based on the Commission's analysis and the Aluminum Association's argument, the tariffs should be applied to Canada</u>.

At the hearing, the Aluminum Association testified that the tariffs should apply to China because of illegal subsidies, but Canada and Mexico should be exempt because they are "our allies that play by the rules."[16]

As discussed in the APAA's post-hearing submission, this amounts to advocating that no tariffs be applied at all.[17] Because primary aluminum is a global commodity traded on a global exchange, for the tariffs to have the desired price effects they must apply to a significant amount of imports. The global price of aluminum simply reflects total supply and demand regardless of supplier. Therefore, all excess subsidized capacity has adverse price effects, regardless of source, and requires a comprehensive global tariff regime.

Canadian aluminum capacity is 3.3 million tons. Little of it is consumed in Canada; the rest of it – nearly 90 % - is exported to the United States.[18] If Canada is exempted, then it is likely that almost all Canadian production will be exported to the United States in order to take advantage of the after-tariff price. That means the tariffs would not apply to such a significant portion of imports so that the price effects the tariffs achieve – which allow U.S. companies to be profitable in the

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16 Testimony of Heidi Brock, President and CEO of the Aluminum Association, at 2.

17 APAA Post-Hearing Brief at 3-8.

18 *Id.* at 6.

face of foreign subsidies – would be nullified. It is a global market, and a global solution is required.

Indeed, according to the Commission's own analysis, Canada – and the government of Quebec in particular – are among those providing the very subsidies to primary aluminum producers that make it more challenging for U.S. producers, in the absence of tariffs, to be profitable. For example;

> In 2015, the provincial government allocated Can$32.5 million to develop the province's aluminum industry, including goals of doubling aluminum processing volumes in Quebec over a 10—year period, using government procurement policies to expand consumption of domestically processed aluminum, and encouraging expansion of aluminum smelters in Quebec.
>
> Although many of these programs began before 2011, the government of Quebec coordinated with aluminum smelters during 2011-15 to encourage higher production and more collaboration along the aluminum value chain. The provincial government reportedly has typically provided both financial assistance and reduced electricity rates for aluminum smelters . . . . [19]

The report goes on to note how important these lower electricity costs are for Canadian smelter competitiveness.[20] 2011 was the year the primary aluminum price began its precipitous fall, dropping 30% over the next six years.[21] As the Aluminum Association recognizes, the result was a severe reduction in the number of American smelters left standing – even as demand picked up after the financial crisis.[22]

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19 U.S. International Trade Commission, *Aluminum: Competitive Conditions Affecting the U.S. Industry* at 203 (internal citations omitted).

20 *Id.* at 206.

21 APAA Post-Hearing Brief at 9.

22 *Id.* at 1-2.

In its post-hearing brief, the Aluminum Association also provided historical context regarding the surge of primary aluminum production from the Middle East.[23] While the Aluminum Association speculated that the driver of this capacity is low-cost energy, the Commission's own report shows that subsidies are the true source of these advantages:

> The GCC region's competitiveness as a top global aluminum producer benefited from lower electricity costs, owing to ready access to natural gas and <u>*government-facilitated low electricity costs*</u> . . . .[24]

The GCC countries, like Quebec, managed to expand capacity during the very period the price of primary aluminum was in free fall. Indeed, in the case of Saudi Arabia, it *began* producing in 2013, creating 520,000 metric tons of capacity between 2012 and 2014.[25] As of the writing of the Commission's report in 2017, Saudi Arabia had 760,000 tons of capacity.[26]

Whatever alleged "natural comparative advantage" these countries might have possessed, it appears to be driven and exploited by government subsidization in these countries. The fact is, but for these governments' subsidies, the U.S. industry is competitive and would not have been forced to disproportionately bear the burden of the global excess capacity crisis. These types of government subsidies maintained and expanded capacity in those countries at the expense of the U.S. industry. This helps to explain continued capital investment and expansion in these markets and not in the United States and elsewhere. Without these subsidies, there is no "natural comparative advantage" to justify the offshoring of American smelters.

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23 *Id.* at 11.

24 U.S. International Trade Commission, *Aluminum: Competitive Conditions Affecting the U.S. Industry* at 326 (emphasis added).

25 *Id.* at 308.

26 *Id.*

Overcapacity is a global problem, requiring a global solution. China is not the only actor providing subsidies to induce production. China's conduct is, as the Commission's report shows, contagious, as many other countries followed in China's footsteps in the wake of the recession. These subsidies create a vicious cycle whereby governments continue to subsidize their industries to maintain and expand capacity, leading to continued price declines, and force the disproportionate effects onto market-based players in the United States and elsewhere.

Conclusion

The discussion of the Section 232 aluminum and steel tariffs is a red herring. Congress did not authorize the Commission to review issues ancillary to the USMCA for good reason: the purpose of the report is to inform Congress about the effects of the proposed agreement, not the effects of unrelated matters.

Regardless, the data - not estimates generated by models, but actual data – show the tariffs as having a positive effect on trade among the parties, and positive effects on the domestic economy.

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