

Statement for the Record
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My name is Alison Keane, and I am the President and CEO of the Flexible Packaging Association (FPA). FPA, which is the voice of U.S. manufacturers of flexible packaging and their suppliers, continues to be troubled by the President's Trade Policy, specifically with regard to aluminum foil tariffs.

At a time when sterile packaging for food, health and hygiene, and medical equipment is more important than ever, and as U.S. manufacturers are continuing to suffer from the worst economy in decades, the Administration should be looking at ways to alleviate supply chain burdens, not increase them. The flexible packaging industry is once again unfairly targeted with unwarranted trade actions on aluminum foil that not only threatens food, pharmaceutical, and medical security in the U.S.; but will also negatively impact domestic jobs and increase prices during a time of unprecedented inflation. A "self-initiated" case by the Department of Commerce (DOC) against suppliers of aluminum foil from South Korea and Thailand threatens manufacturers of flexible packaging with unwarranted duties on necessary aluminum foil for food, pharmaceuticals, and medical device packaging. On March 16, 2023, The U.S. Department of Commerce issued a preliminary determination that imports of aluminum foil from South Korea and Thailand, using inputs manufactured in China, are circumventing the antidumping duty (AD) and countervailing duty (CVD) orders on aluminum foil from China.

Flexible packaging represents \$39 billion in annual sales in the U.S. and is the second largest and one of the fastest growing segments of the packaging industry. The industry employs approximately 85,000 workers in the United States and is deemed an Essential Critical Infrastructure Workforce by the Department of Homeland Security. 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. Concerning the tariff impacts, aluminum foil is used for packaging as it provides the barrier protection needed from oxygen, light, moisture, and bacteria that food, health and hygiene, and medical supplies need to ensure stable shelf life, freshness, and sterility.

Additional duties are not appropriate as the thin gauge foil used in these applications cannot be supplied by U.S. manufacturers. In 2017, the U.S. government-imposed duties on aluminum products coming from China, including aluminum foil. In 2018, yet another administrative action was taken under Section 232 of the Trade Expansion Act and additional worldwide tariffs were imposed on aluminum products, including foil. Now, the DOC's preliminary determination of additional fees on imports of aluminum foil from S. Korea and Thailand is even more destructive, as the foil targeted by these duties and tariffs is not manufactured in the U.S.

in the quantities needed, and flexible packaging manufacturers have no choice but to import it. In fact, the DOC already stipulated this truth by granting hundreds of exemptions to these manufacturers from the Section 232 tariffs.

The Section 232 investigation on aluminum, which resulted in the 10% tariff on aluminum, including foils produced from that aluminum, was initiated under the Trade Expansion Act of 1962, and was to determine what, if any, effects imports of aluminum have on national security. FPA is not aware of any impacts aluminum foil imports for use in the packaging industry has on U.S. national security and the Department of Commerce Report entitled “Effects of Aluminum Imports on the National Security,” (report) did not specify any. Nevertheless, the tariffs were imposed and these import restrictions have had a significant negative impact on the flexible packaging industry and its employment in the U.S.

While FPA supported the adoption of exclusions from the tariffs where aluminum articles are not produced in the U.S. “in a sufficient and reasonably available amount or of satisfactory quality,” the process for exclusions is arduous and slow, and in some cases, results in conflicting approvals and denials. Additionally, manufacturers must apply for the exclusion annually, regardless of whether or not there has been a change in circumstances. In the case of fine gauge aluminum foil used by flexible packaging manufacturers, the domestic supply of the product has only gotten scarcer. Despite the Section 232 tariffs, as well as the significant Anti-dumping and Countervailing (AD/CVD) duties placed on Chinese aluminum foil imports, one of the only companies in the U.S. supplying light gauge foil chose to close its doors.

As FPA stated in numerous letters and in its testimony to the Department, there was never sufficient supply in the U.S. of aluminum foil for flexible packaging to begin with, which is why imports were necessary. Instead of production moving back to the U.S., it simply moved out of China to other parts of the world. Flexible packaging manufacturers have in some cases moved away from foil, substituting non-foil barrier structures, which also does nothing to assist the aluminum industry in the United States. Given that there is not enough supply or quality of the foil to meet flexible packaging manufacturers need in the U.S. As a result, the exclusionary process is the only avenue with which to secure aluminum foil for the packaging that requires its use, especially at this time of national emergency when the public’s health and safety are more important than ever.

Aluminum foil is critical to the flexible packaging industry, as it creates the ideal barrier to bacteria, odor, sunlight, and contamination and is essential to protect the domestic food, health, and medical product supply. Many of these products are ones that consumers use or purchase every day, whether in grocery stores, pet stores, retail stores, or restaurants, but also found in doctors’ offices, hospitals, pharmacies, and universities.

Additional duties on aluminum foil will negatively impact consumers and the economy by:

- **Threatening Food and Medical Product Security:** When it comes to packaging for medical devices, food, and healthcare, sterility is critical – literally a matter of life and death. There is no ideal substitution for the barrier protection aluminum foil provides. Additional costs on these goods will increase supply chain disruptions and could result in a scarcity of these products.
- **Negatively Impacting the U.S. Domestic Jobs:** Many U.S. converting jobs have already gone offshore with the imposition of the Chinese and Section 232 duties and tariffs. If

additional fees are imposed on foil from S. Korea and Thailand, more jobs and manufacturing will move out of the U.S. as foreign suppliers of finished goods do not have to pay the tariffs.

- **Increasing Prices During a Time of Unprecedented Inflation:** The loss of jobs to the American economy will not be the only negative consequence; the costs of goods and the increase in prices for consumers for products used daily, during this time of unprecedented inflation will be damaging. Products include food and beverage applications such as yogurt, ingredients, juices, pet food, and candy; health applications, such as over the counter drugs and nutraceuticals and COVID-19 testing kits; and medical device packaging, such as absorbable sutures and surgery kits.

The Flexible Packaging Association (FPA) and its members support efforts to protect domestic manufacturing and ensure national security. As such, the Administration should not continue to unfairly target domestic flexible packaging manufacturers. Imposing new duties on imports of aluminum foil is simply not the answer. Everybody loses in unfair trade cases, especially the American consumer. Just as in the initial Chinese foil case, new duties and costs to domestic flexible packaging manufacturers are not going to result in any benefit to domestic aluminum foil producers. However, the consequences will be huge for food and medical product insecurity, loss of jobs, and ever-increasing prices on the goods consumers use every day.