

**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 suffering from the worst economy in decades, the Administration should be looking at ways to alleviate supply chain burdens, not increase them. Instead, the Department of Commerce continues to exacerbate our trade war, especially concerning the Section 232 aluminum tariff exclusions and the new monitoring proposal and rumors of the tariff being reinstated on Canadian foil, despite the implementation of USMCA. FPA does not support the additional controls contemplated for the Section 232 exclusionary process and the proposed rule to establish an Aluminum Import Monitoring and Analysis (AIM) system, and is troubled that the President may be considering reinstating tariffs on the industry's biggest trading partner, Canada.

Flexible packaging represents \$33.6 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 80,000 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.

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.

FPA supports efforts to protect domestic manufacturing and ensure national security. However, aluminum foil used by the flexible packaging industry is not manufactured in the U.S. in the quantities and qualities needed. Since domestic producers made strategic decisions not to participate in the thin gauge aluminum foil market – they cannot now blame imports for filling a void left by their inaction. Failure to invest, and quality lapses, including gauge, width, and lack of appropriate alloys all contribute to the fact that the U.S. producers of aluminum foil are not able to serve the U.S. flexible packaging industry. Flexible packaging manufacturers simply have nowhere to turn but to bring in the vast majority of the aluminum foil they need through imports. Manufacturers often must file exclusions for more than they need to give them options on width and gauge, to plan for price fluctuations and lead times, and to meet increased demand, such as with today’s COVID-19 response. To lock into one or more limited suppliers and only file for historical demand means that prices will soar and U.S. manufacturers’ flexibility to modify or source new demand will be severely restricted.

For these reasons, FPA does not support the additional controls contemplated for the Section 232 exclusionary process and the proposed rule to establish an AIM system. FPA instead suggests that unless and until the Department can show evidence that aluminum foil for the U.S. flexible packaging industry is manufactured in the U.S. in the quantity and quality needed, these tariffs be suspended in their entirety. This action would immediately free up billions of dollars of working capital for American companies, sustaining and creating thousands of jobs in the U.S., and would provide relief to manufacturers that have no choice but to import to continue to provide for the public demand during this time of national crisis. Similarly, to reinstitute tariffs on Canadian imports, which are covered by the USMCA is not only bad public policy, it is defaulting on an international agreement.

Keep in mind, these are products that you and I use every day – including hermetically sealed food and beverage products such as candy, salty snacks, yogurt, beverages, and infant formula; and health and hygiene items and pharmaceuticals, such as aspirin, shampoo, shaving cream, and

yes even flexible packaging for COVID-19 antibody test kits. Aluminum foil is also used by the flexible packaging industry to ensure sterility and efficacy for medical device packaging, enabling the products packaged, such as absorbable sutures, human tissue, and artificial joints, to maintain their efficacy at the time of use. Even packaging for pet food uses flexible packaging to deliver fresh and healthy meals to a variety of animals. Carryout, take-out food containers, and e-commerce delivery, which are increasingly important during this time, are also heavily supported by the flexible packaging industry. Thus, the flexible packaging industry is vital to the supply chain when addressing the needs of U.S. consumers in responding to the COVID-19 crisis.

FPA supports efforts to protect domestic manufacturing; however, any such efforts must consider the impact and consequences on all U.S. manufacturing industries. The Administration should find ways to improve our country's competitiveness. Everybody loses in unfair trade cases, especially the U.S. consumer. FPA's members look forward to supporting the new aluminum foil assets coming online in the next few years in the U.S., but until there is enough aluminum foil in the quantities and quality that our manufacturers need through domestic suppliers, they should not continue to be saddled with the cost and administrative burdens that the current tariffs, exclusionary process and proposed monitoring program impose.