



FPA Flexible Packaging
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The Department of Commerce's short sighted self-initiated case against imports of South Korean and Thailand aluminum foil unfairly targets the flexible packaging industry in the U.S. and not only threatens food, pharmaceutical, and medical security; but will also negatively impact domestic jobs and increase prices for goods and services people use every day.

A "self-initiated" case (not at the request of the domestic industry, but of its own volition) by the Department of Commerce (DOC) against suppliers of aluminum foil from South Korea and Thailand has imposed unwarranted duties on necessary aluminum foil for food, pharmaceuticals, and medical device packaging. These duties are not appropriate as the converting foil used in these packaging applications is not manufactured in the United States in the quantities and quality needed. DOC must fix this with more appropriate remedies in their final determination expected in August 2023.

In 2017, the U.S. government imposed antidumping and countervailing (anti-subsidy) 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 has made the preliminary determination that aluminum foil from South Korea and Thailand are circumventing the antidumping and countervailing duties. This means that foil coming from these countries will also have duties imposed on them – upwards of 108%. While these duties are supposed to help the aluminum industry in the U.S. and punish Chinese investment in companies outside of China, the duties are paid by American businesses and passed along to American consumers. And, while there is little to no aluminum foil industry in the U.S. to protect, domestic flexible packaging manufacturers and consumer product goods companies are now saddled with tens of millions of dollars worth of duty payments retroactive to shipments dating back to July 18, 2022.

Packaging converters make the packaging we use every day – out of aluminum foil and combinations of foil, paper, and plastic. This includes food and beverage applications such as coffee, juices, pet food, and candy; health applications, such as over-the-counter drugs and nutraceuticals and COVID-19 testing kits; medical device packaging, such as absorbable sutures and surgery kits. The flexible packaging industry represents \$39 billion in annual sales and employs approximately 85,000 people in the U.S. Many of these products are ones that consumers use or purchase every day, whether in grocery stores, pet stores, retail stores, or restaurants. Products in flexible packaging are also found in doctors' offices, hospitals, and pharmacies, including packaging for COVID-19 vaccinations and personal protective equipment for both first responders and consumers alike. Flexible packaging is also used to make MREs for the military and is used for retail take-out and e-commerce delivery. Much of this packaging requires aluminum foil. In fact, this foil—which creates the ideal barrier to bacteria, odor, sunlight, and contamination—is essential to protect the domestic food, health, and medical product supply. 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.



What makes this preliminary decision on Thai and South Korean foil especially disturbing, is that much of the foil targeted by these duties is not manufactured in the U.S., so flexible packaging manufacturers have no choice but to import. American packaging converter manufacturers consume large volumes of the thinnest aluminum foil that is simply not available from domestic manufacturers. DOC itself has separately reached the same conclusion by granting hundreds of exemptions from the Section 232 tariffs based on the fact that such foil is not available from domestic manufacturers. In its preliminary decision, DOC failed to similarly exempt converter foil from the extension of Chinese antidumping and countervailing duties to South Korea and Thailand. As a result, U.S. packaging manufacturers will have to pay new duties on goods they cannot source domestically.

The reason that there is an insufficient supply of domestic converter foil is that U.S. aluminum foil manufacturers have not invested the necessary capital to produce foil in sufficient quantities and quality necessary to meet the needs of the U.S. flexible packaging industry. Current and future domestic investment for foil is dedicated to other growing applications such as HVAC systems and EV batteries for electric vehicles. Thus, the DOC decision does not help domestic aluminum foil manufacturers and only hurts domestic packaging manufacturers.

Many U.S. converting jobs have already gone offshore with the imposition of the Chinese and Section 232 duties and tariffs. This new action will only continue this trend. These new duties will add additional costs that will make U.S. packaging manufacturers uncompetitive to offshore manufacturers and more jobs and manufacturing will move out of the U.S. as foreign suppliers of laminated foil and finished goods do not have to pay the duties. The loss of jobs to the American economy will not be the only negative consequence; there will be an increase in the costs of goods and prices to consumers, particularly in the food sector. National security will also be threatened as more of these products will be produced outside of the U.S. and continue to disrupt the supply chain for goods and services used daily.

FPA supports efforts to protect domestic manufacturing and ensure national security, which should include flexible packaging converting. DOC, particularly in a self-initiated case, has broad discretion to find an appropriate remedy to protect all U.S. jobs and its preliminary decision failed to do so. In its final determination, DOC must rectify this and provide either an exemption or import certification for aluminum foil used as converter foil, consistent with DOC's past precedent. DOC could also do their due diligence and apply the duties only on those producers with Chinese funding, instead of making the overly broad country-wide determinations for all producers doing business in Thailand and South Korea as they did in the preliminary determination. There is no "winner" in DOC's preliminary decision but American packaging manufacturers, their tens of thousands of workers, and consumers are the clear losers. DOC must make this right for domestic flexible packaging manufacturers and stop prioritizing one U.S. industry over another.

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