ALUMINUM ★ NOW

American Primary Aluminum Association

November 23, 2018

Ms. Lisa R. Barton
Secretary to the Commission
United States International Trade Commission
500 E Street, SW
Washington, DC 20436

Submitted online via EDIS

Re: Post-Hearing Statement regarding *United States-Mexico-Canada Agreement: Likely Impact on the U.S. Economy and on Specific Industry Sectors* (Investigation No. TPA-105-003)

Dear Ms. Barton:

On behalf the American Primary Aluminum Association (APAA), I hereby submit APAA's post-hearing statement for Investigation No. TPA-105-003, *United States-Mexico-Canada Agreement: Likely Impact on the U.S. Economy and on Specific Industry Sectors*. This statement is submitted in accordance with the notice published by the U.S. International Trade Commission in the *Federal Register* on October 16, 2018 (83 Fed. Reg. 52232).

The APAA is a trade association of primary aluminum producers dedicated to protecting the long-term interest of the U.S. primary aluminum industry and its workers. The APAA represents the majority of primary aluminum producers in the United States.

Should you have any questions regarding this statement, please do not hesitate to contact me at mark@aluminumnow.org.

Respectfully submitted,

Mark Duffy
Executive Director
American Primary Aluminum Association

ALUMINUM ★ NOW

American Primary Aluminum Association

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
U.S. International Trade Commission

November 23, 2018

The American Primary Aluminum Association (APAA) submits this statement in response to testimony provided in connection with Investigation No. TPA-105-0003, *United States-Mexico-Canada Agreement: Likely Impact on the U.S. Economy and on Specific Industry Sectors* and questions raised during the hearing.

The APAA is a trade association of primary aluminum producers dedicated to protecting the long-term interest of the U.S. primary aluminum industry and its workers. The APAA represents the majority of primary aluminum producers in the United States.

The APAA wishes to address testimony concerning the Section 232 aluminum tariffs and their effects on imports of primary aluminum from Canada, trade in aluminum products more generally, and the effects of those tariffs on downstream consuming industries.

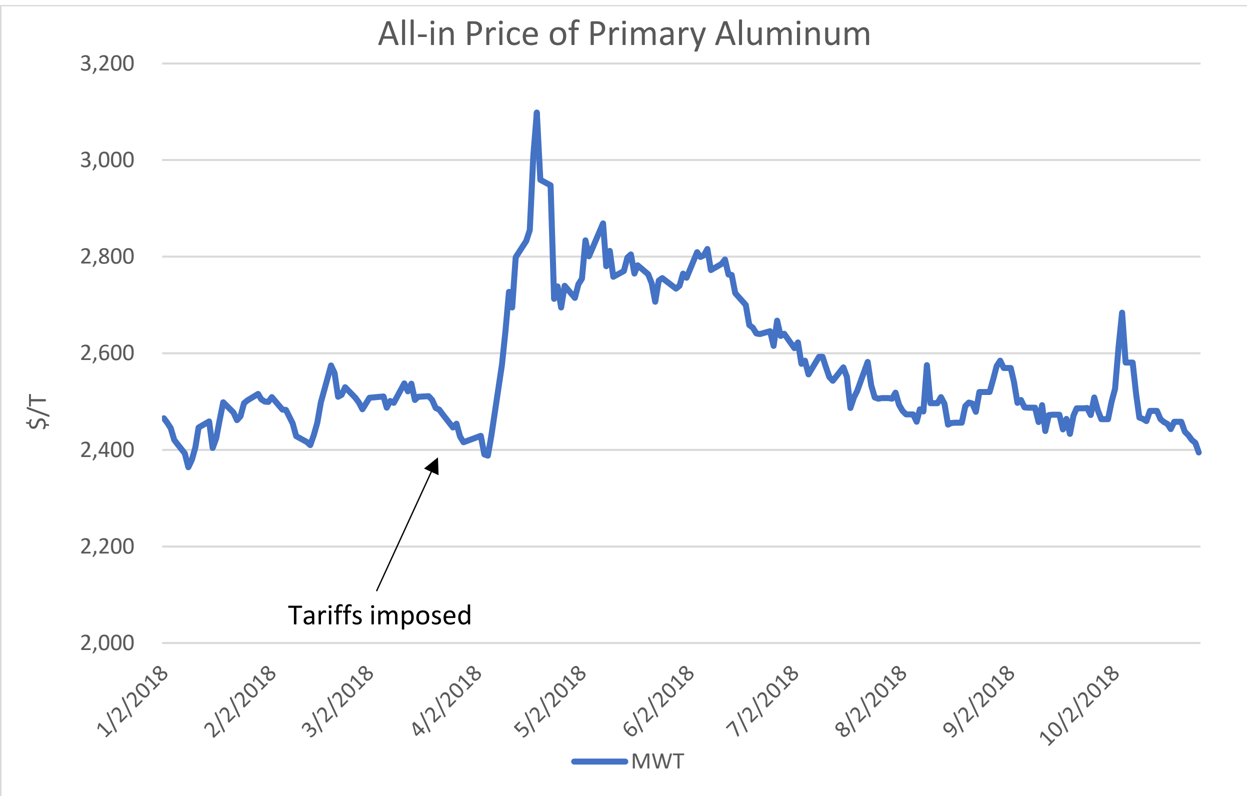
At the outset, it should be noted that the Section 232 tariffs have nothing to do with the U.S.-Mexico-Canada Agreement (USMCA). Canada remains committed to signing the agreement at the end of November even in the absence of any deal on the Section 232 aluminum and steel tariffs.[1] The attempt to link them is misplaced and unsupported by the governments involved.

---

[1] Katie Simpson, *No gala USMCA signing ceremony with Trump unless U.S. tariffs lifted, ambassador* says, CBC (Nov. 7, 2018), https://www.cbc.ca/news/politics/usmca-trade-nafta-trump-trudeau-1.4895777.

Further, as the discussion below makes clear, the 232 aluminum regime is working, U.S. primary aluminum production capacity is restarting and jobs are returning to the industry. Providing wholesale blanket exemptions for countries will undermine the relief to the point where the restarts will fail and the very existence of the American primary aluminum industry will again be in jeopardy. All countries must be subject to either tariffs or quotas to prevent abuse of the program by surge volumes above historic levels and undermining the program.

Finally, not only is the program working as intended, concerns regarding the possible adverse price effects to downstream consumers are largely overblown. As the chart below demonstrates, but for some initial increases unrelated to the 232 tariff, the all-in price of primary aluminum today is lower than the all-in price the day before the tariffs went into effect.



Thus, while downstream consumers are no worse off today than they were before the tariffs went into effect, the increased domestic premiums due to the tariffs are critically important for maintaining the current U.S. primary aluminum restarts.

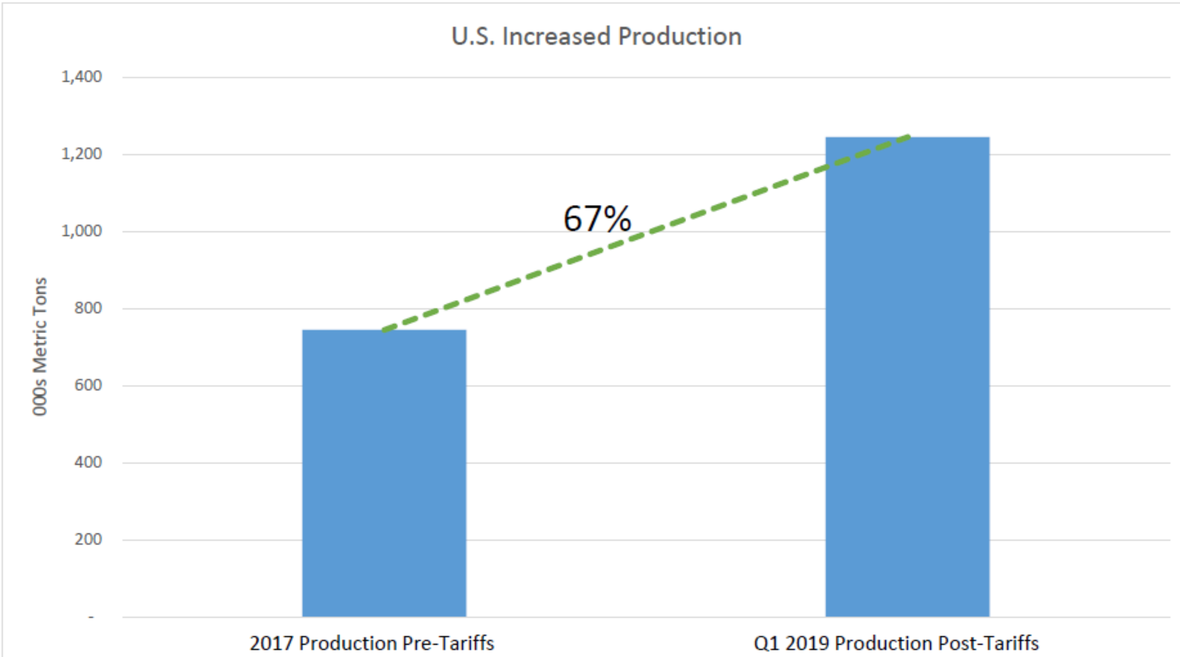
<u>The Aluminum Association's request to exclude all USMCA partners from the Section 232 relief would undermine the program and reverse the domestic restarts</u>

At the hearing, the Aluminum Association testified in favor of excluding all USMCA partners from the Section 232 regime, whether tariffs or quotas. The Aluminum Association's comments were focused on excluding Canada from the 232 regime, stating that the "majority of NAFTA-related aluminum imports into the United States come from Canada, given its focus on producing primary aluminum"[2] and that "Canada is a major source of primary aluminum for the United States."[3] It should be noted that the vast majority of the Aluminum Association members that produce primary aluminum do so outside the United States. By advocating that Canada be completely excluded from the Section 232 regime, because of the way the aluminum market works and how pricing is determined, this is akin to advocating that the entire regime be eliminated. Since the relief was imposed, U.S. primary aluminum production will have increased by nearly 70% by the end of the first quarter of 2019. The regime is therefore working as intended.

---

2 Testimony of Heidi Brock, President and CEO of the Aluminum Association, at 1.

3 *Id.*



Source: CRU 2018 Market Outlook Report

Canada must be included in the regime for the Section 232 relief to remain effective and allow the restarts to continue. To understand why, it is important to understand the unique pricing mechanism applicable to primary aluminum. There is a global price for primary aluminum, which is transparently traded on the London Metal Exchange (LME). The LME maintains warehouses all over the world. As a result, the LME cash price reflects the total global supply and demand for primary aluminum, regardless of where it is produced, sold, or stored. Producers and traders around the world use the LME price as the base price in nearly all aluminum supply contracts. As such, primary aluminum prices in the United States reflect the base LME price, with a premium associated with delivery, regardless of whether those are imports or domestic supply. As global capacity expanded well beyond demand, the LME price collapsed by nearly 30% from 2011 to

2016.[4] The Commission recognized the global nature of aluminum pricing in its 2017 report on the industry.[5]

The Aluminum Association has previously commented that the overcapacity crisis is a Chinese problem that requires a solution targeted at China.[6] However, this argument fails for two reasons.

First, as noted above, because primary aluminum is a globally traded commodity, pricing regardless of geographic market reflects that base LME price. The excess capacity crisis that has plagued the global aluminum industry therefore artificially depresses the global aluminum price. Because that price is set through the LME, imports from any country transmit those adverse price effects to the U.S. market, regardless of source. The only way to ensure that the price within the United States rises to address those effects is to impose tariffs on a sufficient volume of imports.

Contrary to the Aluminum Association's claims, direct imports from China are negligible, and thus a tariff limited to China would be of no effect. Because of the significant volume of imports from Canada and the exemptions and duty-free quotas provided to other countries, non-application of the tariffs to a significant volume of imports without any volume limitation would negate any positive pricing effects and therefore any benefit to domestic producers.

---

4 Letter from Wiley Rein LLP to Brad Botwin, re: *Section 232 National Security Investigation of Imports of Aluminum – Response to Request for Comments* (June 23, 2017) at 8 ("Century Section 232 Comments").

5 *Aluminum: Competitive Conditions Affecting the U.S. Industry*, Inv. No. 332-557, USITC Pub. 4703 (June 2017) at 91 ("Commission Report").

6 *See, e.g.*, Letter from Heidi Brock to Sec'y Commerce, re: *Section 232 National Security Investigation of Imports of Aluminum (June 20, 2018)*, https://www.bis.doc.gov/index.php/forms-documents/section-232-investigations/2039-18-aluminum-association-heidi-brock-pdf/file; Matt Meenan, *Aluminum Association Responds to Section 232 Aluminum Tariff Exemption Extension*, The Aluminum Association (May 1, 2018) https://www.aluminum.org/news/aluminum-association-responds-section-232-aluminum-tariff-exemption-extension; *Aluminum Association Responds to Section 232 Report*, The Aluminum Association, https://www.aluminum.org/aluminum-association-responds-section-232-report.

The tariff has raised the regional delivery premium in the United States, thereby allowing domestic producers to restart idled production. Because the delivery premium has increased, the U.S. market is now the market with the highest rate of return. Therefore, any metal that is exempt from the tariff will flow to the United States, either by shifting existing export flows, displacing production in exempted countries when other aluminum imports are diverted from the United States to those markets, or by encouraging restarts in exempted countries. Therefore, in order to continue the process of restarting idled domestic smelters it is critical that no country is exempted from the relief, including Canada. Doing so would jeopardize the progress made in achieving the President's goals in establishing the program.

Canadian capacity is approximately 3.3 million tons. Little of it is consumed domestically – just 482,000 tons. The rest is exported, and of those exports, nearly 90% are sent to the United States. If Canada remains exempted, because primary aluminum is a pure commodity, then it is likely that almost all Canadian production – 3.3 million tons -- will be exported to the United States in order to take advantage of the after-tariff price in the United States. Canada would likely use diverted Russian, Indian, and Gulf-State metal to satisfy its own domestic demand, as Canadian production will seek the highest rate of return which would be in the United States. This, along with another exempted country, will devastate the U.S. market to the point where the relief will be ineffective, jeopardizing any U.S. restarts. Therefore, Canada, like any other import source, cannot be exempted from the regime.

Second, the overcapacity problem is not just a China problem. In the aftermath of the financial crisis, certain countries deployed state capitalism to expand and maintain their primary aluminum industries. The Commission's Section 332 report identifies the various government interventions that expanded aluminum production in several countries, including China, Saudi

Arabia, the United States Emirates, and even the government of Quebec. The Aluminum Association itself has defined overcapacity as existing when a country's capacity "has expanded far beyond its domestic needs."[7] This is not only true for China – but it is also true for most of the major aluminum-producing regions including Canada, the Gulf States, India, and Russia. None of these countries can consume anywhere close to all the aluminum that they produce. They are principally export platforms. While each of these countries was able to expand or maintain capacity, the U.S. industry that does not benefit from significant state support was forced to contract significantly. The President's Section 232 relief is intended to reverse these effects. However, if countries are granted wholesale exemptions from the program, that relief will be undone quickly, and the restarts will be terminated as quickly as they started.

In its testimony, the Aluminum Association also criticized the Section 232 exclusion process.[8] This criticism is puzzling. In its comments to the Department of Commerce, which the Aluminum Association references,[9] the Aluminum Association *criticized* the Department for granting exclusion requests – yet very few Aluminum Association members appear to have actually objected to the downstream product exclusion requests that they complain were granted. At the same time, many of these same members appear to have no problem finding the Department when requesting their own exclusions from the tariffs on primary aluminum.

---

7 Letter from Heidi Brock to Sec'y Commerce, re: *Section 232 National Security Investigation of Imports of Aluminum* (June 20, 2018), https://www.bis.doc.gov/index.php/forms-documents/section-232-investigations/2039-18-aluminum-association-heidi-brock-pdf/file. The APAA does not agree that this is the way to define overcapacity. The Aluminum Association's definition actually buys into the Chinese argument that a country is entitled to supply its entire domestic consumption of a particular product. That argument is autarkic in nature and therefore at odds with the very premise of the global trading system. Capacity should be decided by supply and demand. Overcapacity arises when governments, including those identified above, subsidize their industries and otherwise create incentives that lead to more supply than demand will bear.

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

9 *Id.*

While the exclusion process can be improved, the Aluminum Association's complaints of "market distortions" that will "hamper continued growth and investment for our industry here at home"[10] ring hollow. As the chart above at page three makes clear, since the imposition of Section 232 relief, notwithstanding an initial increase due to unrelated market events, the all-in price for aluminum is *lower* today than when the tariffs were imposed.

The increase in the Midwest premium portion of the all-in price allows the primary aluminum restarts to continue, while at the same time not disadvantaging the downstream semifinished industry. Because the downstream producer pricing is largely based on a passthrough of the LME and Midwest premium, the downstream producers are not adversely affected by the price adjustment. These changes in pricing have also not affected downstream demand for domestically produced semifinished products like sheet and extrusions. For example, through October of this year, North American extrusion shipments have increased by 4.0% over this same time last year. Likewise, sheet and plate shipments by North American producers also increased by approximately 4% through October of this year, compared to the same period last year. And this rate appears to be increasing as sheet and plate shipments by North American producers in October 2018 alone increased by 10.5% over the same month last year.

Notwithstanding the Beer Institute's testimony, the data do not indicate that the Section 232 tariffs have adversely affected downstream consuming industries

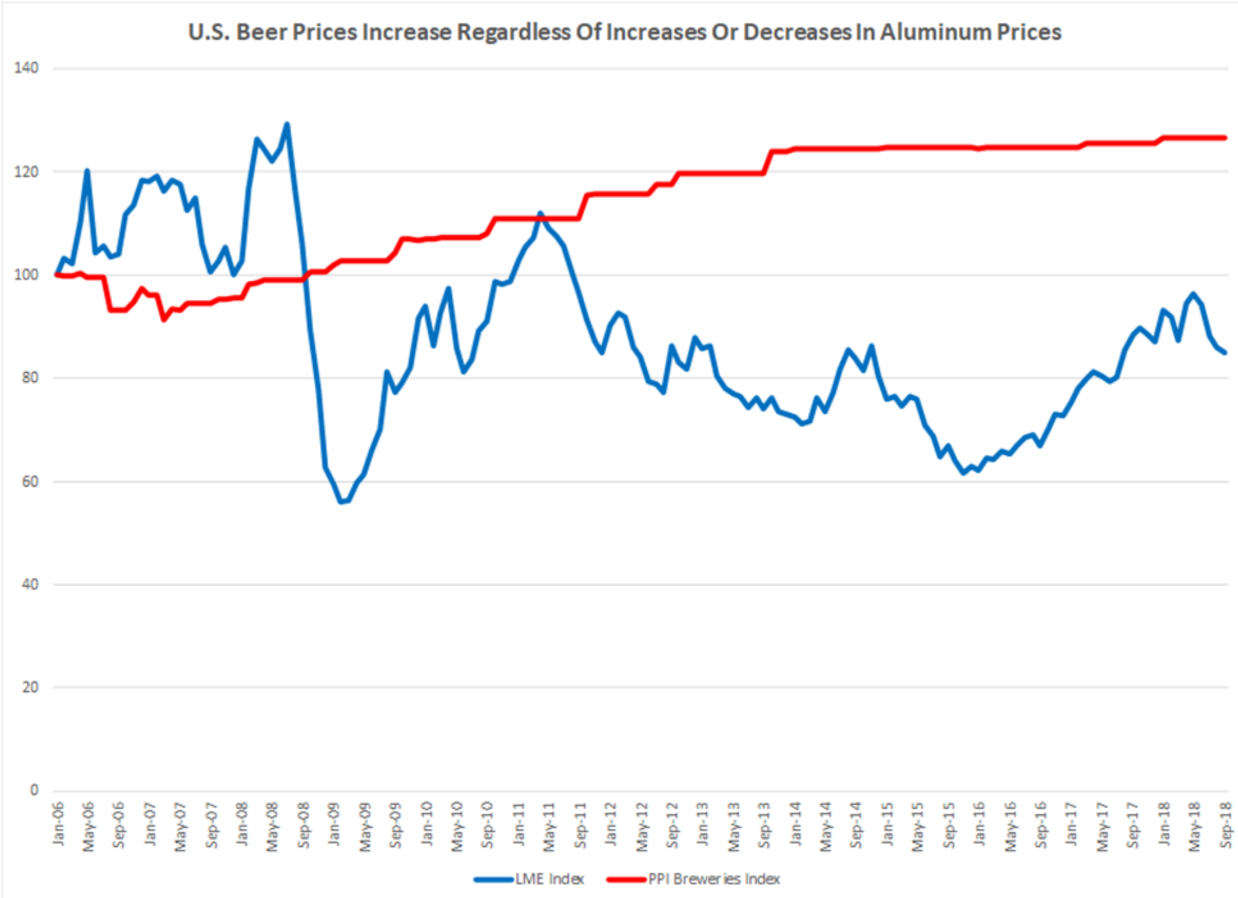
The fact is, for most downstream consuming industries, aluminum makes up a relatively small proportion of the overall price of the downstream finished product. For example, there is only 3 cents of aluminum in a 12 ounce can. Therefore, a 10% increase in the cost of the aluminum, assuming a complete passthrough of the aluminum cost at every level of the value chain, represents

10 *Id.*

1.8 cents per six-pack.[11] This is precisely why during the hearing Commissioner Broadbent asked Mr. McGreevy of the Beer Institute exactly how much more expensive a six-pack of beer would be as a result of the 10% tariffs on aluminum. Based on the facts above, it is clear why Mr. McGreevy was forced to admit that there is no uniform across the board price increase. There is no price increase because aluminum makes up such a small proportion of the overall price of a six-pack of beer.

As the chart below indicates, the price of aluminum has little to no effect on the price of beer in cans. The chart below shows that while the price of aluminum has fluctuated significantly over this period, the price of beer in cans has steadily increased since 2007. More importantly, the chart also shows that when the price of aluminum declined by over 30% from 2011 to 2016, there is no evidence that those cost savings, which came at the expense of aluminum jobs in the United States, were passed on to consumers. The Administration's Section 232 tariffs are simply an effort to restore a more appropriate price – one consistent with market principles – to enable American companies to compete with producers that benefit from foreign government intervention.

[11] Mark Duffy, *Brewers' complaints about tariffs are all foam and no beer*, The Washington Post (Nov. 18, 2018), https://wapo.st/2FrqOHv?tid=ss_tw&utm_term=.9dab85bfa55f ("Brewer's Complaints About Tariffs").



Source: American Metal Market Metals Pricing, and Bureau of Labor Statistics Producer Price Index (PPI) Beer in Cans.

To support its claims, the Beer Institute submitted an economic study from March 2018 prior to the imposition of 232 relief. The Beer Institute's study claimed that the 10% tariff would add some $347 million in additional costs per year across the entire value chain and result in an estimated 20,000 job losses.[12] This is ironic, given that the Beer Institute claimed that the result of the Tax Cuts and Jobs Act of 2017 reducing the Federal excise tax on beer production would add an additional $320 million in revenue to the industry.[13] Based on its own data, this would

---

12 Testimony of James A. McGreevy III, President and Chief Executive Officer, The Beer Institute, at 2.

13 *See* Beer Policy: Overview, Beer Institute, http://www.beerinstitute.org/beer-policy/overview/ (last visited Nov. 21, 2018).

indicate that the beer industry is no worse off than it was in 2017. The employment data, however, shows that breweries have consistently expanded adding more jobs even after the 232 tariffs went into effect. According to the Bureau of Labor and Statistics, since March 2018, total employment at breweries, wineries, and distilleries increased by nearly 2% on a seasonally adjusted basis.[14] The data appears to show that the Beer Institute's predicted 20,000 job losses have not materialized.

In his testimony, Mr. McGreevy goes on to note the growth of beer sales in aluminum cans and the industry's dependence on aluminum for its packaging. Mr. McGreevy indicated that 98% of the aluminum can sheet consumed in can production is produced domestically and is reliant on Canadian primary aluminum.[15] First, according to the Commission's Staff Report in the Common Aluminum Alloy Sheet investigation, the U.S. can stock industry has not even approached a 98% share of consumption since 2015. In the first half of 2018, the U.S. industry share of the market was 93.3%. What Mr. McGreevy declined to mention is that the Department of Commerce has granted Ball Metal Container Corporation an exclusion of over 200,000 metric tons of can sheet from Saudi Arabia and that both Ball and Crown Holdings have several other large can sheet exclusion requests pending before Commerce.[16] This one exclusion for Saudi Arabia is over 130,000 short tons larger than all imports from all countries in 2017 and would represent an increase in import market share of 8.5 percentage points in that year.[17] The sheer volume of these

---

14 *See* BLS Data Labs, "Employment, Hours, and Earnings from the Current Employment Statistics survey (National)," U.S. Bureau of Labor Statistics, https://beta.bls.gov/dataViewer/view/7b406ae7ce7241c4a52fd1d51065b793 (last visited Nov. 21, 2018).

15 Testimony of James A. McGreevy III, President and Chief Executive Officer, The Beer Institute, at 2.

16 *See* Brewer's Complaints About Tariffs; *see also* Requests from Ball Metal Beverage Container Corp. and Crown Cork and Seal, Regulations.gov, https://www.regulations.gov/docket?D=BIS-2018-0002 (last visited Nov. 21, 2018).

17 Prehearing Report to the Commission, *Common Alloy Aluminum Sheet from China*, Inv. No. 701-TA-591 and 731-TA-1399 (Final) (Oct. 16, 2018) at C-6 (PUBLIC VERSION).

exclusion requests further undermines any claims of adverse price effects for can consumers due to the tariffs.

Further, while the use of aluminum cans in beer sales has increased, according to the Beer Institute's packaging report, since the tariffs have been in place and for which there are data available, that trend has continued. In the second quarter of 2018, the share of domestic beer sales in cans has remained unchanged at well over 52%.[18] Thus, the tariffs appear to have had little effect on the overall proportion of can beer shipments. In fact, according to the Aluminum Association's latest data release on North American canstock shipments increased by 4.3% in October 2018 compared to October 2017.

Finally, Mr. McGreevy indicated that the can sheet consumed by the industry also contains a relatively high scrap content.[19] In response to the Section 232 tariffs, the Chinese Government imposed tariffs on U.S. exports of aluminum scrap. As a result, the volume of domestically available scrap in the United States has increased, thereby lowering scrap costs domestically. As a result, the degree to which can sheet contains relatively high and increasing amounts of scrap, the decline is scrap costs further offsets any increases in primary aluminum costs due to the tariffs.

The fact is, the cost of aluminum is negligible in the overall price of beer in cans. Mr McGreevy effectively conceded as much in his response to Commissioner Broadbent's question. The optimism or any lack thereof that Mr. McGreevy mentioned has little to do with the price of aluminum and more to do with the shift in consumer tastes overall away from beer to wine and spirts. A recent Wall Street Journal Article titled, "America's Long Love Affair with Beer is on the Rock," stated that:

---

18 Industry Insights: Packaging Mix, Beer Institute, http://www.beerinstitute.org/industryinsights/packaging-mix/.

19 Testimony of James A. McGreevy III, President and Chief Executive Officer, The Beer Institute, at 2.

> "According to the Beer Institute, a trade group, drinkers chose beer just 49.7% of the time last year, down from 60.8% in the mid-'90s."[20]

Again, while consumers may be drinking less beer, this is a long-term trend that has nothing to do with the price of the aluminum packaging. Further, the type of beer packaging they appear to be consuming less of is beer in bottles and not cans. Aluminum is such a small component in the overall cost of the downstream finished products it is used to produce, it has very little effect on overall demand for those goods.

Finally, as it relates to Mr. McGreevy's claims of a conspiracy theory related to the Mid-West premium and price gauging, [21] we would simply note that it is inappropriate for the Commission to expose any position on the Beer Institute's claims before other Government committees and agencies in the context of this or any other proceeding.

Conclusion

Foreign government intervention created the primary aluminum excess capacity crisis that harmed U.S. primary aluminum workers and companies. The Administration has sought to preserve an industry vital to U.S. national security through tariffs that must be imposed globally on a sufficient quantity of imports in order for the desired effects to manifest. Those effects are indeed manifest, as primary aluminum smelters are restarting idled capacity and hiring workers. To maintain those positive effects on U.S. production restarts, there can be no wholesale complete exemptions provided to any source of supply. Aluminum imports from all countries must continue to be restrained either through the tariff or a quota.

---

[20] Saabira Chaudhuri and Annie Gasparro, *America's Long Love Affair with Beer is on the Rocks*, Wall Street Journal (Aug. 1, 2018), https://www.wsj.com/articles/americas-long-love-affair-with-beer-is-on-the-rocks-1533133041.

[21] Testimony of James A. McGreevy III, President and Chief Executive Officer, The Beer Institute, at 3.

Naturally those who profited from the anticompetitive price decline triggered by foreign government intervention are resisting the change. However, their pecuniary interests should not be confused with what is in the national security interest of the United States, which is to have a thriving aluminum industry. The tariffs are realizing this goal.

Mark Duffy
Executive Director
American Primary Aluminum Association