



July 6, 2017

Dear Medical Device Manufacturer:

The availability and price of aluminum foil used in packaging may be dramatically affected by some important pending trade actions. On March 9, 2017, the US Aluminum Association and its members JW Aluminum Company, Novelis North America, and Reynolds Consumer Products filed petitions with the U.S. International Trade Commission (ITC) and the Department of Commerce (DOC) claiming that dumped and subsidized aluminum foil from China is causing or threatening injury to the domestic aluminum foil industry. The complaint seeks steep import duties exceeding 140% to be applied to imported Chinese aluminum foil.

In addition, a Section 232 Investigation under the Trade Expansion Act of 1962 for aluminum imports was initiated on April 26, 2017. This has been referred to as the Executive Order on Aluminum Imports and is a national security investigation. While we are unaware of any national security implications for converter-grade aluminum foil used in packaging, it is likely that aluminum foil will be incorporated in the final ruling. The remedies that the President can take include import restriction, duties, or tariff rate quotas.

The proposed actions present a risk to the cost and supply of materials that are critical to packaging for which you and U.S. patients depend; and represent a potential continuity risk to your businesses. We urge you to evaluate the issue and consider taking action in support of the position outlined by the SPMC below.

The Sterilization Packaging Manufacturers Council (SPMC) is alarmed by the pending actions and the consequences they could have for our customers and ultimately the patients that are served by our industry:

- The quality of Chinese aluminum foil far exceeds domestic aluminum foil. Rejection rates for domestic aluminum foil reported by Flexible Packaging Association members during the ITC initial investigation range from 10% to 50%. Quality issues include poor sheet flatness that results in hard wrinkles when laminated; large holes or punctures in the foil, web breaks which can damage converter equipment and results in expensive machine clean-up, residual oil which impacts bond strength and ink adhesion, and foil oxidation.
- There are no domestic manufacturers of ultra-thin (<0.0003") aluminum foil – it must be imported, and Chinese manufacturers are an important source.
- There is only one domestic manufacturer of <0.001" converter-grade aluminum foil. The domestic capacity to meet demand without Chinese imports is questionable.
- Wide widths of thin gauge aluminum foil are not available domestically. These widths are necessary to maximize efficiency and to service certain end-use applications.
- Delivery of domestic aluminum foil is often unreliable.
- Non-US, non-Chinese aluminum foil producers do not have enough capacity to meet needs.
- Qualifying new sources is time consuming and expensive. In many cases, converters and medical device manufacturers will have no choice but to pay any duties levied provided we still have access to the Chinese market. It is important to note that Chinese aluminum foil is produced via a continuous cast process whereas domestic aluminum foil uses a direct cast process. The physical properties of the aluminum foil will vary by process even for the same alloy and temper.



The SPMC shares the goals of encouraging American manufacturing and protecting national security. Collectively, our member companies employ thousands of US workers, with a high percentage of these jobs in manufacturing. Our products depend on a reliable supply of high quality materials, including aluminum foils. We do not believe the U.S. aluminum foil manufacturing's issues are a result of Chinese imports. Rather, strategic decisions made decades ago to not invest the necessary capital to keep up with technological advances and to upgrade facilities, and the decision to exit the thin-gauge market have left the domestic industry vulnerable to foreign competition. The ITC's preliminary report had some key findings:

- U.S. aluminum foil selling prices were not kept down by Chinese imports ("We cannot conclude that subject imports depressed the prices of the domestic like product to a significant degree due to the linkage between aluminum foil prices and raw material costs.").
- U.S. aluminum foil producers were not prevented from raising prices by Chinese imports ("We consequently do not find that subject imports prevented price increases which otherwise would have occurred to a significant degree.").
- Domestic ultra-thin foil production "may be limited or nonexistent."
- Despite the petitioners arguments about economic harm by imports, domestic aluminum foil manufacturing jobs declined by only "137 workers from 2014-2016." To put this number in perspective: domestic flexible packaging manufacturing jobs are estimated at 80,000.

The negative impact on American jobs of cutting off the supply of Chinese aluminum foil for flexible packaging production will far outweigh any job benefits that are envisioned by the ITC or Section 232 investigations. Tariffs or other limitations on high grade foils will adversely affect U.S. based manufacturers of specialized medical packaging, and may ultimately undermine our competitiveness against international firms, which will continue to source materials from Chinese manufacturers. This could lead to loss of American jobs.

Excluding Chinese production capacity of high quality aluminum foils is likely to result in inadequate supply of materials to satisfy demand for packaging for medical devices, which could lead to shortages and deprive patients of desperately needed treatment.

There is a very short time period to have our concerns heard. A preliminary ruling by DOC on countervailing duties is expected August 7, 2017 to be followed by a preliminary ruling on dumping expected between August 15 to October 4, 2017. These duties may be made retroactive by 90 days from the preliminary decision dates. DOC will issue its final determination between November 1, 2017 and February 19, 2018. At that time, the preliminary countervailing and antidumping duty rates can and frequently do change. The ITC will have a final hearing that will take place coinciding with the DOC Final Decision and will make their final decision approximately six weeks later.

The Section 232 investigation is being fast-tracked. Section 232 investigations have only been invoked 26 times since the Act was enacted in 1962. The investigations have previously involved multiple hearing across the United States and have taken the full statutory period of 270 days to determine what, if any, action should be taken. In contrast, the aluminum investigation seems very rushed. There was a one-day hearing on June 22, 2017 with no others planned, the comment period was shortened and has concluded, and the final report is expected by the end of July. Unlike most of the previous Section 232 investigations, it is anticipated that the President will take action. Unfortunately, there is no appeal process once these decisions have been made.

We encourage you to get involved. Please contact your U.S. representatives to ensure they understand the complexity of the issue and urge them to take action. You should also consider providing comments to the ITC, and testifying at the ITC final hearing. These rulings will have a significant and long-term impact on our industry. Please ensure your voice is heard.

If you would like any further information, please contact your flexible packaging supplier or Alison Keane, President and CEO of the Flexible Packaging Association (akeane@flexpack.org).

Thank you for your support in this matter.

Sincerely,



Brad Walker

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**Chairman, Sterile Packaging
Manufacturing Council**



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U.S. Aluminum Foil Converters Committee