

## International Trade Alert

April 8, 2016

### If you read one thing...

- The U.S. International Trade Commission (ITC) launched an investigation examining global competitive conditions affecting the U.S. aluminum industry.
- Parties involved in aluminum trade should prepare for participation in the investigation and for potential related action by the aluminum industry or U.S. authorities.
- Although Section 332 investigations do not result in the imposition of duties or other restraints on trade, they are seen as potential precursors to action under U.S. trade remedy law, such as antidumping (AD) and countervailing duty (CVD) investigations.



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## U.S. International Trade Commission Announces Investigation Examining Global Competitive Conditions Affecting the U.S. Aluminum Industry

### Background

On April 6, 2016, the ITC announced the initiation of an investigation to examine global competitive conditions affecting the U.S. aluminum industry. The ITC's investigation was requested by the House Committee on Ways and Means (the "Committee") amidst growing pressure from the U.S. aluminum industry for the U.S. government to address increasing foreign production capacity, particularly in China, and the trade practices of foreign aluminum producers. In its request, the Committee identified the U.S. aluminum industry as important to the American economy and "vital" for national defense. Since January 2015, nine U.S.-based aluminum smelters, representing 65 percent of U.S. production capacity, have been curtailed or closed.

### Scope and Timing of the ITC's Investigation

The ITC's investigation will cover all major foreign producers of aluminum, with a particular focus on countries with substantial and growing production capacity, such as China, Russia, Canada and certain countries in the Middle East. China's production alone, according to a letter from the Congressional Aluminum Caucus urging initiation of the ITC's investigation, increased from 10-50 percent of global supply over the last 10 years.

The ITC's investigation will cover primary, secondary and semifinished aluminum products. The investigation will focus on the time period between 2011 and 2015, but will also examine capacity, production, trade and other trends since 2001.

The investigation, launched pursuant to the ITC's fact-finding authority under Section 332(g) of the Tariff Act of 1930, will include at least the following areas of inquiry specified in the request of the Committee:

- production, production capacity, supply chains and exports of the U.S. and foreign aluminum industries
- trends in the global market for aluminum
- competitive strengths and weaknesses of U.S. and foreign aluminum production, including exchange rates, input costs and government policies, that directly or indirectly affect production and exportation
- factors driving the recent significant increase in production capacity in certain countries, including the impact of foreign government policies and programs
- impact of foreign government policies and programs on their aluminum production, exports, consumption and domestic prices.

The ITC will hold a public hearing in September 2016. Written submissions from parties should be submitted before February 21, 2017. The ITC expects to issue its final report in June 2017.

### **Context for, and Potential Implications of, the ITC's Investigation**

Although Section 332 investigations do not result in the imposition of duties or other restraints on trade, they are seen as potential precursors to action under U.S. trade remedy law, such as AD and CVD investigations. Section 332 investigations include findings that may support U.S. producer allegations of unfair trade practices by foreign suppliers to the U.S. market.

The U.S. Department of Commerce, which administers U.S. trade remedy law, already has AD/CVD orders in place on certain extruded aluminum products from China. U.S. producers have alleged significant circumvention of the AD/CVD orders by Chinese suppliers to the U.S. market.

In addition to mounting concerns about growing Chinese capacity and production, the Aluminum Association — a group of U.S. and Canadian aluminum producers — has alleged that aluminum production in China is significantly more carbon-intensive than in North America and inconsistent with China's commitments to reduce greenhouse gas emissions. The ITC's notice of initiation does not expressly address the environmental factors associated with aluminum production, but interested parties are likely to raise them for consideration by the ITC. Parties involved in the aluminum trade should prepare for participation in the investigation and for potential related action by the aluminum industry or U.S. authorities.

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