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BY E-MAIL: STEEL232@BIS.DOC.GOV

Mr. Brad Botwin
Director, Industrial Studies
Office of Technology Evaluation
Bureau of Industry and Security
U.S. Department of Commerce
1401 Constitution Avenue, N.W., Room 1093
Washington, DC 20230

Re: Section 232 National Security Investigation of Imports of Steel: Comments of American Association of Exporters and Importers
Document No.: 2017-08499

Dear Mr. Botwin:

On behalf of the American Association of Exporters and Importers ("AAEI"), we submit the following written comments to the Bureau of Industry and Security ("BIS"), in connection with its national security investigation of imports of steel, pursuant to Section 232 of the Trade Expansion Act of 1962, as amended, 19 U.S.C. § 1862. These comments are timely submitted in accordance with BIS' Federal Register notice, 82 Fed. Reg. 19,205 (April 26, 2017).

AAEI has been a national voice for the international trade community in the United States since 1921. AAEI represents the entire spectrum of the international trade community across all industry sectors. Our members include manufacturers, importers, exporters, wholesalers, retailers and service providers to the industry, which is comprised of brokers, freight forwarders, trade advisors, insurers, security providers, transportation interests and ports. Many of these enterprises are small businesses seeking to export to foreign markets. AAEI promotes fair and open trade policy. We advocate for companies engaged in international trade, supply chain security, export controls, non-tariff barriers, import safety and customs and border protection issues. AAEI is the premier trade organization representing those immediately engaged in and directly impacted by developments pertaining to international trade. We are recognized as the technical experts regarding the day-to-day facilitation of trade, including the administration of and compliance with customs and export control laws of the United States, including anti-dumping and countervailing duty laws.

Specifically, these comments address the question posed by Secretary of Commerce Ross in the May 24, 2017 hearing, as to what products should be covered. As discussed further below, AAEI believes that if the Trump Administration takes action to restrict imports under Section 232, import relief should be limited to steel mill products (*i.e.*, semi-finished, flat, long, and pipe and tube products) that are currently subject to licensing requirements under the Steel Import Monitoring and Analysis ("SIMA") System.

The majority of speakers at the May 24 hearing either advocated for or against Section 232 import restraints on steel generally, but several of the speakers addressed their remarks to particular steel mill products that should or should not be covered. AAEI noted with concern that a few speakers urged the Administration to include import restraints on *downstream* products that are *further manufactured* from steel mill products. For example, the representative of AK Steel Corporation argued not only that grain-oriented and non-oriented electrical steel products should be included within any import relief program, but also that import restrictions should be extended to electrical cores and transformers, which of course are not basic steel mill products, but instead are further manufactured downstream products. Similarly, the representative of the Cold Finished Steel Bar Institute argued not only that Section 232 import remedies should be applied to cold finished bars, but also to *downstream component parts* made of cold finished bars that are incorporated into subassemblies. Furthermore, the representative of the American Institute of Steel Construction argued that import restrictions should include restraints on fabricated structural steel further manufactured from steel mill products.

AAEI strongly recommends that the Administration reject such requests to cover downstream further manufactured goods made from steel mill products, for several reasons.

First, President Trump's April 20, 2017 Memorandum directs the Secretary of Commerce, pursuant to Section 232, to determine whether "steel is being imported into the United States in such quantities or under such circumstances as to threaten to impair the national security," and if so, to "recommend actions and steps that should be taken to adjust *steel imports* so that they will not threaten to impair the national security."¹ The President's Memorandum directs the Secretary of Commerce to recommend adjustments to "steel imports" (if necessary), but does *not* direct the Secretary to recommend adjustments to downstream products that are further manufactured from steel imports.

Second, neither the notice issued by Secretary Ross to initiate the Section 232 investigation,² nor the National Security Industrial Base Regulations criteria,³ direct the Secretary to consider possible import restraints on downstream products in a Section 232 investigation.

Third, it is important that the Department of Commerce identify a precise product scope for its investigation, so that all U.S. importers have notice of what products are included in or excluded from any import restrictions that the President may impose under Section 232. An inability to provide precise definitions of products that are covered will harm importers by not allowing them to adjust their supply chains in a manner to comply with any Section 232 relief. The inclusion of further manufactured downstream products will inevitably create vague contours that will create unintended harm to the importing community.

Fourth, if the Department of Commerce does not identify the exact scope in advance, it will be impossible for interested parties to comment on the appropriateness or impact of import competition on the economic welfare and possible relevant factors that could cause a weakening of the national economy.

Fifth, if the Department of Commerce includes "downstream products" as suggested by some commentators, it will be an enormously complex enterprise to determine where to draw the line. For example, if the Department of Commerce were to adopt the suggestion of the Cold Finished Steel Bar Institute to include *downstream component parts* made from cold finished bars that are incorporated into subassemblies, would that include downstream component parts that are made of *both* cold finished bars *and* other materials? How, for example, would the Department, acting in concert with U.S. Customs and Border Protection, determine at the time of entry whether a particular part made with cold finished bars is or is not destined to be incorporated into subassemblies?

¹ Memorandum on Steel Imports and Threats to National Security, 2017 DAILY COMP. PRES. DOC. 259 (Apr. 20, 2017) §3(b) (emphasis added).

² See *generally* Notice Request for Public Comments and Public Hearing on Section 232 National Security Investigation of Imports of Steel, 82 Fed. Reg. 19,205 (April 26, 2017).

³ 15 C.F.R. § 705.4.

Sixth, including downstream products would present a multitude of problems for purposes of the Section 232 analysis that the Department of Commerce and other agencies must provide to the President. How would the Section 232 investigation determine the effect on national security of possible import restraints on national security with respect to the *further* downstream manufacturers that now must pay more than the world market price for *their* inputs? For example, if the import relief is extended to downstream component parts that are made for subassemblies, the Department of Commerce would need to consider whether this would weaken the defense industrial base with respect to *subassembly* manufacturers that would have a competitive disadvantage vis-à-vis their foreign competitors, as a result of imports of increasing “component parts.” It is simply too complicated for the Department of Commerce, in conjunction with the other agencies involved in the Section 232 recommendation (such as the Department of Defense, or Department of Homeland Security) to investigate the effects of import restraints potentially placed on the myriad of downstream products made from steel mill products, and to draw dividing lines from scratch.

Finally, AAEI notes that the Department of Commerce already maintains a detailed list of steel imports, identified by Harmonized Tariff Code number, for which import licenses are required. See http://enforcement.trade.gov/steel/license/SMP_byHTS.pdf. The Steel Import Monitoring and Analysis System (“SIMA”) already collects detailed statistical data through a licensing system on a well-defined list of steel imports entering the United States roughly five weeks earlier than it otherwise would be available. All steel mill imports into the United States require a license issued by the SIMA office. The SIMA licensing system is an online automatic system for users to register, request, and receive licenses in a quick and timely manner, found under <http://enforcement.trade.gov/steel/license/index.html>. Since the Department of Commerce already defines steel imports for monitoring purposes via this system, it should use the same HTS codes to define the products potentially covered by the section 232 investigation on steel imports. Because this is an objective list that the Department of Commerce uses to define steel imports, AAEI urges the Department of Commerce to define the scope of covered “steel imports” to be synonymous with the list of products for which licenses are required pursuant to the SIMA. Finally, AAEI notes that the SIMA system is already authorized through March 21, 2022.⁴

For all of the above reasons, AAEI urges the Department of Commerce to define the scope of its Section 232 investigation to cover only steel mill products that are monitored through the SIMA system, and that if the Department of Commerce recommends import relief under Section 232, the import relief should extend only to steel mill products currently covered by the SIMA system.

Respectfully submitted,



Marianne Rowden
President & CEO

⁴ Steel Import Monitoring and Analysis System, 82 Fed. Reg. 1183 (Jan. 5, 2017) codified at 19 C.F.R. § 360.105.