

May 31, 2017

**Brad Botwin
Director,
Industrial Studies, Office of Technology
Evaluation
Bureau of Industry and Security
U.S. Department of Commerce
1401 Constitution Avenue NW
Room 1093**

**Re: Section 232 National Security Investigation of Imports of Steel: Comments
of Apollo Metals Ltd**

Dear Director Botwin,

These comments on the Section 232 investigation of steel imports are submitted on behalf of Apollo Metals Ltd (“Apollo”).¹ Founded more than one hundred years ago, Apollo has developed into the leading US producer of copper plated cold-rolled steel strip, produced at its plant in Bethlehem, Pennsylvania. This product is electroplated using high grade tin-mill blackplate as feedstock. Apollo’s copper plated steel strip is used in the manufacture of safety-critical fluid handling tubing for the automotive sector. At its Bethlehem site, Apollo employs about 35 people, with all of its production workers being members of the United Steel Workers of America.

While Apollo fully supports the right of the United States, or any other nation, to determine whether imports of a product threaten the adequacy of supply of that product to meet national security needs, it wishes to offer the following comments and factual information for the Department’s consideration. Apollo does so from the perspective of a highly specialized U.S. steel manufacturer that relies on imported steel because there is no qualified U.S. steel producer of its feedstock. When Apollo developed copper plated steel strip for these critical applications, among other potential suppliers, it did trial domestically produced substrate but its current supplier, Tata Steel’s plant in IJmuiden, the Netherlands, was the only one successful in qualifying. For this safety critical application, substrate that has successfully undergone a strictly controlled qualification process is an essential requirement of the downstream supply chain.

¹ These comments are being filed pursuant to the Department of Commerce’s (“the Department’s”) *Notice Request for Public Comments and Public Hearing on Section 232 National Security Investigation of Imports of Steel*, 82 Fed. Reg. 19,205 – 19,207 (Dep’t Commerce, April 26, 2017).

First, and most important, the focus of a national security investigation must be on the actual and potential availability of a sufficient supply of the product to meet the United States' national security requirements. It is not the function of this investigation to determine whether imports cause or threaten injury – even serious injury – to the U.S. industry producing the product in question. In Apollo's case, while the product it produces is used for the most exacting application, it does not rise to the level of a national security interest. Moreover, the feedstock required to produce its cold rolled steel and specialized plated steel products cannot be characterized as falling within the realm of products critical to the US national security interests. Because no domestic supplier is qualified to produce the tinmill blackplate Apollo uses as its feedstock, Apollo must import this merchandise from its sister company in the Netherlands.

Second, the issue to be determined in this proceeding is not whether domestic production of the various steel products is sufficient to satisfy national security requirements. Rather, it is whether domestic supply coupled with supply from safe and reliable sources – is and will be adequate to meet U.S. national security requirements. In Apollo's case, almost all of the feedstock necessary for its production could be produced domestically if the U.S. producers wanted to do so. More important to this investigation, however, is that Apollo's imports come from the Netherlands, which, by every measure, qualify as coming from a "safe and reliable" source. Reliability cannot conceivably be an issue since Tata Steel IJmuiden (TSIJ), the Tata steel-producing company in the Netherlands from which Apollo sources its tinmill blackplate, has been a valuable supplier of steel products to a discrete set of customers in the United States, which includes Apollo, for over 60 years.

Moreover, there should be no doubt that the Netherlands is a safe and valuable source of supply for the United States. It is a member of NATO and, through that affiliation, is committed to defending the United States in times of attack, as NATO did after the September 11th attack. Through TSIJ, the Netherlands has a longstanding commitment to the U.S. market, both as a supplier and a producer. The Netherlands is one of the largest investors in the United States and the United States is one of the largest investors in the Netherlands. Through its two U.S. producing companies, Tata is a significant investor. There is obviously a shared community of interests in both countries. This can also be found in trade between the two countries. Both rank in the 15 largest trading partners in each other's markets. Finally, there is an extended history of fair trade on the part of the Netherlands. There was no mention of any issues with Dutch steel producers at the Section 232 hearings. This is not surprising given the very infrequent times that the Netherlands has been involved in trade remedy proceedings. There is only one outstanding antidumping order on Dutch products and no countervailing duty orders. Thus, one of the main concerns expressed at the hearing regarding the need to offset repeated instances of unfair trade practices, even if it were an appropriate basis for a Section 232 measure, does not exist with respect to the Netherlands. The Dutch are fair traders and should not be burdened with measures directed at "curing" problems that arose elsewhere.

Third, the Department should take note of relationships within the steel industry and market that arose because there are certain categories of steel products that U.S. producers – for economic reasons – have chosen not to fully supply. In Apollo's case, there is no qualified U.S. steel producer of its feedstock. Import supply of those products serves to complement domestic supply and U.S. purchasers have, therefore, developed and rely upon supply relationships with foreign suppliers that date back decades in many instances. As noted above, that is clearly the situation in Apollo's case.

Finally, Apollo submits that any national security interest that might be worthy of attention could only be for certain very narrowly-defined products with a specific national security application and not for “steel” as a whole nor for some broad category, such as “hot-rolled carbon steel flat products.” Apollo outlined above the fact that strict qualification requirements direct its purchase of substrate away from U.S. steel producers and to imports of qualified product from its affiliate in the Netherlands. Any decision the Department makes in this investigation should be directed at the national security interests in this product and the production of this product. Apollo should not be burdened by an analysis of steel production generally, when the US industry is not qualified to supply the products required by Apollo.

In summary, Apollo believes that it is unlikely that the Department will find that imports of steel or any steel product threatens the availability of adequate supply to meet national security requirements. That issue – adequacy of supply – must be the sole focus of this case. The Department should not base its determination on any alleged threat of injury to the U.S. steel producing industry. Such a determination would be factually incorrect – as the domestic industries’ own annual reports and quarterly results indicate, this industry is doing exceptionally well and fully expects those results to continue. Not only would the decision be factually incorrect, it would also be legally incorrect and contrary to U.S. precedent to base a determination on injury to the U.S. industry.

Apollo fully respects the ability of the United States, and all countries, to make determinations and take actions in defense of their national security. Measures should not be based on an amorphous and unsupported general threat to an industry at large, particularly where the industry refuses to make specific products like the ones required by Apollo. Apollo submits that the standards on taking any action must be specific and reflect a threat to specific products that cannot be satisfied domestically or through safe and reliable imports. As demonstrated above, that is not the case here – Apollo’s demand is satisfied by a safe and reliable source, the Netherlands.

Respectfully submitted.



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