May 31, 2017

VIA EMAIL

Mr. Brad Botwin
Director
Industrial Studies, Office of Technology Evaluation
Bureau of Industry and Security
U.S. Department of Commerce
Room 1093
1401 Constitution Avenue NW
Washington, DC 20230
Steel232@bis.doc.gov

Re: Section 232 National Security Investigation of Imports of Steel: Post-Hearing Comments of Borusan Mannesmann Pipe U.S. Inc.

Dear Mr. Botwin:

Borusan Mannesmann Pipe U.S. Inc. ("BMP") hereby submits its post-hearing comments on the Section 232 National Security Investigation of Imports of Steel pursuant to the U.S. Department of Commerce's ("Department") *Federal Register* notice.[1]

I greatly appreciated the opportunity to appear and testify at the Department's hearing in the Section 232 investigation.

BMP is willing to make further investments in the U.S. market if it can be assured that its operations will not be disrupted by these trade measures. Please contact us for any specific information. We request a meeting with officials in order to more fully explain our plans.

We submit these post-hearing comments to provide additional perspective from the standpoint of a U.S. pipe and tube manufacturer that has made a substantial investment in and commitment to U.S. production and employment. Having listened closely to the comments of all

[1] *Notice Request for Public Comments and Public Hearing on Section 232 National Security Investigation of Imports of Steel*, 82 Fed. Reg. 19,205 (Apr. 26, 2017).

of the witnesses who participated in the hearing, as well as to the comments and questions form Secretary Ross and the other distinguished members of the hearing panel, I would like to provide the following additional comments for the Department's consideration.

1. <u>Section 232 is an extraordinary remedy and should be used only to address genuine national security concerns.</u>

The U.S. government has conducted investigations under Section 232 sparingly over the years. Even a broad definition of national security to include maintenance and development of critical domestic infrastructure, energy independence, and an industrial manufacturing base, still requires the Department not to lose sight of the limited objectives of Section 232.

2. <u>Section 232 should not be a substitute for Trade Remedy Cases.</u>

As the Department is well aware, the Department's Enforcement and Compliance bureau has unique expertise in investigating and evaluating claims of unfair pricing and government subsidization, and is well-equipped to impose remedial duties to fully offset dumping and/or subsidization where they exist without unduly burdening legitimate fair trade.

3. <u>The Department has confirmed that Borusan is a fair trader.</u>

Our parent company, Borusan Mannesmann ("Borusan"), is the largest pipe and tube manufacturer in Turkey. In 2014, while our Baytown mill was still under construction, Borusan was accused of "dumping" oil country tubular goods ("OCTG") produced by Borusan in Turkey in the U.S. market at below fair value, and of receiving government subsidies. Turkey was one of many countries included in that dumping case. However, after an exhaustive investigation of Borusan's pricing and production costs that included two weeks of on-site verification, the Department's Enforcement and Compliance bureau found that contrary to the claims of some domestic OCTG producers, Borusan was not dumping and that all of Borusan's imported OCTG was sold at fair value. <u>The case was terminated against Borusan</u>. *Certain Oil Country Tubular*

Goods from the Republic of Turkey, 79 Fed. Reg. 41,971 (Jul. 18, 2014). This result was affirmed by the U.S. Court of International Trade. *Maverick Tube Corp. v. United States*, 107 F. Supp. 3d 1318 (Ct. Int'l Trade 2015).[2] That case illustrates why it is important for the Department to resist the attempts by some parties to convert this Section 232 investigation into a forum for addressing generalized allegations of "unfair" trade. Borusan was exonerated by the Department of the accusation of dumping OCTG and it would not be appropriate to use this Section 232 investigation as a means to circumvent the outcome of that investigation.

4. <u>Any remedy implemented as a result of this investigation should be carefully targeted.</u>

If the Department determines that national defense requirements justify the imposition of new measures on imported steel products, the Department should use its discretion to fashion a remedy that protects domestic producers such as BMP and that does not unfairly target fair traders such as Borusan. In his opening remarks, Secretary Ross alluded to the fact that the Department will need to consider exclusions from the remedy for particular products or countries, and specifically noted the need to consider "more innovative approach[es]" to any trade relief. We agree. Specifically, in fashioning relief from imports in the pipe and tube sector, the Department should be guided by the following principles:

[2] Similarly, while the Department initially determined that Borusan received significant subsidies for OCTG production, following litigation at the Court of International Trade, the Department amended its determination to find a subsidy of only 2.39 percent. *Oil Country Tubular Goods from Turkey*, 81 Fed. Reg. 12,691 (Mar. 10, 2016).

- **<u>Domestic Production And Jobs Must Not Be Adversely Impacted</u>.** As I explained in my hearing testimony, we have has invested more than $300 million in our Baytown pipe mill, which opened in 2014. I believe this is one of the largest investments by any Turkish company in U.S. production. Our mill employs 180 workers. However, BMP's mill cannot produce every size of pipe needed by our customers. We can produce 4 1/2 inch to 10 3/4 inch OCTG, line pipe, and standard pipe. <u>For products outside those size ranges, BMP must import those products from our parent company to remain competitive</u>. If BMP loses access to those imports, our U.S. investment and the jobs of our workers are threatened. <u>Any remedy that hurts U.S. investment and jobs would be counter-productive and must be rejected</u>.

- **<u>The Track Record Of The Affected Suppliers Must Be Considered</u>.** As discussed above, BMP and its parent company Borusan have demonstrated a commitment to U.S. production and to fair trade. <u>BMP has invested hundreds of millions of dollars in U.S. manufacturing and, as discussed below, is prepared to invest many millions more</u>. Borusan has been found by the Department to be a fair trader in OCTG. Any remedy imposed in this investigation must take these facts into account; <u>BMP should not be treated the same way as some offshore suppliers who have not demonstrated a commitment to U.S. production and fair trade</u>.

- **<u>Any Relief Must Be Proportional And Realistic</u>.** At the hearing, some witnesses argued in favor of imposing quotas on pipe and tube imports based on historical import levels in 2010 and 2011. While such a proposal might make sense for some pipe products like OCTG, it makes no sense for products like Large Diameter Line Pipe where import levels are entirely determined by the projects underway and the related product requirements. Moreover, in 2010 and 2011, U.S. steel demand was struggling to recover from the Great Recession and therefore, is not representative of U.S. import requirements.

- **<u>U.S Pipe Line Operators Have Confirmed That There Is An Insufficient Supply Of Certain Large Diameter Line Pipe In The U.S. Market</u>.[3]** For example, in their joint comments the American Gas Association, American Petroleum Institute, Association of Oil Pipe Lines, GPA Midstream Association, and Interstate Natural Gas Association of America noted:

> *Current domestic capacity to produce certain materials and equipment used to construct, operate, and maintain energy pipelines is limited. For example, one commonly used line pipe material is grade X70 steel, which is not currently produced in any*

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[3] *See*, *e.g.*, Letter to Mr. Earl Comstock from the Alaska Gasline Development Corp., re: "Construction of Pipelines Using Domestic Steel and Iron (Docket Number: 170309252-7252-01)" (Apr. 19, 2017) at 4-5.

> *quantities above 0.750-inch thickness at U.S. steel mills; heavier thicknesses are necessary for certain pipelines. . . . In most cases, pipeline operators apply additional specifications that are even more rigorous, further reducing the number of accepted manufacturers.*

- **Relief Should Provide Incentives To Increase U.S. Domestic Production And Investment.** It is my understanding that the Department has wide discretion in the remedies it can offer, and it should exercise that discretion by developing innovative solutions that reward domestic investment and production.

For the reasons I have outlined, BMP requires annual imports of approximately 150,000 tons of large diameter line pipe, 60,000 tons of standard pipe, and 100,000 tons of OCTG casing and tubing. Our mill also requires the importation of steel couplings and/or steel coupling stock to allow us to finish pipe into OCTG. Some of this coupling stock could be purchased domestically; however, those potential suppliers are also direct competitors in finished OCTG, so we require the ability to import these materials. At full capacity in Baytown, we would need 17,000 tons of this material annually. Borusan and BMP have long considered additional investment in the Baytown facility, such as installing additional finishing equipment for heat treatment and threading and coupling. We have also considered adding additional production lines.

All of these investment options would increase employment and provide additional job security for our existing workforce. If Borusan could be certain that its production would be protected including its imports, Borusan would commit to investments of a very significant nature.

Before any remedy is adopted for pipe and tube, we would urge the Department to consult directly with BMP to assure the availability of limited, secure supplies of needed imports and to receive a commitment to invest further in U.S. production and employment. Such a remedy would be a “win-win” that would enhance national security by expanding the domestic pipe and tube sector.

We trust that the above proposal of voluntarily reducing our import products and materials in return for additional investment is seen as an ‘innovative’ solution in the eyes of Secretary Ross. We request a meeting with Department of Commerce or Bureau of Industry and Security officials to review our proposal and arrive at a mutually beneficial solution.

Respectfully submitted,

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Joel Johnson
Chief Executive Officer
Borusan Mannesmann Pipe U.S. Inc.