

May 31, 2017

BY ELECTRONIC FILING

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***: Written Comments of
the Coalition of American Flange Producers

Dear Mr. Botwin:

On behalf of the Coalition of American Flange Producers (the “Coalition”), we hereby submit the following written comments to the Department of Commerce (the “Department”) in response to the Department’s Notice Request for Public Comments and Public Hearing on Section 232 National Security Investigation of Imports of Steel.¹ As explained below, steel imports, including imports of steel flanges, are threatening to impair our country’s national security. As such, the Secretary of Commerce and the President of the United States must take assertive action under Section 232.

**I. THE SCOPE OF STEEL IMPORTS SHOULD BE BROAD AND INCLUDE
DOWNSTREAM PRODUCTS INCLUDING FLANGES**

Pursuant to Section 232, if imports of an article are found to threaten to impair national security, the President takes action “to adjust the imports of the article and its derivatives so that such imports will not threaten to impair the national security.”² Moreover, Secretary Ross recently stated that action against imports under Section 232 contemplates a broad definition of the product at issue.³ Because flanges are derived from steel, the Department should include stainless steel, carbon, and alloy flanges as part of this investigation and the agency’s

¹ Bureau of Industry and Security, *Notice Request for Public Comments and Public Hearing on Section 232 National Security Investigation of Imports of Steel*, 82 Fed. Reg. 19,205 (Dep’t Commerce Apr. 26, 2017) (“Notice”).

² See 19 U.S.C. § 1862(c)(1)(A) (emphasis added).

³ *Press Briefing by Secretary of Commerce Wilbur Ross on the Memorandum Regarding the Investigation Pursuant to Section 232(B) of the Trade Expansion Act*.

recommendations for import restrictions. In assessing the threat that steel imports pose to national security, the Department should not only include raw steel, but expressly extend the scope of steel imports to include all steel flanges, including stainless steel, carbon steel, alloy steels and high nickel alloy flanges should be included.

Significantly, at the May 24, 2017, public hearing on this investigation, several participants including Edward Vore of the Committee on Pipe and Tube Imports (“CPTI”), Bill Geary of the Cold Finished Steel Bar Institute, and David Zalesne of the American Institute of Steel Construction, highlighted the importance of including downstream steel products within the scope of this investigation. Mr. Vore, on behalf of the entire U.S. pipe and tube industry underscored the importance of the remedy from this investigation “extending to pipe and tube, and associated components like couplings and nipples, as well as fabricated products such as pipe spools and pipe modules.” Similarly, Mr. Zalesne stated that relief tools under this investigation such as tariffs or quotas “must be extended downstream if they are going to be effective.” Mr. Geary further emphasized the inclusion of “downstream component parts” made in the United States that are “incorporated into subassemblies, motors, and various manufacturing systems” in this investigation. Stainless steel, carbon steel, and alloy flanges, as downstream steel products that are vital to the design and structure of pipe and tubing systems, must be included in the scope of this investigation.

II. STEEL FLANGES HAVE NUMEROUS NATIONAL SECURITY APPLICATIONS

Stainless, carbon, duplex, Hi-nickel and alloy steel flanges are used to strengthen and connect pipes, valves, pumps, and other equipment for piping systems, and are used in numerous national security applications. Flanges and pipes are generally inseparable, where there is a pipe, there will also be a flange necessary to join the piping systems together, and one is indirectly co-dependent of the other. These flanges are used in navy ships, aviation jet refueling systems, chemical manufacturing plants, and nuclear power reactors,. They are also sold to utilities companies who need flanges for the national power grid, a critical component of the infrastructure that protects the United States and its citizens, and to pharmaceutical companies to assemble pharmaceutical equipment vital to the production and development of medicines that prevent and respond to epidemics. As Philip Bell of Steel Manufacturers Associate observed at the public hearing, “beyond direct defense applications, steel is the engine of economic activity and employment that is of critical importance to the United States.”

Steel flanges are used not only in military vessels but also in equipment for wind, oil, coal, natural gas, and nuclear energy plants, all of which are vital to the country’s infrastructure and should be considered part of “national security” under Section 232. Importantly, Section 232 contemplates a broad definition of “national security.” For example, the statute provides that threats to national security are tied to threats to the “economic welfare” of the United States and of individual domestic industries.⁴ In the past, the Department has stated that threats to national security include threats to industries “critical to the minimum operations of the economy

⁴ 19 U.S.C. § 1862(d).

and government,”⁵ and to those industries and resources “needed to produce domestically goods and services necessary to ensure U.S. national security.”⁶ In the Department’s current assessment of whether steel imports threaten to impair the national security, the agency should define “national security” broadly to include steel products critical to the country’s infrastructure. As Mr. Bell observed at the hearing, “we cannot rely on foreign steel producers to arm and protect our military forces and to rebuild and maintain our nation’s critical infrastructure.”

Indeed, as Mr. Maas, President of Maas Flange Corporation, testified at the May 24th hearing:

Because our products are resistant to the harshest applications, they are used in navy ships and submarines, warfare products, aviation jet refueling systems, national fuel refining, chemical manufacturing plants, nuclear power reactors, turbine power and coal gasification generation, and liquid natural gas recovery. We also sell to utilities companies who use our products for the national power grid, a critical component of the infrastructure that protects the United States and its citizens. Our flanges are also used to assemble pharmaceutical equipment vital to the production and development of medicines that prevent and respond to epidemics. However, imports of steel, including stainless steel and alloy flanges, into the U.S. market threaten our ability to supply products for these and many other national security applications.

All of the energy-related applications discussed above are both “critical to the minimum operations of the economy and government” and “needed to produce domestically goods and services necessary to ensure U.S. national security.”⁷ Accordingly, the Department in this investigation should define “national security” broadly to include applications in the wind, oil, coal, natural gas, and nuclear energy industry in addition to the military. The power and energy that fuels the United States’ national security efforts are transmitted through pipes that are strengthened and held together by flanges.

III. STEEL FLANGE IMPORTS THREATENING NATIONAL SECURITY ARE EXPORTED FROM MULTIPLE COUNTRIES

In the steel flanges industry, imports have often entered the market in disruptive, massive waves at a time, rather than predictably throughout the year. For example, Indian producers are widely known to ship year-and-a-half supplies of flanges over a single quarter. Chinese imports are also massive, and the threat caused by such imports is unsurprising given the global steel overcapacity crisis that has originated in China, which has undoubtedly spurred foreign overproduction in a range of steel products including flanges. As a result, the same disruptive behavior observed from Indian producers is observed from Chinese producers. But India and

⁵ U.S. Department of Commerce, *The Effect of Imports of Iron Ore and Semi-Finished Steel on the National Security* (2001) (“Iron Ore and Semi-Finished Steel Report”) at 5.

⁶ See U Iron Ore and Semi-Finished Steel at 7; U.S. Department of Commerce, *The Effect of Imports of Gears and Gearing Products on the National Security* (1992).

⁷ See Iron Ore and Semi-Finished Steel Report at 5, 7.

China are not the only significant sources of troublesome imports. Steel flanges from the Philippines, Korea, Romania, and many other sources have similarly displaced U.S. steel flanges and continue to do so.

IV. U.S. FLANGE MANUFACTURING WOULD BE EXTREMELY VULNERABLE IF RELIEF IS NOT PROVIDED

As these imports have surged into the U.S. market, domestic production, revenue, employment, capacity, and ability to invest, has diminished greatly. In April 2017, Ameriforge Group Inc., a U.S. producer of stainless steel and alloy flanges, filed for Chapter 11 bankruptcy protection, a decision that was likely influenced or even induced by the effect of imports entering and displacing American production and business.⁸

The injury caused by steel flange imports is well-known and has been confirmed by past and current antidumping and countervailing duty proceedings. Past antidumping duty orders on imports of forged stainless steel flanges from India and Taiwan demonstrate that Indian and Taiwanese imports materially injure and/or threaten to materially injure the domestic producers.⁹ Currently, the ITC is engaged in final phase antidumping and countervailing duty investigations on carbon steel flanges from India, and antidumping duty investigations on carbon steel flanges from Italy and Spain.¹⁰ Notably, Commerce has already calculated significant final dumping margins between 19 and 24.4 percent for Spanish imports,¹¹ and preliminary dumping margins up to 204.53 percent for Italian and Indian imports.¹²

The problem of flange imports displacing domestic flanges rises to a level of crisis sufficient to warrant action beyond existing antidumping and countervailing duty cases. These imports affect the national security and critical infrastructure of the United States by taking sales away from U.S. flange producers.

It must be noted that *if ingots, billets, long products, and other steel products are covered by this Section 232 investigation, but steel flanges are not*, then the U.S. manufacturers of

⁸ See, e.g., *AFGLOBAL files for Chapter 11 bankruptcy protection*, Supply House Times (May 15, 2017), available at <http://www.supplyht.com/articles/100406-afglobal-files-for-chapter-11-bankruptcy-protection> (last visited May 30, 2017).

⁹ See *Certain Forged Stainless Steel Flanges From India*, 59 Fed. Reg. 5,994 (Dep't Commerce Feb. 9, 1994) (amended final deter. and antidumping duty order); *Certain Forged Stainless Steel Flanges From Taiwan*, 59 Fed. Reg. 5,995 (Dep't Commerce Feb. 9, 1994) (antidumping duty order); see also *Forged Stainless Steel Flanges From India and Taiwan*, 76 Fed. Reg. 5,331 (Dep't Commerce) (final results of sunset review and revocation of antidumping duty orders).

¹⁰ See *Finished Carbon Steel Flanges from India, Italy, and Spain*, United States International Trade Commission, available at https://www.usitc.gov/investigations/title_7/2017/finished_carbon_steel_flanges_india_italy_and/final.htm (last visited May 30, 2017).

¹¹ See *Finished Carbon Steel Flanges From Spain*, 82 Fed. Reg. 18,108, 18,109 (Dep't Commerce Apr. 17, 2017) (final deter. of sales at less than fair value).

¹² See *Finished Carbon Steel Flanges From Italy*, 82 Fed. Reg. 9,711, 9,712 (Dep't Commerce Feb. 8, 2017) (prelim. deter. of sales at less than fair value and postponement of final deter.); *Finished Carbon Steel Flanges From India*, 82 Fed. Reg. 9,719, 9,720 (Dep't Commerce Feb. 8, 2017) (prelim. deter. of sales at less than fair value and postponement of final deter.); *Finished Carbon Steel Flanges From India*, 81, 85,928, 85,929 (Dep't Commerce Nov. 29, 2016) (prelim. affir. countervailing duty deter.).

flanges will almost certainly be forced out of business. If their material costs increase, but no protection is provided against the actual flange imports themselves, then the domestic industry will not be able to service this cost-price squeeze. For this reason, it is imperative that steel flanges be included in any remedy provided pursuant to this Section 202 investigation.

V. IMPORTS ARE KNOWN TO WRONGLY CLAIM ORIGIN IN UNITED STATES

The Coalition also notes that imports of forged and semi-finished steel flanges from other countries are commonly known to have “Made in USA” markings. These imports are “second class” flange products in quality and other pipe connector products of questionable workmanship. They are also being sold at price levels that are unsustainable according to the Coalition’s business environment, which involves high quality U.S. workmanship, business ethics, and national responsibilities. This practice by foreign flange producers and exporters has by itself deeply injured domestic production and sales, and possibly contaminated the supply chain in the United States. This is a long-standing issue that will need to be addressed under U.S. law. However, it is undeniable that flanges that are almost entirely manufactured outside of the United States being sold as “Made in America” has increased the chances of failure on the products that have been affected, and must be remedied by the Administration through this Section 232 investigation.

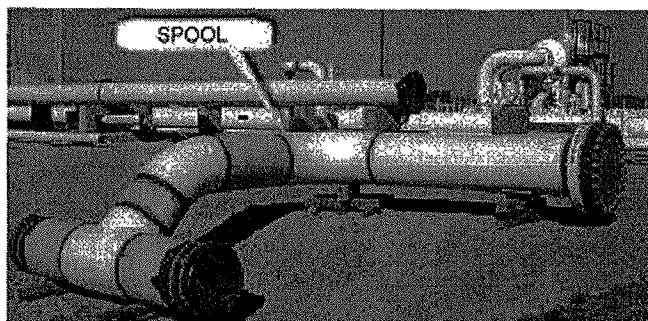
VI. REMEDY SUGGESTIONS

The Coalition respectfully submits that Commerce should find that imported steel is threatening to impair the national security, and that actions such as a comprehensive tariff or quota system on all steel products are needed to significantly restrain these imports. As explained above, imports in this industry have often entered the market in disruptive, massive waves at a time, and they have infiltrated domestic supply chains. These circumstances indicate that steel flange imports are difficult to address through traditional remedy procedures in antidumping and countervailing duty investigations. Those proceedings regularly require imports to steadily increase over a series of years to find that import volumes were significant under the statute, and do not immediately address wrongful origin practices.

Accordingly, this Administration should put a comprehensive tariff rate or quota system on all steel products. For example, the Administration should impose a quota system based on the lowest annual volume of imports reported over the last 10 years. Importantly, the imposition of a comprehensive measure is facilitated by the fact that flanges are all covered by HTSUS 7307, and, alternatively, have easy, clean HTS numbers at 7307.21 (stainless steel) and 7307.91 (alloy non-stainless steel).

As mentioned by numerous witnesses during the 232 hearing, if relief is given, it should be broad and must also be provided for downstream products, meaning that just putting a tariff or quota on the base steel, but not on the pipe and piping products produced out of the base material, would have very severe consequences for our domestic industry. If the Department would neglect to include downstream products (i.e., flanges, fittings and piping components), then it could force the true domestic producers to the brink of extinction. In other words, it would be counterproductive, as it would drive up costs for the domestic flange manufacturer and not affect the cost basis of the foreign imports of the same products.

The Coalition would like to emphasize that it is of utmost importance that all metal material grades of flanges and fittings in addition to pipe and base materials be covered by any Section 232 relief. Further we believe that the Department should expand its remedy into what is known by the industry as “Spooling” or “Spooled pipe” (*see photo below*).



It has become apparent that there are quite a few domestic contractors which purchase and ship foreign made pipe and piping components just to have them “spooled” or weld assembled in cheap labor countries and then just ship them to the USA for assembly. This practice totally undermines any and all principles of domestic steel production and therefore we feel very strongly that the Department should broaden its covered product focus to include the “spooled” components, which are shipped into the US market for assembly. Many of these “Spooled” components or pieces have ZERO American content and many times consist of and a sundry of country of origins, meaning that each finished piece gets assembled using multiple separate components of pipe, flanges and fittings, which theoretically could all originate from separate counties of origin, including China, Russia, Korea, India, etc.

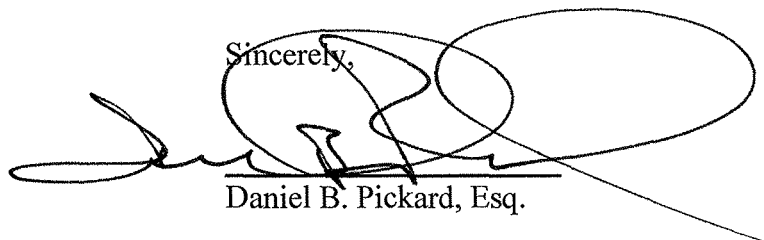
VII. CONCLUSION

In sum, the Department should determine that steel imports, including all steel flanges (*i.e.*, flanges made of stainless steel, carbon steel, alloy steel (*e.g.*, 4130, 4140, 4340) and high nickel alloy), threaten to impair U.S. national security, and it should urge the President to take comprehensive action to adjust imports of all steel products, including steel flanges, from all countries.

The Coalition wishes to emphasize that if ingots, billets, long products, and other steel products are covered by this Section 232 investigation, but steel flanges are not, then the U.S. manufacturing of flanges will almost certainly be forced out of business. Flanges would be severely vulnerable if not included in any relief provided as a result of this investigation, and which could lead to the loss of the entire U.S. steel flange forging industry.

If you have any questions regarding this submission, please do not hesitate to contact the undersigned.

Sincerely,

A handwritten signature in black ink, appearing to read 'Daniel B. Pickard', is written over a horizontal line. The signature is stylized and somewhat cursive.

Daniel B. Pickard, Esq.

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*Counsel to the Coalition of American
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