Wirtschaftsvereinigung Stahl

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

May 31st 2017

National security investigation of steel imports initiated under Section 232 of the Trade Expansion Act of 1962
Comments by the steel industry in Germany

Dear Mr. Botwin,

Please find attached some comments provided by the German steel federation (WV Stahl) representing the steel producing companies in Germany concerning the above mentioned investigation. We would like to ask you to take our reasonable concerns into account.

Best regards

WIRTSCHAFTSVEREINIGUNG STAHL

Dr. Martin Theuringer

Managing Director
Head of Economics

Tobias Aldenhoff

Head of Foreign Trade, Raw Materials & Business Economics

Encl.

Wirtschaftsvereinigung Stahl
Postfach 105464
40045 Düsseldorf
Sohnstraße 65
40237 Düsseldorf
Fon +49 (0) 211 6707-0
Fax +49 (0) 211 6707-310
Mail info@wvstahl.de
Web www.stahl-online.de
Präsident:
Hans Jürgen Kerkhoff
Mitglied im BDI

ANNEX 1

National security investigation of steel imports initiated under Section 232 of the Trade Expansion Act of 1962
Comments by the steel industry in Germany

The German Steel Federation (WV Stahl) provides in this letter comments for consideration by the Bureau of Industry and Security ("Bureau") in the national security investigation of steel imports initiated under Section 232 of the Trade Expansion Act of 1962[1] ("Section 232").[2] As requested, the WV Stahl's comments are directed to the criteria listed in § 705.4 of the National Security Industrial Base Regulations (15 CFR §§ 700 to 709) as they affect national security.

By way of introduction, the WV Stahl is the political-economic association of the steel industry in Germany and is based in Düsseldorf. Since 1874, it represents the sector's political interests in contacts with politicians, business and the public for 68 steel producers in Germany and nine associated foreign member companies.

I. THE PROBLEMS AFFECTNG THE GLOBAL STEEL MARKET CAN ONLY BE EFFECTIVELY RESOLVED THROUGH COORDINATED, CONCRETE ACTION BY THE US, EU, AND OTHER LIKE-MINDED GOVERNMENTS

WV Stahl shares the US government's and US steel producers' concerns with respect to unfair trading practices, and excess global steel production and overcapacity. WV Stahl has worked through EUROFER and with EU officials to address the injurious effects of these commercial problems through vigorous enforcement of domestic trade remedy laws. In addition, WV Stahl has individually and via EUROFER strongly supported the EU's frequent collaborations with the US government on joint efforts to address global steel overcapacity, including in such fora as the OECD and the G-20.[3] Coordinated, concrete action between the EU, the United States, and other like-minded governments and industry groups is the only effective means to address these problems and secure balance in the global and US steel markets.

OVERVIEW OF GERMAN STEEL EXPORTS TO THE UNITED STATES
Data on German steel exports to the United States are provided in **Annex 2.**

---

[1] 19 U.S.C. § 1862.

[2] *Notice Request for Public Comments and Public Hearing on Section 232 National Security Investigation of Imports of Steel*, 82 FR 19205 (April 26, 2017).

[3] https://docs.wto.org/dol2fe/Pages/FE_Search/FE_S_S009-DP.aspx?language=E&CatalogueIdList=232337,231889,230320,230321,228836,228749,228671,228133,227837,135773&CurrentCatalogueIdIndex=1&FullTextHash=&HasEnglishRecord=True&HasFrenchRecord=True&HasSpanishRecord=True.

II. THE BUREAU'S ANALYSIS SHOULD BE NARROWLY FOCUSED ON ANY SPECIFIC IMPORTED STEEL PRODUCTS THAT DIRECTLY THREATEN US NATIONAL SECURITY

It is critical to the Bureau to focus its analysis on specific steel products that are directly related specific national security uses, and determine whether imports of those products threaten to impair US national security. This narrow approach is required by US law and international trading rules. It also is incumbent upon the Bureau to narrowly define action as to not prejudice the interests of other US industries and US consumers.

A. US Law Requires a Narrow Analysis

Investigations conducted pursuant to Section 232 and any import adjustments resulting therefrom must be limited to considerations of "national security," as opposed to broader commercial or "national interest" considerations. This limitation is clearly established in the statute, and repeated in the governing sections of the National Security Industrial Base Regulations (15 CFR § 705). Furthermore, although the statute grants the Department some discretion in defining "national security" and making recommendations based thereupon, that discretion is limited. In *Federal Energy Administration v. Algonquin*, for example, the Supreme Court stated that the term "national security" under Section 232 must be interpreted more narrowly than simply "the national interest."[4] Thus, the Bureau's analysis must be tied to national security and any recommended action must be justified on national security grounds.

In this regard we note that US government investigations typically differentiate among steel products because the markets for, physical characteristics and uses of, the products differ significantly. For example, existing US antidumping and countervailing duty orders cover 18 different steel products,[5] and the International Trade Commission's 2001 global safeguard investigation of steel examined 33 different steel product categories.[6] Put simply, there is no one "steel" product – there are dozens of different steel products, and the Bureau's Section 232 investigation should recognize this reality.

B. The Bureau's Analysis Should Begin by Identifying Steel Products with a Direct National Security Nexus

The Bureau should start its analysis by identifying specific steel products that have a strong, direct national security nexus. Only those products should be analyzed and potentially subject to import adjustment. First, the Bureau's should identify steel uses that are directly related to national defense. Second, the Bureau should identify any "critical infrastructure" uses that directly relate to national security. In this regard, WV Stahl notes that several of

---

[4] *Federal Energy Administration v. Algonquin SNG, Inc.*, 426 U.S. 546, 569 (1976).

[5] https://www.usitc.gov/sites/default/files/trade_remedy/documents/orders.xls. Carbon and Alloy Steel Cut-to-Length Plate; Carbon and Certain Alloy Steel Wire; Carbon steel plate; Carbon steel wire rod; Clad steel plate; Cold-Rolled Steel Flat Products; Corrosion-Resistant Steel Products; Diffusion-Annealed, Nickel-Plated Flat-Rolled Steel Products; Hot-rolled carbon steel flat products; Non-Oriented Electrical Steel; Stainless steel bar; Stainless steel plate in coils; Stainless steel sheet & strip; Stainless steel wire rod; Steel concrete reinforcing bar; Steel Nails; Tin mill products; and Welded Line Pipe.

[6] https://www.usitc.gov/publications/safeguards/PUB3479B.pdf.

the subsectors identified by Presidential Policy Directive 21 ("PPD 21") as "critical infrastructure" applications have little or no relevance to national security and, therefore, should be removed from the Bureau's analysis.[7] The Bureau should therefore undertake a thorough review of the "critical infrastructure" sectors and exclude subsectors that are directly relevant to national security. The Bureau took a similar approach in the 2001 Section 232 investigation of iron ore and semi-finished steel.[8]

C. The Bureau Should Then Exclude Products That Have Little or No Connection to National Security Uses

Differentiation among steel products is critical to determine the specific steel products that have a direct connection to national security versus those that do not. To analyze and propose actions on "steel" in the aggregate would capture steel products that clearly have no national security implications. Therefore, steel products that have little or no connection to national security should be excluded. In particular, **the following products are used for commercial purposes, do not affect significantly affect national security, and should be excluded**:

- **Rebar and heavy sections**. Rebar's main application is in construction projects to provide strength to concrete. The construction industry is thus the principal end user of rebar[9]. Heavy sections are also mainly used in construction and civil engineering.

- **Wire rod.** Wire rod is used for welded mesh in the construction industry (pre- or post-stressing wires and wire strand used for reinforcement of concrete). Wire rod also has many other uses after being drawn into wire, including in the tire industry (tire cord), in the nut and bolt industry (fasteners), fencing products, supermarket trolleys, steel cord, electrodes, cables, bed springs, suspension springs, and welding wire[10].

---

[7] Presidential Policy Directive No 21 of February 12, 2013 (https://obamawhitehouse.archives.gov/the-press-office/2013/02/12/presidential-policy-directive-critical-infrastructure-security-and-resil).

[8] Section 232 Investigation of Iron Ore and Semi-Finished Steel (2001), at 13-16 (https://www.bis.doc.gov/index.php/forms-documents/section-232-investigations/81-iron-ore-and-semi-finished-steel-2001/file). The industries were: Crude petroleum and natural gas (industry number 8); New construction, including own-account; construction (industry number 11); Maintenance and repair construction, including own-account construction (industry number 12); Ordnance and accessories (industry number 13); Petroleum refining and related products; (industry number 31); Metal containers (industry number 39); Engines and turbines (industry number 43); Computer and office equipment (industry number 51); Audio, video, and communication equipment; (industry number 56); Motor vehicles (passenger cars and trucks) (industry number 59A); Truck and bus bodies, trailers, and motor vehicle parts; (industry number 59B); Aircraft and parts (industry number 60); Other transportation equipment (industry number 61); Railroads and related services, passenger ground; transportation (industry number 65A); Motor freight transportation and warehousing; (industry number 65B); Water transportation (industry number 65C); Air transportation (industry number 65D); Pipelines, freight forwarders, and related services; (industry number 65E); Communications, except radio and TV; (industry number 66); Radio and TV broadcasting (industry number 67); Electric services (utilities) (industry number 68A); Gas production and distribution (utilities) (industry number 68B); Water and sanitary services (industry number 68C); Finance (industry number 70A); Insurance (industry number 70B); Computer and data processing services; (industry number 73A); Health services (industry number 77A); and National defense: consumption expenditures; (industry number 96C).

[9] Steel Concrete Reinforcing Bar from Mexico, USITC Pub. 4645 Inv. No. 731-TA-1227 (Final) (Oct. 2016), p. 6.

[10] COMMISSION REGULATION (EC) No 112/2009 of 6 February 2009 imposing a provisional anti-dumping duty on imports of wire rod originating in the People's Republic of China and the Republic of Moldova, OJ L 38 of 7 February 2009, p. 3, paragraph 16.

- **Wide flange beams and channels.** Wide flange beams are used in structural steel construction, as well as in other applications ranging from industrial facilities, and health care and commercial buildings, and multi-family residential projects.[11] Structural channels, also known as C-beams, are also used primarily in building construction and civil engineering.

- **Hot-rolled wide strip**. Hot-rolled wide strip (of width of 600mm or more) is produced both as a feedstock (*e.g.*, for cold rolled coil and coated coil), and for direct use in industrial applications such as the production of automobiles, steel tubes used in construction, transportation equipment, appliances, and heavy machinery.[12]

- **Cold-rolled sheet.** This product is used to make household appliances (refrigerators, washers, dryers, and other small appliances), automobile components, construction frames, and electric motors.[13]

- **Metallic and organic coated sheet**. Metallic and organic coated sheet is used by the automotive industry. It is also sold as feedstock for construction (*e.g.*, for building materials), industrial production, domestic appliance manufacturing, and other industries.[14] Metallic and organic coated sheet is also used for deep-drawing and stamping.

- **Tin mill products.** Tin mill products are mainly used to make cans for food and beverages – products which raise no national security concerns. Other uses include construction products, oil filters, and other automotive applications[15].

- **Carbon/Alloy Plate for agricultural equipment**. In the agricultural equipment context, carbon and alloy plate is mainly used for the construction of chassis of tractors and other heavy equipment. Agricultural uses involve no national security concerns.[16]

- **Hot rolled plates for pressure vessel/storage tanks**. Such hot-rolled plates are produced to specific grades and are mainly used for large storage tanks, pulp towers, pipe processing, bulk cargo tanks in chemical tankers, and oil and gas pipes.

---

[11] Certain Structural Steel Beams from Japan; Determination and Views of the Commission USITC Pub. 3308 Inv. No. 731-TA-853 (Final) (June 2000), p. 8.

[12] Hot-Rolled Flat-Rolled Carbon-Quality Steel Products from Russia, USTC Pub. 4639, Inv. No. 731-TA-808 (Third Review) (September 2016), pp. 12-13.

[13] Cold-Rolled Steel Flat Products from China and Japan, USITC Pub. 4619, Inv. Nos. 701-TA-541 and 731-TA-1284 and 1286 (Final) (July 2016), p. 9.

[14] Corrosion-Resistant Steel Products from China, India, Italy, Korea, and Taiwan, USITC Pub. 4620, Inv. No. 701-TA-534-537 and 731-TA-1274-1278 (Final) (July 2016), p. 20.

[15] Tin- and Chromium-Coated Steel Sheet from Japan, USITC Pub. 3337, Inv No. 731-TA-860 (Final), (August 2000), p. 7.

[16] Certain Carbon and Alloy Steel Cut-to-length Plate from Austria, Belgium, Brazil, China, France, Germany, Italy, Japan, Korea, South Africa, Taiwan, and Turkey, USITC Pub. 4615, Inv. Nos. 701-TA-559-561 and 731-TA-1317-1328 (Preliminary), (May 2016), p. 11.

- **Alloy forged/hot-rolled bars/plates**. These products are used to make industrial products used in high-temperature applications. Their uses include general molds, molds for die-casting, spindles for rolling mills, and others.

- **High speed steels.** High speed steel is a cutting tool material used in drilling, milling, turning, threading, boring, broaching, gear cutting, and other machining operations. High speed steel is used for form tools, slitter knives, guillotine knives, parting tools and other types of cutting tools. Such steels are not used (other than incidentally) for defense or national security related applications.

- **Stainless cold-finished bars**. Stainless steel cold finished bars are used primarily to produce mechanical components like fittings, valves, screws, nuts & bolts, ferrules, and pins, as well as for technical applications within the most common engineering sectors (construction, medical, automotive, furnishing, or machinery).[17]

- **Stainless steel & nickel alloys.** These steels are used for common items, such as spoons and forks, and other applications where extra corrosion resistance is required, such as for roofing and marine applications. Nickel alloys are used where a higher strength is required compared to pure nickel.

- **Stainless merchant bars.** Stainless merchant bars are used for automotive, oil and gas, and mechanical engineering applications.

- **Hot-rolled coil.** Hot-rolled steel coil is used in a variety of applications including downstream steel products (e.g., cold-rolled and corrosion-resistant steel) construction materials, pipes and tubes, automobiles, and appliances.[18]

- **Cold-rolled coil.** Cold-rolled coil is further processed by traders and used to make household appliances (refrigerators, washers, dryers, and other small appliances), automobile components, construction frames, and electric motors.[19]

- **Stainless cold rolled sheet.** Stainless cold rolled sheet is used in consumer and industrial applications, especially where corrosion resistance, heat resistance, or stainless steel's aesthetic characteristics are desired.[20] Stainless cold rolled sheet is used, for example, in the chemical processing, marine, oil and gas, power generation, wastewater, and food processing industries. Stainless cold rolled sheets also are used as building segments, in transportation (mainly for exhaust systems), tubes, and food processing (due to food contact requirements).

---

[17] Stainless Steel Bar from France, Germany, Italy, Korea, Taiwan, and the United Kingdom Invs. Nos. 701-TA-413 (preliminary) and 731-TA-913-918 (Preliminary); Determinations and Views of the Commission, USITC pub. No. 3395, (February 2001), p. 6.

[18] Certain Hot-Rolled Steel Flat Products from Australia, Brazil, Japan, Korea, the Netherlands, Turkey, and the United Kingdom. Investigation Nos. 701-Taq-545-547 and 731 TA 1`291-1297 (Final). USITC Publication No. 4638, (September 2016), p. 8.

[19] Cold-Rolled Steel Flat Products from China and Japan, USITC Pub. 4619, Inv. Nos. 701-TA-541 and 731-TA-1284 and 1286 (Final) (July 2016), p. 9.

[20] Stainless Steel Sheet and Strip from China, USITC Pub. 4603, Inv. Nos. 701-TA-557 and 731-TA-1312 (Final) (April 2016),

- **Tool steels.** Tool steels are used to manufacture forming tools used in processes such as stamping, shearing, blanking, deep drawing, injection molding, die casting, forging, and extrusion. The tools are used for purposes of forming other materials into shape – a basic process for the manufacturing of high volume parts such as bottles, parts for the automotive industry, the consumer goods industry or the packaging industry. The materials are typically high-alloyed, and many of the steels supplied from Europe follow specific metallurgical processes like ingot casting or electro-slag remelting in order to achieve specific properties. These steels are not used for defense- or national security-related applications.

- **Hot rolled bar for cold finishing.** These carbon and free cutting steel products are not directly linked to end uses affecting national security. They are processed in the United States and generally machined into components for hydraulic, general engineering, industrial engineering and machinery and tooling applications in a variety of sectors including automotive, mining and excavation equipment, agriculture, construction, energy and power generation.

- **Cold finished bar.** These precision-finished carbon and specialist free-cutting steel cold drawn, machined and turned products are not directly linked to end uses affecting national security. They are processed near to net shape for machining into components for hydraulic, general engineering, industrial engineering and machinery and tooling applications in a variety of sectors including automotive, mining and excavation equipment, agriculture, construction, energy and power generation.

D. Aggregating All Steel Exporters Could Lead to Security-Related Measures on Imports from Allies and Companies Invested in the United States

Second, the Bureau must consider and differentiate among the varying sources of the imported steel products that are determined to have a strong, direct national security nexus. Not all foreign sources of steel are the same with respect to national security. Most basically, available data may show that some import sources have a historically small or declining share of the US market and no immediate ability or plans to expand capacity, and therefore present no threat to the US industry (and, by extension, national security). Furthermore, countries have widely-varying policies with respect to steel production and trade – the stated concern of many in the US steel industry at the Bureau's May 24, 2017 hearing for the current investigation. Applying a uniform response to these varying policies would serve no legitimate national security purpose.

Perhaps even more importantly, certain countries and companies raise few, if any, national security risks. This is certainly true with respect to the United States and the EU, which share a long history of collaboration on national security issues. Germany is a member of the North Atlantic Treaty Organization (NATO) and is legally obligated to defend U.S. security, including by providing assistance in times of crisis.

In fact, there are ***dozens*** of bilateral agreements between the United States and Germany covering matters such as defense cooperation and weapons production[21].

These various agreements underscore the fact that Germany is a longstanding, reliable supplier of high-quality steels which helps to ***maintain***, rather than threaten to imperil, US national security. Any national security determination under Section 232 must account for these agreements.

Finally, German steel companies have invested in US plants to make steel products and employ American workers. It would be implausible for German steel producers to be considered a threat to US national security.

---

[21] Agreement relating to assurance required under the Mutual Security Act of 1951 (entered into force on December 28, 1951), Mutual defense assistance agreement (entered into force on December 27, 1955), Agreement for the return of equipment pursuant to the mutual defense assistance agreement (entered into force on December 27, 1955), Agreement relating to the sale to the Federal Republic of certain military equipment, materials, and services pursuant to sec. 106 of the Mutual Security Act of 1954 (entered into force on October 8, 1956), Agreement relating to the training of German army personnel pursuant to the mutual defense assistance agreement (entered into force on December 12, 1956), Agreement relating to the training of German navy personnel pursuant to the mutual defense assistance agreement (entered into force on December 12, 1956), Agreement relating to the training of German air force personnel pursuant to the mutual defense assistance agreement (entered into force on December 12, 1956), Agreement for cooperation on uses of atomic energy for mutual defense purposes (entered into force on July 27, 1959), Agreement implementing the NATO status of forces agreement of August 3, 1959 (entered into force on July 1, 1963), Agreement relating to weapons production program (entered into force on May 27, 1960), Agreement relating to the disposition of equipment and materials furnished to the Federal Republic on a grant basis under the mutual defense assistance agreement of June 30, 1955 (entered into force on May 25, 1962), Agreement to support personnel from the Federal Republic of Germany stationed in the United States during emergencies (entered into force on December 18, 1865), Agreement related to the AIM 9l Sidewinder air-to-air missile (entered into force on February 14, 1975), Memorandum of understanding relating to cooperative tests for the ROLAND 2 all-weather short range air defense system (entered into force on February 28, 1975), Memorandum of understanding concerning cooperative development of an advanced surface-to-air missile system (entered into force on July 22, 1976), Agreement on the provision of United States Army training to German Air Force in the United States (entered into force on July 6, 1977), Agreement on the stationing of training comp0onents of the Federal Minister of Defense in the United States (entered into force on July 6, 1977), Memorandum of understanding for coproduction and sale of the sidewinder AIM-9L missile system (entered into force on October 14, 1977), Memorandum of understanding concerning the principles governing mutual cooperation in the research and development, production, procurement and logistic support of defense equipment (entered into force on October 17, 1978, amended October 19, 1990), Agreement concerning the support of USAGE A-10 aircraft at Forward Operating Locations (FOLS) in the territory of the Federal Republic of Germany (entered into force on November 9, 1981), Agreement concerning host nation support during crisis or war (entered into force on April 15, 1982), Agreement concerning mutual support in Europe or adjacent waters (entered into force on January 21, 1983), Memorandum of understanding for the dual production of the stinger weapon system (entered into force on April 27, 1983)Agreement concerning in-service support of the rolling airframe missile MK-31 guided missile weapon system (entered into force on February 9, 2001), Memorandum of understanding regarding the exchange of military personnel of the United States Navy and the German Air Force (entered into force on November 27, 2008), Agreement concerning health care for military members and their dependents (entered into force on April 7, 2014)

III. CONCLUSION

WV Stahl strongly believes that the commercial problems with the global steel market cannot be adequately addressed through domestic measures targeting national security. Nevertheless, if the Bureau continues the current investigation under Section 232, it must (i) develop an analytical framework that accounts for wide variances among steel products and exporting countries and companies; and (ii) ensure that it has sufficient factual information from US companies and consumers, as well as foreign exporters and governments. Failure to do so would inevitably result in recommendations that do not actually address US national security in a manner consistent with US law.

German Exports of Steel Products to USA

ANNEX 2

2017 Jan to March
Source: Statistisches Bundesamt; prepared by WV Stahl
metric tons

Products	Year					
Carbon and alloy steel:	**2012**	**2013**	**2014**	**2015**	**2016**	**2017 1-3**
Cold rolled bars	10 045	10 414	12 023	12 426	11 539	3 102
Cold rolled sheet/strip	54 593	46 851	53 726	63 765	98 361	23 303
Concrete reinforcing bars	3 572	5 352	6 957	5 080	7 550	1 865
Electrical sheet	10 244	9 417	2 132	943	409	188
Forged bars	4 525	3 669	4 356	4 903	2 047	830
Forgings	12 846	14 470	15 499	13 807	12 950	2 440
Heavy sections	18 701	20 402	38 944	34 624	29 068	15 516
Hot rolled bars	24 202	29 709	51 709	53 074	41 339	10 921
Hot rolled sheet/strip	6 385	9 311	11 245	17 374	18 789	5 043
Hot rolled wide strip	213 754	162 844	86 072	61 239	92 631	19 878
Ingots and semis	22 960	12 746	60 755	16 515	7 995	1 545
Metallic and organic sheet	95 614	82 738	94 977	109 899	139 043	36 104
Quartoplate	84 014	107 633	94 474	232 605	98 825	4 190
Railway material	1 175	1 114	922	2 227	1 099	305
Sheet piling	8 726	21 493	40 951	49 810	4 313	623
Steel tubes and fittings	436 959	298 070	415 628	333 788	164 866	45 710
Tin mill producs	51 536	60 831	104 886	159 739	165 490	44 172
Wire	8 725	9 372	11 626	12 297	13 241	3 591
Wirerod	77 873	83 222	105 266	97 440	95 678	30 727
Stainless steel:						
Stainless steel tubes and fittings	6 587	5 814	5 149	7 037	7 709	1 804
Stainless cold finished bars	8 624	9 170	10 509	9 412	6 880	3 862
Stainless cold rolled sheet	1 971	1 666	2 457	1 642	544	384
Stainless forged bars	13 370	11 315	13 976	9 147	9 943	1 814
Stainless hot rolled flats (strip)	2 271	237	256	127	55	1
Stainless Ingots and semis	22 484	1 940	0	23	27	33
Stainless merchant bars	5 876	3 358	3 786	4 362	1 342	603
Stainless plates	4 104	1 286	1 400	1 354	1 298	527
Stainless wire	1 098	1 025	1 288	1 445	1 309	507
Total steel products	**1 212 832**	**1 025 468**	**1 250 972**	**1 316 106**	**1 034 340**	**259 588**