



David J. Craven
312-279-2844
Dcraven@strtrade.com

May 31, 2017

Brad Botwin
Director, Industrial Studies
Office of Technology Evaluation
Bureau of Industry and Security
1401 Constitution Avenue NW
Room 1093
Washington, DC 20230

By E-mail and by Hand

Re: Section 232 National Security Investigation of Imports of Steel

Dear Mr. Botwin:

On behalf of Magellan Corporation, we hereby submit public comments in connection with the Section 232 National Security Investigation of Imports of Steel. These comments are timely as they are submitted by May 31, 2017, the deadline for the filing of comments specified in the Federal Register notice.

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

Respectfully submitted,

SANDLER, TRAVIS & ROSENBERG

By:

David J. Craven
Kristen Smith
Mark Ludwikowski

Counsel to Magellan Corporation

Comments of Magellan Corporation
Investigation Under Section 232 of Impact of
Imported Steel on the National Security

David J. Craven, Esq.
Kristen Smith, Esq.
Mark Ludwikowski, Esq.
Sandler, Travis & Rosenberg
225 W Washington Street
Suite 1640
Chicago, IL 60606
(312) 279-2844

May 31, 2017

EXECUTIVE SUMMARY

- Relief should not be imposed under §232 of the Trade Expansion Act of 1962. The total quantity of steel used in national defense and critical industries is comparatively small. The U.S. steel industry is large and competitive and can readily fulfill the demands of national security.
- Current Trade Laws provide sufficient relief for the U.S. industry from unfair trade practices.
- No restrictions should be imposed on imports of Special Bar Quality (“SBQ”) steel. The U.S. domestic industry already has significantly lengthy lead times and delays in the production of this type of steel.
- The U.S. SBQ producers have readily acknowledged in their financial reports that they have seen improvements in their profitability and that, to the extent needed, the trade relief provided by the antidumping and countervailing duty laws are sufficient.
- Any restrictions should take into account the impact on consumers of SBQ and whether such restrictions would result in the loss of global competitiveness for the products produced in the U.S. using SBQ.
- Any restrictions should take into account the impact on other industries. For example, undue restrictions on imports of SBQ into the United States could also hurt the U.S. grain and agriculture business by increasing overseas shipping expenses.
- Any restrictions should not apply to strong military allies of the United States, such as its NATO partners.

Table of Contents

Executive Summary	i
Table of Contents	ii
Argument	1
1. Relief Under Section 232 Is Not Appropriate.....	1
2. Section 232 Relief Not Appropriate on Special Bar Quality Steel.....	2
3. Relief Must Take into Account Domestic End Users.....	5
4. Any Relief Should Not Cover All Countries	7
5. Other Questions	9

Argument

1. Relief Under Section 232 Is Not Appropriate

As an initial matter, Magellan submits that relief under Section 232 is not appropriate. Section 232 was promulgated during the Cold War to address the availability of essential defense materials during the run-up to a military crisis and during such crisis. It was not intended to serve as a general economic trade statute to provide relief to a domestic industry from purportedly unfair trade practices. Using the statute in such fashion opens a Pandora's Box in which virtually any trade action, both by the United States, and against the United States by other nations, can be justified by a claim of national security. This will result in a complete destruction of the long-established rules of trade.

Furthermore, an evaluation of the relevant facts, as brought forth during the hearing held on May 24, 2017 establishes that the ability to provide essential materials for the National Defense, the purpose of the statute, is not threatened by means of imports. Quite to the contrary, the domestic steel industry has successfully used the various trade relief statutes and faces no meaningful threat from imports.

Initially, as testified to by many of the U.S. industry witnesses, while steel is present in many articles used in the national defense, the total amount of steel used in the national defense makes up a very small percentage of total U.S. steel production. In other words, the U.S. steel industry, as currently structured, can easily supply all critical materials needed in a crisis. There is no allegation that the U.S. industry could not do so, and in fact, due to Buy America and Buy American provisions as well as certain qualification requirements, some members of the U.S. industry have a virtual monopoly on providing such materials to the highly lucrative defense market.

Secondly, the members of the U.S. steel industry throughout the hearing referred to disregard of the trade laws in the form of violations of the antidumping and countervailing duty laws. This goes directly to the first question posed by Sec. Ross at the start of the May 24 hearing – whether this is a crisis sufficient for remedies beyond those currently addressed through antidumping and countervailing duty cases. The short answer is that this is not such a crisis.

To the extent that imports are an issue, this is conduct which is readily addressed using extant trade laws. If, in fact, the U.S. industry is being injured, or even threatened with injury, by imports, the trade laws provide a ready and quick remedy. Under the critical circumstances provisions of the law, relief can be quickly imposed with deposits of duty required within weeks of the filing of an action.

2. *Section 232 Relief Not Appropriate on Special Bar Quality Steel.*

Sec. Ross asked whether all steel products should be covered in any restrictions imposed as a result of the §232 proceeding. The answer to this is no. Covering all products would be inappropriate and unnecessary. While Magellan submits that no restrictions should be imposed under §232 against any type of steel, restrictions on Special Bar Quality¹ steel (“SBQ”) would be particularly inappropriate. Magellan submits that the national security is not threatened by imports of SBQ steel and this portion of the U.S. steel industry is strong and competitive.

This is clear both by examining the status of current orders with the U.S. industry and the statements made by major bar producers in their various SEC filings.

¹ SBQ steel also goes by the name Engineered Bar. SBQ is a well-defined sub-category of the long products category. SBQ is specialized engineered steel designed for specific applications and is not readily interchangeable with other long products. As its uses and demands are not the same as other long products, it should be a separate and distinct category.

Initially, as shown in the chart attached as Exhibit 1, TimkenSteel, the major U.S. SBQ bar producer is experiencing significant delays in serving its customers in the form of growing lead times. The delivery time for TimkenSteel is both significant and rising. Significant and rising delays are not evidence of a producer facing a crisis caused by imports, these delays are evidence of a producer that has a large enough set of orders that it cannot satisfy them all at one time.

In addition to lead times, Timken is also engaged in “forced order entry” which is a process where customers are forced to place orders for merchandise long before it is needed. This is further confirmed by the Annual Report filed by TimkenSteel in April of 2017 in which it acknowledged a backlog of orders comprising 200,000 tons of SBQ as of the end of the fiscal year. (TimkenSteel 2016 Annual Report at page 4).

In other words, Timken not only is forcing its customers to order product long before it is needed, it is delaying delivery and placing severe lead time pressure on many of its customers.

The backlogs are not the only evidence that imports are not an issue. In its financial reporting, which is subject to the provisions of Sarbanes-Oxley and thus should be presumed to be wholly accurate, Timken identified its primary competitors. It stated:

Competition

The steel industry, both domestically and globally, is highly competitive and is expected to remain so. Maintaining high standards of product quality and reliability, while keeping production costs competitive, is essential to our ability to compete with domestic and foreign manufacturers of mechanical components and alloy steel. For bar products less than 6-inch in diameter, principal competitors include foreign-owned domestic producers Gerdau Special Steel North America (a unit of Brazilian steelmaker Gerdau, S.A) and Republic Steel (a unit of Mexican steel producer ICH). For bar products up to 9-inch in diameter, domestic producers Steel Dynamics, Inc. and Nucor Corporation (in some cases up to 10-inch) are our principal competitors. For very large bars from 10 to 16 inches in diameter, offshore producers as well as specialty forging companies in North America such as Scot Forge and Sorel Steel are the primary competitors. For seamless mechanical tubing, offshore producers such as Tenaris, S.A., Vallourec, S.A. and TMK Group are our primary competitors as well as the foreign-owned domestic producer ArcelorMittal

Tubular Products (a unit of Luxembourg based ArcelorMittal, S.A.). We also provide unique value-added steel products and supply chain solutions to our customers in the industrial, energy and automotive sectors.
Timken 2016 Annual Report at Page 4

In other words, in SBQ bar, Timken's competitors are not foreign producers and imported SBQ, Timken's competitors are other U.S. producers of SBQ.

TimkenSteel also, as illustrated by documents submitted when it was spun off from the Timken Company, has a comparatively concentrated Customer base with the top 10 customers making up 43% of its total sales. (Information Statement of June 10, 2014 at page 17.) Finally, TimkenSteel continues to concentrate its sales and focuses on OEM's. It sells only 15% of its steel to service centers and distributors. (Timken Steel 2016 Annual Report at page 4). This concentrated customer base tends to buy on longer term contracts and at higher volume sales. The net impact of this is that the lower volume consumers do not receive the same level of focus or service.

TimkenSteel does not stand alone as a successful member of the bar industry. A second major producer, Steel Dynamics, Inc. stated:

"The team executed well and delivered a strong first quarter performance with all of our operating platforms improving profitability," said Mark D. Millett, President and Chief Executive Officer. "Our first quarter 2017 income from operations increased over 75 percent sequentially to \$335 million with adjusted EBITDA of \$421 million.

News Release of April 19, 2017 announcing first quarter 2017 results at page 1.

In other words, its income during the first quarter of 2017, the period immediately prior to the initiation of this §232 investigation, showed a significant increase in profitability. A significant increase in profitability belies the claim of a crisis and the need for extraordinary actions to protect the national security.

A third major producer, Nucor, reported significantly increased profits in 2016. It also acknowledged the effectiveness of the trade laws and the reduction of imports as a partial reason for this increase. It stated:

Strong trade enforcement is producing results with imports down approximately 15% in 2016 compared to 2015. Lower imports have resulted in improved margins for U.S. steelmakers. We are also focused on making meaningful progress to address the greatest challenge still facing the industry: global steel production overcapacity. We are working with steel associations, our NAFTA partners, the Organization for Economic Cooperation and Development and the G20 to develop a plan to reduce excess capacity.

2016 Annual Report of Nucor (April 18, 2017) at page 7.

In other words, the existing trade laws are effective and have provided appropriate relief to the U.S. producers. There is no crisis and no showing that the trade laws are not working. These claims were made in formal financial filings subject to sanctions under Sarbanes-Oxley. These formal filings have all acknowledged the improvement of the economic conditions in the United States for these SBQ bar producers over the past year. These financial statement declarations should be given great weight in deciding whether the national security is threatened by means of imports.

3. Relief Must Take into Account Domestic End Users

If the Department determines that action needs to be taken to adjust imports, the Department should take into account the impact of any relief on the domestic consumers of the steel, their investments in U.S. facilities, and their competitive position in the World Markets. SBQ is used in a range of applications from aircraft to automobiles to the production of oil field tools. These are competitive industries with active competitors in the U.S. and elsewhere. In order for U.S. industries to be competitive they need access to the necessary SBQ and such steel must be available without undue delays, and the supply must be reliable.

As part of this reliability factor, U.S. industries need at least two approved sources of supply for each of its raw materials. Unlike more basic steels, many users of SBQ require specific certification of the mill prior to the use of the steel in their end products. Steel is often a critical component and the consistency of the steel is normally at least as important a factor in the purchasing decision as the price of the steel. As such, before a new product or a new mill can be used, it must be tested to ensure that the steel is up to specification and will work in the proposed application. The lead time for this is often many months. Accordingly, most SBQ consumers will often qualify at least two suppliers in order to ensure supply of a critical material in the event of natural disaster, work stoppage or incident stopping or limiting supply. Often imports are certified as an alternate supply as they would likely not be impacted by the same natural disaster, work stoppage or other incident which might impact two domestic suppliers.

The harm to the end users of the SBQ should also be taken into account. Many of the end users perform complex manufacturing operations and produce products from a broad range of component parts made from many materials. Steel is often only a single, albeit critical, component in the end products. If steel were to be restricted, the U.S. end users could find themselves unable to produce globally competitive products and would lose market share to products produced in other countries. U.S. products would also lose their competitive edge in export markets. At a minimum, U.S. producers would be forced to consider moving their production of certain key components from the U.S. to offshore where they would have ready access to a full range of steel².

² During the hearing, some U.S. industries suggested that the restrictions imposed under 232 should go beyond steel and include end products using this steel. This is a slippery slope which the U.S. should not wish to pursue. Where is the line drawn? If the steel to make crankshafts is restricted, and then crankshafts are restricted, would transmissions then be restricted because they incorporate crankshafts? Would motor vehicles than be included because they incorporated transmissions

Such movement would not only harm the U.S. manufacturing base, it would also adversely impact the domestic steel industry by costing them a customer.

In addition, domestic customers for SBQ bar are not necessarily in close proximity to the U.S. mills and delivery through a nearby port may provide a more efficient and reliable supply of product. The supply of steel by sea also provides other important benefits to the economy. Much of the SBQ steel (and other steel) that comes into the United States is shipped in bulk ocean carriers and transported up the river systems by barges. The barges and the bulk ocean carriers also transport, in the other direction, U.S. grain and other agricultural products. If the importation of steel were to be significantly restricted, this could result in a comparative unavailability of bulk ocean carrier bottoms and barges. At a minimum, this would increase the cost of freight for U.S. agricultural products, reducing their viability in the world market.

In sum, any restraints imposed under Section 232 must take into account the impact not only on the domestic steel mills, but also on the customers of the steel and the entities that provide support services.

4. Any Relief Should Not Cover All Countries

Sec. Ross asked parties to address whether products or countries should be excluded from any relief. Magellan submits that if relief in the form of tariffs or other restrictions is to be granted, that such restrictions should not apply to strong traditional allies. In particular, the United States should recognize its long and historic ties to the members of the NATO alliance. Not only are these countries unlikely to be enemies of the United States in the event of a military crisis, they are likely to be strong allies. Restricting imports of products produced in these NATO countries

incorporating crankshafts incorporating restricted steel? Certainly any restrictions would, therefore, have to be limited to basic steel products.

based on a claim that such products represent a threat to the National Security would send a wrong message to America's allies and would weaken these key relationships. SBQ is produced in multiple NATO countries, including Italy, Spain, and the Czech Republic. These nations have all stood with the United States in the war on terror and during other military crises. Italy was a founding member of NATO and provides key military bases to the United States. Italy is in Southern Europe and is a stable ally in close proximity to the Middle East. Spain has been a member of NATO since 1982 and is home to the critical Naval Station Rota. Rota supplies both air and sea support to key U.S. operations in the middle east. The Czech Republic has been a member of NATO since 1999 and is a key buffer between the West and Russia.

In a similar fashion, Brazil, another key producer of SBQ bar, is a key U.S. ally in South America. As with the NATO countries, stopping or reducing imports from Brazil in the name of national security would send the wrong message to Brazil and to the region.

In addition, these countries should also not be included in any relief due to their relationship with U.S. producers. Many foreign producers have significant investments in the United States. It would be counter-intuitive for these producers to throw away their massive investment in the United States by flooding the U.S. market with imports and destroying their own investment in U.S. production. Imposing relief, therefore, on the foreign production of countries whose mills have substantial operations in the United States would not only be unnecessary, it would be counterproductive.

Another key point is that all of these countries have substantial home markets, face the same global issues regarding production capacity, and unlike the U.S. producers, have not contributed to the further growth of world capacity by expanding their own capacity. These countries have an incentive, along with the United States, to work toward capacity reductions.

Imposing restrictions on imports from these countries would only serve to potentially alienate probable allies in the effort to rationalize worldwide production.

Finally, to the extent that trade practices are relevant, these nations have not been the frequent targets of U.S. trade relief actions, and to the extent that they have been the target of such actions, they have adjusted their pricing and the like to address these actions and have not been accused of circumventing any orders.

In sum, to impose restrictions on imports of steel from these countries would not only not provide greater national security, it could potentially imperil the national security by cutting off a source of supply from allies, imperiling these alliance relationships, and potentially deprive the U.S. with an ally in efforts to rationalize worldwide production.

5. Other Questions

Sec. Ross raised eight questions at the hearing. We address them as follows:

- 1) Does the import problem rise to a crisis sufficient for remedies beyond those currently addressed through antidumping (AD) and countervailing (CVD) duty cases?*

As discussed above, the import problem is not at a level of crisis sufficient for the imposition of remedies beyond antidumping and the countervailing duty laws. Quite to the contrary, to the extent that imports are an issue, the antidumping and countervailing duty laws already provide a full and complete remedy to address purported unfair trade practices including subsidies and dumping. Furthermore, §232 was not intended to be a general trade remedy, but rather was intended to focus on imports that were placing the national security in peril, not simply imports that might be having a deleterious impact on the overall economy.

2) If the President decides to take action, should it cover all steel from everywhere?

As discussed above, during the hearing much of the comment focused on a limited range of countries. Taking action against steel from everywhere, particularly from those nations with whom the United States has strong military alliances, would actually have a negative impact on the National Security by sending the wrong message to our allies that they cannot be trusted in the event of a crisis.

3) What should be done with regards to the 20% plus imports from our NAFTA partners?

The NAFTA partners should be treated in the same fashion as the NATO nations as strong allies of the United States.

4) Should all steel products be covered?

As discussed above, the SBQ Bar industry should not be included within any restraints imposed as a result of this action. The level of penetration of non-North American SBQ is not significant but satisfies critical needs in the U.S. market. The U.S. industry that produces SBQ is strong and healthy and is fully capable of fully satisfying any demands of the national defense and critical industries.

5) Is some sort of tariff-rate quota appropriate or should it be a more broadly based tariff?

To the extent restraints are imposed, they should be carefully structured to avoid harm to the end users. Any restraints should also avoid any unintended consequences and harm to other industries. If the United States elects to impose a tariff-rate quota, it should be tiered with no additional duties imposed for the first tier, and non-prohibitive duty rates for subsequent tiers. Magellan further notes that the domestic industry has proposed as a baseline the period 2010/11. This was the zenith of the impact of the global financial crisis and was thus a nadir of steel

consumption. To the extent that restrictions are based on levels of imports into the United States, they should not be based on outliers such as 2010/11.

6) Are there products or countries that should be excluded?

Yes. As discussed in response to questions 2 and 4, we explained that both the products and the countries covered by any restraints should be limited in the event that restraints should be imposed.

7) Is there some more innovative solution?

Representative Kaptur, in her presentation to the Department, suggested that the Department might want to explore bridge financing to ensure that U.S. steel producers are modern. To the extent that bridge financing would be used for technical improvements, this would help to further ensure the viability of the U.S. steel industry. In addition, the United States should work closely with its strong allies and work through the OCED and the G-20 to bring about capacity reductions in those sectors which have too much capacity.

8) If we go the tariff route, should it be broadly applied or should there be a tariff schedule for groups and products?

If tariffs are imposed, they should not be broadly applied, but rather should be focused on specific groups, products and countries. In particular, additional duties should not be imposed on SBQ steel and related products.

About Magellan

Magellan Corporation is a distributor of Carbon and Alloy Steel bars established in 1985. It primarily sells to other distributors. Over the past 10 years, on a weighted average basis, approximately 1/3 of the steel bought by Magellan has been produced in the United States. Much of the product imported and distributed by Magellan from outside the United States is product that

is not readily available in the United States – whether the issue is that of supply, tolerances, metallurgy or quality.

Exhibit One
Lead Times



TIMKENSTEEL LEAD TIMES – 5/30/2017

Tubes

LEAD TIME

HR (no thermal treat)	20 – 22 Weeks
HR single thermal treat – anneal / temper / normalize	23 – 25 Weeks
HR double thermal treat – normalize & temper	24 – 26 Weeks
*HR quench & temper	21 – 23 Weeks

Bars 1.800” - 6.00” Diameter

HR (no thermal treat)	18 - 20 Weeks
HR single thermal treat – anneal / temper / normalize	18 – 20 Weeks
HR double thermal treat – normalize & temper	19 – 21 Weeks
*HR quench & temper	19 – 21 Weeks

Bars > 6” Diameter

HR (no thermal treat)	17 – 19 Weeks
HR single thermal treat – anneal / temper / normalize	18 – 20 Weeks
HR double thermal treat – normalize & temper	19 – 21 Weeks
*HR quench & temper (> 6” thru 9”)	19 – 21 Weeks
*HR quench & temper (> 9” – 12”)	19 – 21 Weeks
*HR quench & temper (> 12”)	22 – 24 Weeks

**Depending on heat treat facility*