WRITTEN SUBMISSON OF THE NATIONAL FOREIGN TRADE COUNCIL

Comments Regarding the Section 232

National Security Investigation of Imports of Steel

May 31, 2017

Introduction

These comments are submitted by the National Foreign Trade Council ("NFTC") to assist in the *Section 232 National Security Investigation of Imports of Steel* (the "Steel Investigation"). On April 19, 2017, the Secretary of Commerce initiated this investigation under Section 232 of the Trade Expansion Act of 1962, as amended, to determine the effects on the national security of the imports of steel. Pursuant to a Federal Register notice, published on April 26, 2017 (the "FR Notice"), interested persons have been asked to submit comments in connection with the investigation.

NFTC is dedicated to making America more competitive in the global economy by ensuring the adoption of forward-looking tax and trade policies, by strengthening global rules and by opening foreign markets to U.S. products and services. Our strong support for these objectives, and our belief that their fulfillment is essential to our members' success in a globalized economy, have been unwavering for decades. We therefore believe that it is critical to provide policymakers in the Administration with our clear views about the role trade and tax policies play in unleashing a new era of U.S. competitiveness.

NFTC represents more than 200 companies and our membership spans the breadth of the national economy. It includes sectors such as energy products, capital goods, transportation, consumer goods, technology, healthcare products, services, e-commerce and retailing. Our companies account for more than $3 trillion in total sales worldwide, employ over five million Americans and produce a huge share of our nation's total exports. Our stake in ensuring a healthy national economy and promoting our global leadership is enormous.

NFTC's membership includes some of America's largest manufacturers of autos, heavy equipment and industrial goods. These companies are among the steel industry's largest and most reliable customers. Steel inputs – such as steel sheet and plate products – represent a large portion of their costs of production. Our membership also includes some of the largest global energy producers and construction companies, which are major purchasers of steel pipe and tube for oil pipelines and other energy-related infrastructure, as well as products such as steel reinforcing bar for general construction projects. Finally, our membership includes major players in the large retailing, consumer goods and technology sectors, all of which purchase significant quantities of certain specialized steel products.[1] These member companies source a major portion of their steel needs from domestic producers. However, they also rely to some degree on imported steel, especially in those cases where domestic sources are insufficient or products cannot be supplied competitively within the time constraints required by production demands. Thus, imports fill a limited but important gap in the supply chain for all of these companies.

Analysis

In considering whether to impose restrictions on steel imports for national security reasons, it is important to keep in mind two important facts about those industries that rely on steel as a key input to their production. First, steel-consuming companies producing goods in the U.S. account for a vastly greater share of total manufacturing output and employment than does the domestic steel industry itself. The U.S.-based auto and auto parts industry employs over 800,000 production workers, more than four times as many as are employed by U.S. steel producers. The construction industry, which accounts for a majority of all steel consumption, employs nearly 8 million production workers. Many other steel-consuming sectors have larger employment than the steel sector. Secondly, many steel-consuming companies are also major suppliers for our nation's defense-related needs, building the ships, aircraft, machinery, high technology weapons and other goods that a modern military demands. Therefore, these downstream industries are critical to the U.S. industrial capacity and the nation's security is weakened if the production capacity of these industries is curtailed. Because of these two factors – employment effects and national security needs – it is of utmost importance to weigh carefully the potential effects of higher steel tariffs or restrictive

1 Companies in the retail, consumer goods and technology sectors are large users of downstream steel products, including racking, decking, and shelving used in warehousing and exhibiting merchandise. These companies are also significant users of steel construction products, such as steel reinforcing bar, in their store and warehouse construction.

quotas on these steel-consuming sectors. To that end, we are providing the following comments about the potential impact on our member companies' operations.

At the outset, we want to emphasize that NFTC members recognize the importance of ensuring that global trade in steel and other input products is fair, and that U.S. trading partners play by the rules. To the extent that our trading partners are engaged in dumping or subsidization of steel exports the United States, those imports are rightly subjected to trade remedies under the U.S. statutes governing antidumping and countervailing duty investigations. Further, to the extent that significant downward pressure on steel commodity prices is being felt due to overcapacity of production in certain foreign markets, most significantly China, global solutions, such as multilateral agreements on orderly capacity reduction, should be found. We strongly endorse efforts by the Administration to pursue reasonable outcomes through the Global Forum on Steel Excess Capacity that was created last year after the G20 Summit, or through the OECD and other international fora.

We are, however, extremely concerned about the notion of seeking to remedy unfair trade or global overcapacity through an overly broad definition of "national security" and the use of sweeping trade restrictions under Section 232. We do not believe that this is the proper role of a "national security" related remedy, which should be more narrowly focused on two considerations: (a) what specific national security needs are not being met; and (b) whether a targeted remedy that is not unduly disruptive to the rest of our national economy can ensure essential supply to our defense sector. If the focus is something different, such as to remedy unfair trade practices, we believe the proper course of action is for the industry to seek relief under the laws established for those purposes, such as the antidumping and countervailing duty laws. These laws have well-established procedural requirements for determining injury and assessing the appropriate scope and level of remedies.

It is important to understand the potential impact that significant restrictions on steel imports could have on our companies' domestic manufacturing or sales. For example, in the case of auto and heavy equipment manufacture, steel represents by far the largest single input. Given the relative importance of steel as an input in such production, higher costs for steel will significantly affect the cost structure of the manufacturers and exert downward pressure on output, production and employment.[2] Higher steel prices will also undermine their ability to produce for export and to compete internationally. In fact, most of these steel-consuming industries compete in a global economy and do not rely on high levels of import protection to maintain their global competitiveness or U.S. production base. Hence it is vital for you to weigh the costs of any Section 232 relief for the companies discussed above against the potential benefits in terms of greater availability of domestic steel. A number of trade associations representing these steel-consuming industries have filed useful comments in this regard, which we urge you to review very carefully. These include the following: Written Submission of American Automotive Policy Council (dated May 31, 2017); Written Submission of the Truck and Engine Manufacturers Association (dated May 31, 2017); Written Submission of Association of Equipment Manufacturers (dated May 31, 2017); see also Supplemental Comments of the American Petroleum Institute, et. al (Department of Commerce, Docket No. 170309252-7252-01, dated May 16, 2017)(comments filed regarding construction of pipelines using domestic iron and steel).

These submissions make the clear and convincing case for balancing the interests of consuming industries against the advisability of restrictions for national security reasons. First, as noted earlier, steel-consuming companies employ millions of American workers who will be directly impacted by the inability of their U.S. employers to obtain needed steel inputs or, if those companies can obtain the inputs, to pay significantly more for the cost of these inputs. The submissions also underscore why any introduction of trade barriers at the U.S. border will create enormous business uncertainty for manufacturing companies who, by nature of their production schedules, must make commodity-sourcing decisions far in advance of their manufacturing timelines. Further, broad-based remedial measures will not be able to take account of

2See "*The Unintended Consequences of U.S. Steel Import Tariffs: A Quantification of the Impact During 2002*" (CITAC Foundation, 2003).

situations where a steel input (a) is not made in the United States, (b) is in short supply in the United States or (c) cannot be produced within a production-driven time frames of U.S. manufacturers.[3]

Trade-restrictive measures affecting steel imports will also have an effect on the ability of U.S companies who use steel as an input to export U.S.-made products. Often, steel-derived products are made in the United States for export to foreign markets where they compete with foreign-manufactured products. If tariffs or quotas are used to raise the costs of imported steel products, and U.S.-based manufacturers are compelled to pay more for steel inputs than their foreign competitors, the U.S. companies will be at a competitive disadvantage. As a result, these companies will face fewer export sales or be priced out of the global markets entirely, potentially leading to the relocation of some U.S. production overseas. This is surely not the result that a Section 232 investigation aims to achieve.

In addition, introduction of new remedies against U.S. trading partners who have not been found to be engaged in dumping or subsidization runs the risk of inviting retaliation from those trading partners. Our trading partners who export steel products and have not engaged in unfair trade practices, while other steel-exporting countries, such as China, have been found to do so under U.S. law, should not find their exports burdened by additional tariffs or other trade-restrictive measures when they have, in fact, been playing by the rules.

There is also the danger that trade-restrictions imposed on imports to our market will create an incentive for similar actions to be taken by our trading partners. If the United States tries to justify a broad-based tariff or quota for all steel products on the grounds of "national security," it will embolden other countries to use the same justification on other categories of products – whether on our exports of capital goods, civil aircraft, technology products or pharmaceuticals. This reaction may create a new wave of non-tariff protectionism, which could harm a large number of America's most competitive sectors in ways we do not anticipate. The Administration should carefully weigh the adverse effects of signaling to the world that it is appropriate to use broad, generalized protection for any particular sector by justifying its actions on national security grounds.

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3 We note that the Department of Commerce has not announced any specific process to provide companies with a means to ask for exclusions from a determination. The imposition of import restrictions without the possibility of seeking an exclusion from the determination, such as for steel products that are unavailable in the quantities or with the product specifications required by U.S. end-users, would have immediate and damaging effects upon a broad range of U.S. industries and would put U.S. manufacturing jobs at risk.

Conclusion

In conclusion, we want to summarize our main concerns with the potential imposition of trade restrictions on a broad range of steel products under Section 232:

- First, national security restrictions should be imposed only selectively on a limited range of products where a critical need is identified and where import restrictions are the most appropriate remedy and are tailored to the threat to the national security with an appropriate process for determining needed exceptions;
- Second, the impact on steel users, which comprise a far greater share of total manufacturing and GDP than steel, must be carefully considered, thus assuring that increased prices and reduced availability of steel products will not cause damage that could far outweigh the national security benefits of trade restrictions;
- Third, the use of broad-based Section 232 remedies to severely limit steel imports will affect hundreds of steel-consuming companies in the auto, heavy equipment, oil and gas, construction, retail and consumer goods sectors, creating significant disruptions to their production schedules and on their ability to meet their own customers' demands for products. Trade-restrictive measures of this type will significantly affect the cost structure of the manufacturers and exert downward pressure on output, production and employment. Higher steel prices will also undermine their ability to produce for export and to compete internationally;
- Fourth, sweeping restrictions on steel imports that are justified on national security grounds will risk reciprocal actions by our trading partners in other sectors, including actions based on similarly broad and unjustified national security grounds, which would have major impacts on our most competitive export sectors.

Thank you for the opportunity to present our comments. If you have any questions regarding our comments, please contact Rufus Yerxa, President of the NFTC, at (202) 887-0278.