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May 31, 2017

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

**Re: Written Submission of the Specialty Steel Industry of North America
in Connection with Section 232 National Security Investigation on
Imports of Steel**

Dear Mr. Botwin:

The Specialty Steel Industry of North America (“SSINA”) files these comments in response to the Bureau of Industry and Security’s (“BIS”) request for public comments regarding its Section 232 National Security Investigation on Imports of Steel. These comments supplement the written testimony of SSINA Chairman Dennis Oates and Vice Chairman Terrence Hartford presented during the May 24, 2017 public hearing. SSINA applauds the Administration for undertaking this important analysis, and for offering interested parties the opportunity to present information on how imports of steel into the United States detrimentally affect national security and the national defense.

SSINA is a trade association that represents nearly all North American specialty metals producers.¹ SSINA members produce many different types of products, including stainless steels, tool steels, high performance alloy steels, and other specialty metals, including nickel-based alloys, superalloys, titanium and titanium alloys, and zirconium and niobium alloys. These specialty steels and specialty metals are used in many of our country's most significant defense platforms, including nine of the ten largest Department of Defense Weapons Programs.

U.S. imports of specialty steels, particularly stainless steel, have had a long-term deleterious effect on the specialty steel industry's commercial markets. Stainless steel import penetration levels remain at historic highs in these markets, and global excess capacity to produce stainless steel far exceeds global demand. The relationship between the specialty steel industry's ability to achieve a reasonable level of profitability in its commercial markets, and the industry's ability to manufacture the specialty steels that are the building block of our military platforms, is a central element of this Section 232 investigation. Without a healthy commercial market, the U.S. specialty steel industry will lose its ability to develop and produce the specialty metals that are the foundation of our defense industrial base. Steel imports, and the global excess capacity that drives those imports, threaten to impair the U.S. national security by undermining the ability of U.S. specialty steel producers to support our nation's military needs. Section 232 is explicitly designed to address that threat.

¹ A complete list of members can be found at http://www.ssina.com/members_sponsors/members.html.

I. **SECTION 232 INVESTIGATIONS REQUIRE A HOLISTIC ANALYSIS OF IMPORTS' EFFECTS ON NATIONAL SECURITY AND RECOGNIZE THE RELATIONSHIP BETWEEN THE ECONOMIC HEALTH OF CERTAIN SECTORS AND NATIONAL SECURITY**

BIS conducts a Section 232 investigation in accordance with the Trade Expansion Act of 1962, as amended.² The principal purpose of the investigation is to determine whether imports into the United States have a negative effect on national security. The statute and implementing regulations take a holistic approach to this analysis by directing the President and the Secretary of Commerce to consider the overall health and viability of certain domestic industries that contribute to national security. Specifically, this analysis includes, among other factors, the domestic production required for national defense purposes, the capacity of the U.S. industry to meet those production levels, and the availability of products necessary for the national defense.³

Further, the statute and regulations specifically recognize the nexus between the strength of the economy and the ability of domestic industries to fulfill national security requirements, directing the President and Secretary of Commerce to consider “the close relation of the economic welfare of the Nation to our national security,” and to “take into consideration the impact of foreign competition on the economic welfare of individual domestic industries...in determining whether such weakening of our internal economy may impair the national security.”⁴ The statute directs BIS to consider how an imported article may affect “any domestic industry essential to our national security.”⁵ The regulations do not require a precise correlation between the article under investigation and the domestic industry that may be affected. BIS will further consider whether

² See 19 U.S.C. § 1862.

³ 15 C.F.R. § 705.4(a).

⁴ 19 U.S.C. § 1862(d). BIS has implemented these mandates at 15 C.F.R. § 705.4(b).

⁵ 15 C.F.R. § 705.4(b)(1) (emphasis added).

imports of the article under investigation may result in the loss of any specialized skills or productive capacity, such as by diminishing or prohibiting the necessary investment in research and development.⁶

II. THE SPECIALTY STEEL INDUSTRY IS CRITICAL TO U.S. NATIONAL DEFENSE

A. Background on SSINA Products Used in Defense Applications

Specialty steels and other specialty alloys are high technology products that have unique mechanical and physical properties. These properties allow these materials to perform under the most severe operating conditions; conditions typical of those in which our military systems must function. In many instances, these products are proprietary and sole-sourced, designed to meet specific applications, and are only available from domestic producers. This level of specialization often means that these products have no direct substitute, are not available “off-the-shelf,” and are often manufactured in limited quantities.

Specialty steel companies regularly cooperate with the Departments of the Navy, Air Force, and Army in the development of these materials in order to satisfy the unique demands of our military systems, including our military aircraft, ground vehicles, and naval vessels. The demands of our armed forces evolve constantly. To fulfill those needs, these companies must consistently invest in the research and development of materials for both current and future defense applications.

B. SSINA Products are Vital to Virtually All U.S. Military Platforms

An analysis of the use of specialty metals in U.S. platforms, the Department of Defense’s (“DoD”) own studies, and other statutes demonstrate the criticality of specialty metals to national

⁶ See 15 C.F.R. § 705.4(b)(2).

security and, specifically, to national defense applications. SSINA members make products for nearly all platforms used by the U.S. armed services, including aerospace systems, land-based vehicles, naval systems, and missiles, among others. Advanced weapons systems can neither be built nor operated without these products. The chart below is a brief sample of leading edge military platforms and the specialty metal products used in the platforms:

<u>Platform/Application</u>	<u>Specialty Metal Product</u>
Missiles (warheads)	High-strength steels
Aircraft (bulkheads)	Stainless steel
Aircraft (landing gear)	Stainless steel
Helicopters (jet engine bearings)	Alloy steel
Humvee (suspension springs)	High-strength alloy steel
Submarines (missile tubes)	Nickel alloys
Nuclear (valves and fuel rods)	Stainless steel

This sample illustrates that the full spectrum of SSINA products, including stainless steel, has significant military uses critical to national security.

Indeed, based on funding for fiscal year 2015, nine out of the top ten and sixteen out of the twenty-five largest DoD weapons programs contain U.S.-melted specialty steels and/or metals produced by SSINA member companies, including weapons programs covering all major military

platforms.⁷ Member companies also produce items necessary for the operation of missiles and rockets,⁸ as well as other types of munitions and items for specialized armors.

The DoD has independently performed detailed studies which have affirmed that the availability of specialty metals is critical to national security. As part of an effort to identify and focus on technologies and products that are important to modern warfare, the DoD conducted multiple Defense Industrial Base Capabilities Studies (“DIBCS”). These DIBCS discuss both applications currently necessary for U.S. military platforms, as well as applications that would be necessary for future platforms. These analyses confirm that specialty metals are vital components of missiles, aircraft, helicopters, and submarines, among other platforms.

The U.S. Congress has also recognized the criticality of specialty steels and specialty metals to the national defense. To ensure the continued viability of the U.S. specialty metals industry, Congress enacted the Specialty Metals Amendment, a domestic sourcing restriction requiring that any DoD acquisition of specialty steels and metals for defense purposes be melted or produced in the United States or certain other qualifying countries subject to special cooperative agreements. Through several amendments, Congress has continuously reaffirmed that specialty steels and specialty metals are necessary to the preservation of the national defense.

⁷ See Attachment 1 (including F35 JSF, SSN Virginia Class Submarine and the CVN 78 Ford Class Nuclear Aircraft Carrier).

⁸ Including the Trident II Ballistic Missile.

III. IMPORTS OF STEEL INTO THE UNITED STATES HAVE A DIRECT NEGATIVE EFFECT ON THE CONTINUED PRODUCTION AND DEVELOPMENT OF SPECIALTY METALS THAT ARE VITAL TO NATIONAL SECURITY

There is a direct linkage between the ability of the specialty steel industry to maintain sufficient levels of profitability and return on investment in its commercial markets and the ability of the industry to develop and produce the specialty steel and specialty metals products that are critical to our national defense. Relevant to this analysis is the specialty steel industry's long-standing efforts to identify and obtain remedies against unfair imports and how that struggle continues to this day and threatens to impair the industry's ability to meet the important needs of the national defense.

A. Specialty Metals Manufacturers Must Achieve Adequate Profits on Commercial Products to Maintain Their Ability to Produce and Develop Products With Specific National Security Applications

The economic and structural realities in the specialty steel and specialty metals industry dictate that the continued production and commercial sale of stainless steel in sheet, strip, plate, bar, rod, angles, and other finished products is crucial to the industry's economic health. The specialty steel industry cannot maintain the necessary levels of production, investment, and research and development in leading-edge specialty metals for defense purposes if its core products are disadvantaged by unfair imports. First, specialty metals that are consumed in specific defense applications account for only a fraction of SSINA members' domestic production. The vast majority of SSINA members' production remains tied to the commercial (non-defense) market. While many of the industry's commercial markets have significant implications for our nation's economic security, including energy, nuclear power, and infrastructure, the leading-edge materials that go into U.S. defense applications account for only about ten percent of total production.

Second, the industry's health is dependent on achieving certain economies of scale. The capital equipment used to produce specialty metals is the same as that used to produce commercial products, and many of the personnel also overlap. The efficiencies that are achieved by the larger volume commercial segments are vital to facilitating continued production of cutting edge specialty metals for defense applications and to continued investment into research and development to ensure U.S. defense platforms remain capable of performance at the highest levels. Therefore, the headwinds created by unfairly traded imports directly affects the ability of the U.S. specialty steel industry to produce and develop the materials that are necessary for our most crucial military platforms and applications.

B. The Specialty Steel Industry's 40-Year Battle Against Unfairly Traded Imports

1. Overview of Unfair Trade Actions Addressing Specialty Steel Products

The U.S. specialty steel industry has confronted unfairly-priced imports for 40 years, and growing volumes of imports have had a devastating impact on the U.S. industry as reflected by the history of trade actions pursued by the domestic producers. Between 1976 and 1992, quotas or Voluntary Restraint Agreements ("VRAs") were imposed against imports of most specialty steel products, including stainless and alloy tool steels. During the 1990s, following the termination of the VRA programs, antidumping and countervailing duty cases were filed on imported stainless steel sheet and strip from France, Germany, Italy, Japan, Korea, Mexico, Taiwan, and the United Kingdom, and countervailing duty cases were filed against imports from France, Italy, and Korea. During that same period, the U.S. industry filed antidumping actions against imports of stainless steel plate from Belgium, Canada, Italy, Korea, South Africa, and Taiwan and countervailing duty actions against imports from Belgium, Italy, Korea, and South Africa. As China's stainless steel

industry increased its production capacity beyond any reasonable projection of domestic demand within China, the U.S. industry faced extremely aggressive competition from unfairly low-priced imports of stainless sheet and strip from China and filed a successful antidumping and countervailing duty case against Chinese imports in 2016.

Similarly, there is a long history of actions against imports of unfairly traded stainless steel long products, including successful cases against imports of stainless steel bar from Brazil, France, Germany, India, Italy, Japan, Korea, and the United Kingdom, as well as unfair trade cases covering wire rod from Brazil, India, Italy, Japan, Sweden, and Taiwan. Stainless steel long products, including bar and wire rod, were also included in a Section 201 safeguard action taken in 2001 that resulted in the imposition of tariffs.

Even though these unfair trade orders generally succeeded in reducing import volumes and changing unfair foreign pricing behavior by producers in certain countries – often resulting in the revocation of these orders – producers in other countries that were not subject to antidumping or countervailing duty orders exploited the same unfair trade practices to capture U.S. market share from domestic producers. The current status of orders is summarized below in Section IV.B.3.

2. **Unfair Import Competition Has Had a Serious Negative Effect on the U.S. Specialty Steel Industry**

The recurring attacks by foreign producers on the U.S. stainless market have devastated the U.S. stainless steel and specialty metals industry. The industry has seen multiple plant closures that affect the industry's capability to manufacture key products. Most recently, for example, U.S. stainless flat-rolled producer Allegheny Technologies Incorporated ("ATI") closed its stainless steel melt shop and sheet finishing operations in Midland, Pennsylvania in 2016, in part due to "the expectation of continued significant excess global capacity for commodity stainless steel

sheet.” As discussed below, most of this global excess capacity was directly attributable to the irrational capacity expansions by China’s industry.

Similar plant closures have occurred in the stainless long product sector in response to pressures from unfairly traded imports. These plant closures occurred as imports increased their share of the U.S. market from 29.3 percent in 1995 to 47.5 percent in 2016, despite rounds of unfair trade cases on stainless steel bar.

C. The Current State of the U.S. Specialty Steel Industry Is Precarious

1. Massive Overcapacity in China Is a Serious Threat to the Health of the U.S. Specialty Steel Industry

Spurred by actionable subsidies bestowed on priority sectors by the Chinese government, China’s specialty steel industry has grown at a rate that has thrown the entire global market into chaos. According to data published by the International Stainless Steel Forum, production of stainless and heat resisting steel in China expanded from a level of 3.2 million metric tons in 2005, to 6.9 million tons in 2008, to 16.1 million tons in 2012, to 21.7 million tons in 2014, and to 24.9 million metric tons in 2016. This represents an increase of 21.8 million metric tons, or a 689 percent increase, in the 11-year period from 2005 to 2016. Over this same period, China’s share of global melting of stainless and heat resisting steel grew from 12.9 percent in 2005 to 54.5 in 2016. Indeed, China accounted for more than 100 percent of growth in the global output of stainless and heat resisting steels between 2005 and 2016 (i.e., China’s growth expanded while production contracted in other countries).

While the output of China’s specialty steel industry has increased at a staggering rate, the growth in its capacity to produce stainless steel has been even more dramatic. In 2014, China’s capacity to melt stainless steel was estimated at 34 million metric tons and its production was

estimated at 22 million tons – yielding an excess capacity of 12 million metric tons. Between 2014 and 2017, China is reported to have added an additional 4.5 million metric tons of capacity to produce stainless steel, yet its domestic consumption was estimated to have increased by just 0.5 million tons, meaning that as much as an additional 4 million tons of capacity in China were devoted to export markets.

Data from the recent antidumping and countervailing duty investigations on stainless steel sheet and strip from China illustrate the growth of the Chinese industry and the threat that growth presents to the U.S. industry. While the U.S. International Trade Commission received questionnaire responses from just seven of the 55 firms believed to be producers of stainless steel sheet and strip in China in the course of its 2016 investigation, even the data from this limited number of producers provided staggering evidence of the growth in China's industry. Capacity to produce stainless steel sheet and strip reported by these seven Chinese producers increased from 4.3 million short tons in 2013 to 5.4 million tons in 2016, an expansion of 1.1 million tons, or 24.2 percent, in just two years. These same data show that production of stainless steel sheet and strip totaled 4.5 million tons, indicating that these seven Chinese producers alone had over 800,000 tons of excess capacity in 2015. The massive threat that these increases in Chinese production capacity and excess capacity present to the U.S. industry is demonstrated by the fact that U.S. consumption of stainless steel sheet and strip in 2015 totaled 2.0 million short tons, meaning that the seven responding Chinese producers had sufficient excess capacity to supply 40 percent of the entire U.S. market without redirecting a single ton of their existing sales from any other market.

2. The U.S. Stainless Steel Flat Products Industry

The surge in unfairly-priced imports of stainless steel sheet and strip from China had a crippling impact on the U.S. industry. As imports from China more than doubled their share of

the U.S. market between 2013 and 2015, the U.S. industry lost 4.2 percentage points of market share and domestic production of stainless steel sheet and strip declined by 4.1 percent, despite increasing demand in the U.S. market for that product. In 2015, the domestic industry's capacity utilization stood at just 66.2 percent. Further, the value of the domestic industry's net sales declined by 11.5 percent from 2013 to 2015, and the industry's financial performance fell to an operating loss of 4.7 percent of net sales value in 2015 and a net loss of 9.6 percent of sales value. The industry suffered a staggering net loss of \$350 million in 2015. In determining that unfairly traded imports from China were a cause of material injury to the domestic industry, the U.S. International Trade Commission found that:

The domestic industry's output, employment, and financial performance all declined as low-priced subject imports remained in the market and the domestic industry was forced to lower prices in order to maintain market share. We accordingly find that the significant and increased volume of subject imports, which gained market share at the expense of the domestic industry through significant underselling, had a significant impact on the domestic industry.⁹

3. The U.S. Stainless Steel Long Products Industry

The recent experience of the stainless steel long products industry is similar to that of the stainless sheet and strip industry. Import data and internal information of the U.S. stainless steel bar industry show that imports command a substantial and increasing share of the U.S. market. While imports accounted for 45.0 percent of domestic consumption of stainless bar in 2014, that already high percentage further increased to 47.5 percent in 2016. As the domestic industry lost 2.5 percentage points of market share, its trade and financial performance declined dramatically.

⁹ Stainless Steel Sheet and Strip from China, Inv. No. 701-TA-557 and 731-TA-1312 (Final), USITC Pub. 4676 at 22-23 (Mar. 2017) (footnotes omitted).

Domestic production of stainless steel bar fell by 28.3 percent from 2014 to 2016, and the domestic industry's capacity utilization fell from an anemic level of 44.5 percent in 2014 to just 33.2 percent in 2016. Domestic shipment volumes fell by 25.8 percent from 2014 to 2016, while the value of domestic shipments plummeted by 39.1 percent. The U.S. industry's financial performance also declined dramatically, with the value of net sales falling by 39.5 percent from 2014 to 2016. Most notably, the domestic industry's operating income fell from \$79.2 million in 2014 to just \$2.7 million in 2016, a decline of 96.6 percent.

Despite the persistent pursuit of unfair trade actions, low-priced imports continue to plague U.S. producers of specialty steel long products. The levels of capacity utilization and profitability experienced by the domestic industry in recent years cannot be sustained over the long term. Notably, some of these stainless long product producers also produce the high performance specialty steels and specialty metals that are used in defense applications, including in military aircraft.

IV. BIS SHOULD DETERMINE THAT IMPORTS OF SPECIALTY STEEL THREATEN NATIONAL SECURITY

Imports of specialty steel, particularly stainless steel, are threatening a key sector of the defense industrial base. The Section 232 analysis is intended to be holistic and analyze all relevant factors, rather than a formulaic review of specific indicators. This includes assessing the nexus between economic health and national security, recognizing that commercial viability may be necessary to sustain the necessary levels of production and continued development of crucial technologies.

U.S. specialty steel producers have suffered injury from unfair imports and unacceptable levels of import penetration in their commercial markets. Massive global overcapacity further

threatens these markets. If these conditions are not addressed, these companies will be unable to operate at sufficient levels of profitability to maintain the investment and skills necessary to sustain the continued production of the leading-edge high performance materials that support our defense industrial base. The economic realities of the specialty metals industry require robust production and sales of commercial products to preserve the ability of domestic manufacturers to produce and develop products for key defense platforms.

The reduced economic welfare of the commercial steel operations of the specialty steel industry have deleterious effects on the ability of the U.S. industry to provide for the needs of our national defense and support a finding under Section 232 of a threat to national security. The President must, therefore, fashion a remedy to mitigate these conditions and ensure that the industry has fair and reasonable access to its commercial markets, including limiting imports to levels that will ensure reasonable returns on investments in those commercial markets.

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We appreciate the Bureau of Industry and Security's consideration of these comments. Please do not hesitate to contact the undersigned with any questions or concerns regarding this submission.

Respectfully submitted,



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