PUBLIC VERSION

UNITED STATES DEPARTMENT OF COMMERCE
BUREAU OF INDUSTRY AND SECURITY
Washington, D.C.

IN THE MATTER OF **SECTION 232 NATIONAL SECURITY INVESTIGATION OF IMPORTS OF STEEL**	)	**Investigation No. 232-___** **PUBLIC VERSION**

WRITTEN COMMENTS OF AK STEEL CORPORATION

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EXHIBITS

I. INTRODUCTION

On April 19, 2017, the Secretary of Commerce initiated an investigation under Section 232 of the Trade Expansion Act of 1962, as amended,[1] for the Department of Commerce ("Commerce") to determine the effects on the national security of imports of steel. On April 26, 2017, Commerce published a *Federal Register* notice stating that it would conduct a public hearing on May 24, 2017, and that written comments should be filed by May 31, 2017.[2] Pursuant to Commerce's notice, AK Steel Corporation ("AK Steel") submits the following comments.

II. BACKGROUND

A. Overview of AK Steel

AK Steel is headquartered in West Chester, Ohio and employs approximately 8,500 employees at its domestic operations, including eight steelmaking and finishing plants, two coke plants, a metallurgical coal production facility and two tube manufacturing plants across Indiana, Kentucky, Michigan, Ohio, Pennsylvania and West Virginia.[3] Around 6,500 AK Steel employees are represented by labor unions, including the United Steelworkers, United Auto Workers, and the International Association of Machinists. All three unions support AK Steel's efforts in this Section 232 investigation to highlight the serious threat posed by imported steel to our national security.[4] While AK Steel produces electrical, stainless, and carbon steels for use in

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1 19 U.S.C. § 1862.

2 Bureau of Industry and Security, *Notice Request for Public Comments and Public Hearing on Section 232 National Security Investigation of Imports of Steel*, 82 Fed. Reg. 19205 (Dep't Commerce, Apr. 26, 2017).

3 AK Steel Website: Production Facilities, attached as **Exhibit 1**.

4 The United Steelworkers, United Auto Workers, and the International Association of Machinists have submitted written materials to show their support. Letters from the United Auto Workers and the International Association of Machinists are attached to these written comments as **Exhibit 2**. AK Steel understands that the United Steelworkers intends to submit its own comments directly to Commerce, including its support for the U.S. government taking

various applications, all of which are affected by unfairly priced imports, these comments will be focused on specific products made by AK Steel with a direct link to our national security: electrical steel made for the electrical grid.

AK Steel produces (i) grain-oriented electrical steel, or GOES, which is used in cores and core assemblies for electrical transformers (including power transformers, switchgear, step-up, step-down, and distribution transformers), which power and transport energy for the nation's electricity grid, both in the large transformers powering the grid and smaller transformers that power individual neighborhoods and businesses; and (ii) high-end non-oriented electrical steel, or NOES, for use in large cores for electrical power generation and motors for hybrid and electric automobiles.[5] AK Steel melts and finishes electrical steel at its Butler Works facility in Pennsylvania and also finishes electrical steel at its Zanesville Works facility in Ohio.

Electrical steel is a highly specialized, very challenging-to-make product that requires dedicated equipment, advanced manufacturing process know-how, and sophisticated, well-trained, experienced employees. AK Steel has been a global innovator in GOES since creating the first electrical steels decades ago.[6] The company has a team of dedicated researchers, now operating out of a brand-new, world-class, 135,000 square foot Research and Innovation Center in Middletown, Ohio, who are working daily on the next breakthroughs in energy efficiency for the electrical grid and hybrid / electric automobiles.[7] AK Steel also works with the United States

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action to address the national security threat faced by the U.S. due to foreign steel imports, including electrical steel imports.

[5] [ ] is provided in **Exhibit 3**.

[6] Declaration of [ ] ("[ ] Declaration") at para. 3, attached as **Exhibit 4**.

[7] AK Steel Breaks Ground for New World-Class Research and Innovation Center, attached as **Exhibit 5**.

government on the development of NOES research. In December 2016, the U.S. Department of Energy ("DOE") selected AK Steel as one of a very select group to partner in the development of new NOES products for the next generation of highly efficient motors, including for use in hybrid and electric vehicles. This included a $1.8 million DOE award to AK Steel to support its innovation efforts.[8]

Despite its world-class production capabilities, employee knowledge, and strategic investments to meet the electrical steel technology needs for the future, the existence of the domestic electrical steel industry is under threat. Difficult market conditions resulting from low-priced imports led to the decision by Allegheny Technologies Incorporated ("ATI") to discontinue its electrical steel operations in 2016, leaving AK Steel as the only producer of GOES and high-end NOES in North America.[9]

B. U.S. GOES Production Is Critical To National Security

Electricity, and the infrastructure that produces and delivers electricity to the nation, is vital to the national security of the United States. The Presidential Policy Directive – Critical Infrastructure Security and Resilience (PPD-21) identifies energy as one of the Nation's critical infrastructure sectors that needs to be protected and modernized.[10] The DOE states that "electricity is an essential part of public health and safety and national security, and is thereby considered a critical or 'lifeline' function."[11] By extension, the "U.S. electric power grid is one

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[8] Carrie Blackmore Smith, "AK Steel awarded $1.8M from federal government," Cincinnati Enquirer, Dec. 12, 2016, attached at **Exhibit 6**.

[9] [ ] Declaration at para. 8.

[10] Department of Energy, Large Power Transformers and the Electrical Grid Report (April 2014) (hereinafter "DOE Electrical Grid Report") at vii, (citing The Presidential Policy Directive – Critical Infrastructure Security and Resilience (PPD-21), February 12, 2013), attached at **Exhibit 7**.

[11] Department of Energy, Strategic Transformer Reserve Report to Congress (March 2017) (hereinafter "DOE Transformer Report") at 1, attached at **Exhibit 8**.

of the Nation's critical life-line functions on which many other critical infrastructure depend, and the destruction of this infrastructure can have a significant impact on national security and the U.S. economy."[12]

The electrical grid faces many threats, such as damage from natural disasters (e.g., Superstorm Sandy and the Mid-Atlantic derecho in 2012), deliberate physical and cyber-attacks (e.g., Metcalf, CA substation attack and Entergy Arkansas attacks in 2013, as well as the Energetic Bear malware attack in 2014), and extreme terrestrial and space weather.[13] Severe events can pose significant risk to American citizens' lives and cost billions of dollars of disruption to the American economy. Aging electrical grid equipment compounds these problems, hindering the ability of power providers to re-establish service after blackouts and power outages. Weather-related power outages on their own, made worse by aging equipment, are estimated to have cost the U.S. economy an average of $18 billion to $33 billion annually from 2003 to 2012.[14]

As a result, the electrical grid is in desperate need of modernization. The U.S. Government has identified equipment failure and aging infrastructure in the electrical grid as a threat to national security. The American Society of Civil Engineers ("ASCE") has identified "design and construction of additional transmission grid infrastructure" as a strategic imperative to improve the condition of the nation's infrastructure.[15] The National Conference of State Legislatures ("NCSL") has observed that "{a}t least 31 bills were introduced in 11 states

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12 DOE Electrical Grid Report at vii.

13 DOE Transformer Report at 15 and DOE Electrical Grid Report at vii.

14 ASCE, 2017 Infrastructure Report Card: Energy D+, attached as **Exhibit 9**.

15 ASCE Public Policy Statement 484, July 9, 2016, attached as **Exhibit 10**.

highlighting the need for grid modernization, electricity reliability or financing projects to enhance the nation's energy security."[16]

Power transformers are central to these efforts. The electrical grid transmits electricity from over 6,000 power plants through approximately 390,000 miles of transmission lines. Power transformers are key to the entire network, because they adjust the voltage on each segment of power transmission from generation to the end-user.[17] Transformers "have long been a concern for the U.S. Electricity Sector," as the failure of a single transformer can result in "considerable revenue loss."[18] Transformers are so important to national security that Congress passed and President Obama enacted the Fixing America's Surface Transportation ("FAST") Act in 2015,[19] which included a directive for the DOE, along with other government and domestic industry partners, to establish a strategic transformer reserve to support and secure "critical electric infrastructure" and "defense and military installations."[20]

GOES and copper are the key raw materials for the manufacture of transformers. GOES accounts for almost 25 percent of the total cost of a transformer.[21] In fact, GOES "is the most critical component that has the greatest impact in the performance of the power transformer, because it is designed to provide low core loss and high permeability, which are essential to

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16 NCSL, Protecting the Nation's Energy Infrastructure: States Address Energy Security, Oct. 2013, available at: http*://www.ncsl.org/documents/energy/EnergySecurityFinal-10-13.pdf.*

17 DOE Electrical Grid Report at 5.

18 *Id.*

19 Pub. L. No. 114-94.

20 DOE Transformer Report at 3 and 23.

21 DOE Electrical Grid Report at vi and 11. Together, the two primary raw materials in cores, GOES and copper, account for half the total cost.

efficient and economical power transformers."[22] Even though global demand for GOES continues to increase, the availability of GOES sources is limited both in the domestic market and worldwide.[23] In 2013, AK Steel and ATI were the only domestic producers of GOES in the United States.[24] As noted above, ATI idled its production of GOES in 2016.[25] Today, there is only one U.S. producer – AK Steel – available to produce GOES that meets the standards for use in transformers for the electrical grid.[26]

As discussed below, the survival of domestic GOES production is threatened by imports being sold at unprofitable prices that the company cannot afford to match.[27] If this situation continues, AK Steel will be unable to maintain production of GOES.[28] Without AK Steel in the GOES market, the United States will have no domestic supplier of the key raw material required to maintain a secure electrical supply for the nation.

C. Imports Pose A Significant Threat To Continued U.S. GOES Production

AK Steel and other domestic steel producers have faced dramatic challenges in recent years as a result of global steel overcapacity and the oversupply of illegally-priced foreign imports. Foreign imports of steel products have significantly increased their market share in

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22 *Id.* at 11.

23 *Id.*

24 *Id.* at 13.

25 ATI Announces Rightsizing Actions to Align Flat Rolled Products Operations to Challenging Market Conditions, attached at **Exhibit 11**.

26 DOE Electrical Grid Report at 13.

27 AK Steel's production of GOES and NOES are inextricably linked by the use of shared equipment, employees, and research/development. To the extent AK Steel continues to experience severe pressure on its GOES business from imports, AK Steel's NOES business is also put at risk, and vice-versa. AK Steel is also the only producer of NOES left in the United States.

28 [ ] Declaration at para. 7.

recent years, reducing domestic capacity utilization rates as import volumes increase. The injury caused by those imports to the American steel industry is unmistakable: over 14,000 steel workers have lost their jobs since 2015,[29] as facilities across the country have idled or stopped production altogether. This includes the idling of AK Steel's steelmaking and slab casting facilities at its Ashland Works facility in Kentucky, which resulted in the layoff over 600 employees.[30] Even with this contraction of domestic steelmaking capabilities, the average utilization rate of the remaining U.S. mills remains below 75 percent.[31]

Since 2013, AK Steel has been a petitioner in AD/CVD investigations of six products, seeking relief from dumped and subsidized imports from 16 countries, including China.[32] The AD/CVD cases have been largely successful but only partially effective, as significant problems

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[29] AISI Comments On Administration Investigation Into National Security Implications Of Unfair Foreign Steel Imports, April 19, 2017, available at: *http://www.steel.org/~/media/files/aisi/press%20releases/2017/aisicommentson232eo.pdf?la=en*

[30] AK Steel Issues Notice to Temporarily Idle Portions of Ashland, Kentucky Works, attached as **Exhibit 12**.

[31] About AISI: Steel Industry Statistics, available at: *http://www.steel.org/about-aisi/statistics.aspx*

[32] *Grain-Oriented Electrical Steel From China, Czech Republic, Germany, Japan, Korea, Poland, and Russia; Institution of Antidumping and Countervailing Duty Investigations and Scheduling of Preliminary Phase Investigations*, 78 Fed. Reg. 59059, (Dep't Commerce, Sept. 25, 2013); *Non-Oriented Electrical Steel From China, Germany, Japan, Korea, Sweden, and Taiwan: Institution of Antidumping and Countervailing Duty Investigations and Scheduling of Preliminary Phase Investigations*, 78 Fed. Reg. 62660, (Dep't Commerce, Oct. 22, 2013); *Certain Corrosion-Resistant Steel Products From China, India, Italy, Korea, and Taiwan; Institution of Antidumping and Countervailing Duty Investigations and Scheduling of Preliminary Phase Investigations*, 80 Fed. Reg. 32606, (Dep't Commerce, June 9, 2015); *Cold-Rolled Steel Flat Products From Brazil, China, India, Japan, Korea, Netherlands, Russia, and the United Kingdom; Institution of Antidumping and Countervailing Duty Investigations and Scheduling of Preliminary Phase Investigations*, 80 Fed. Reg. 46047, (Dep't Commerce, Aug. 3, 2015); *Certain Hot-Rolled Steel Flat Products from Australia, Brazil, Japan, Korea, the Netherlands, Turkey, and the United Kingdom; Institution of Antidumping and Countervailing Duty Investigations and Scheduling of Preliminary Phase Investigations*, 80 Fed. Reg. 50028 (Dep't Commerce, Aug. 18, 2015); *Stainless Steel Sheet and Strip From China; Institution of Antidumping and Countervailing Duty Investigations and Scheduling of Preliminary Phase Investigations*, 81 Fed. Reg. 8544, (Dep't Commerce, Feb. 19, 2016).

persist. While successful cases on flat-rolled carbon steel products, stainless steel, and NOES have brought a degree of needed relief to the industry, imports from countries not subject to duties have increased, partially offsetting the decreased imports from the subject countries, and products subject to duties are, in some cases, being transshipped in circumvention of the orders. For example, Commerce is currently investigating whether Chinese producers are exporting hot-rolled and cold-rolled steel through Vietnam to avoid duties in the United States.[33] In some cases, non-subject imports are being pushed out of their own established markets by merchandise that is subject to order in the United States. Facing a surge of low-priced imports in their own markets, exporters are turning to the U.S. market to sell off their underutilized capacity.

If left unchecked, the continuous pressure on the domestic steel industry from the never-ending shifts of capacity targeting the U.S. market will continue to severely impact AK Steel and the other domestic steel producers. Although recent changes to the trade laws have strengthened enforcement efforts, unfairly traded imports remain an existential threat to the domestic steel industry.

Chinese GOES producers – including state-owned-enterprises such as WISCO, Baosteel, and Shenyang – added approximately 750,000 metric tons of GOES capacity in the last ten years, pushing total Chinese GOES production capacity over *one million* metric tons.[34] As China added this vast amount of capacity, which is almost three times AK Steel's capacity, China also effectively barred foreign imports of electrical steel from its own market through imposition of WTO-illegal countervailing duty orders on imports of GOES from the United States.[35]

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[33] *Certain Corrosion-Resistant Steel Products From the People's Republic of China: Initiation of Anti-Circumvention Inquiries on the Antidumping Duty and Countervailing Duty Orders*, 81 Fed. Reg. 79454 (Dep't Commerce, Nov. 14, 2016).

[34] [ ] Declaration at para. 9.

[35] *Id.*

Prior to 2009, exports to China represented a significant part of AK Steel's sales of GOES. In 2009, however, China imposed unnecessary and illegal countervailing duties on GOES manufactured in the United States, effectively barring AK Steel and other producers from selling in the Chinese market. In response, the United States Government, at the urging of AK Steel, filed a case at the World Trade Organization ("WTO") challenging China's baseless implementation of duties. In 2015, after five long years of litigation, the WTO ultimately determined that China did not meet its obligations under the WTO agreements when it imposed these countervailing duties on U.S.-produced GOES, including a failure by China's investigating authority to check the accuracy and adequacy of the evidence in an application to determine whether it is sufficient to justify initiation.[36]

Yet the damage had already been done to U.S. exports of GOES. China used the five year period during which U.S. made GOES was excluded from the market to dramatically increase Chinese electrical steel production capacity. China achieved this rapid expansion through state-sponsored subsidization of the Chinese GOES industry, which allowed Chinese producers to sell their newfound capacity at prices so low that no other producers could compete. With increased capacity and the ability to undersell all imports based on state subsidies, U.S. manufacturers had no chance to fairly compete in the Chinese market, even when they were allowed back in after the WTO ruled that China's protectionist duties were illegal. This increased capacity also allowed China to not only produce enough GOES to foreclose the Chinese market to foreign producers, but also to enable the Chinese GOES industry to become a net exporter of GOES. Now, Chinese overcapacity has led to increased shipments to the United

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[36] China-GOES (DS414), One Page Summary of Key Findings of this Dispute, available at: *https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds414_e.htm.*

States, where Chinese GOES continues to undersell U.S. producers in an attempt to repeat the exclusion of American-made GOES, but this time, in our own market.

Among other reasons for the recent surge in imports thus far in 2017 is the ongoing protectionist actions taken by China in 2016. In 2017, electrical steel imports have risen at a dramatic pace. AK Steel believes that this has occurred in large part as a result of trade cases brought by China against Japan and Korea (as well as the European Union) in 2016. The Chinese trade cases drove imports from Korea and Japan to the U.S. market, which became more attractive following duties imposed by the Chinese government. As a result, Korea and Japan have become—by a wide margin—the top two importers of GOES in 2017 through the first quarter, selling electrical steel products at unreasonably low prices.

Competition from low priced foreign imports of GOES has had a significant negative impact on the condition and performance of the domestic industry.[37] In 2013, AK Steel and ATI filed antidumping duty and countervailing duty petitions against imports of GOES from China, Czech Republic, Germany, Japan, Korea, Poland, and Russia.[38] In those cases, the Department of Commerce determined that GOES from these countries were being sold at dumped and subsidized prices in the U.S. market.[39] The International Trade Commission ("ITC"), however, determined that the domestic industry was neither materially injured, nor threatened with material injury, by reason of subject imports.[40] Since the ITC's negative determination in 2014, imports of GOES have surged, taking market share from the domestic industry.

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37 [ ] Declaration at paras. 10-11.

38 *Grain-Oriented Electrical Steel from China, Czech Republic, Korea, and Russia*, Inv. Nos. 701-TA-505 and 731-TA-1231, 1232, 1235, and 1237 (Final), USITC Pub. 4500 (Nov. 2014) at 1.

39 *Id.*

40 *Id.* at 3.

This surge of low priced imports drove ATI completely out of the GOES market in 2016.[41] ATI's decision to shut down its GOES operations in 2016 due to poor market conditions is a clear indication of the industry's vulnerability to increasing GOES imports. In fact, the threat is intensifying. There is significant, unused capacity to produce electrical steel in several countries.[42] If that excess capacity is utilized, it will be exported to the U.S. market, causing additional injury to AK Steel.

Global overcapacity and the illegal trade practices of China and other foreign producers have depressed GOES prices worldwide. Although prices in the United States are also depressed by low-priced imports, the average price in the U.S. market is still higher than any other market.[43] As a result, foreign producers target the relatively attractive U.S. market as a dumping ground for their inventories of electrical steel.[44]

An effective remedy to stem the surge of imported electrical steel is critical to AK Steel's health and ability to grow, and, ultimately, the survival of its electrical steel business.[45] However, in the event tariffs or quotas are assessed on electrical steel imports, Commerce should be aware that electrical steel importers will quickly side-step any trade remedy by importing downstream products – such as finished cores, core assemblies and transformers – comprised of

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41 ATI Announces Rightsizing Actions to Align Flat Rolled Products Operations to Challenging Market Conditions, attached at **Exhibit 12**.

42 [

] at 12, attached as **Exhibit 13.**

43 The U.S. is one of the world's largest markets for power transformers and for GOES. DOE Electrical Grid Report at vii.

44 [ ] Declaration at para. 10.

45 *Id.* at para. 7.

unfairly traded, foreign-made electrical steel. Therefore, to effectively address the vital national security interests of America and protect the domestic electrical grid for the long-run, Commerce should assess any remedy not only on imports of electrical steel, but also imports of cores, core assemblies, and transformers. Without addressing this supply chain issue, any remedy will not benefit domestic electrical steel production and U.S. national security interests.[46]

III. CONSIDERATION OF THE REGULATORY FACTORS STRONGLY SUPPORT A DETERMINATION THAT IMPORTS THREATEN TO IMPAIR THE NATIONAL SECURITY OF THE UNITED STATES

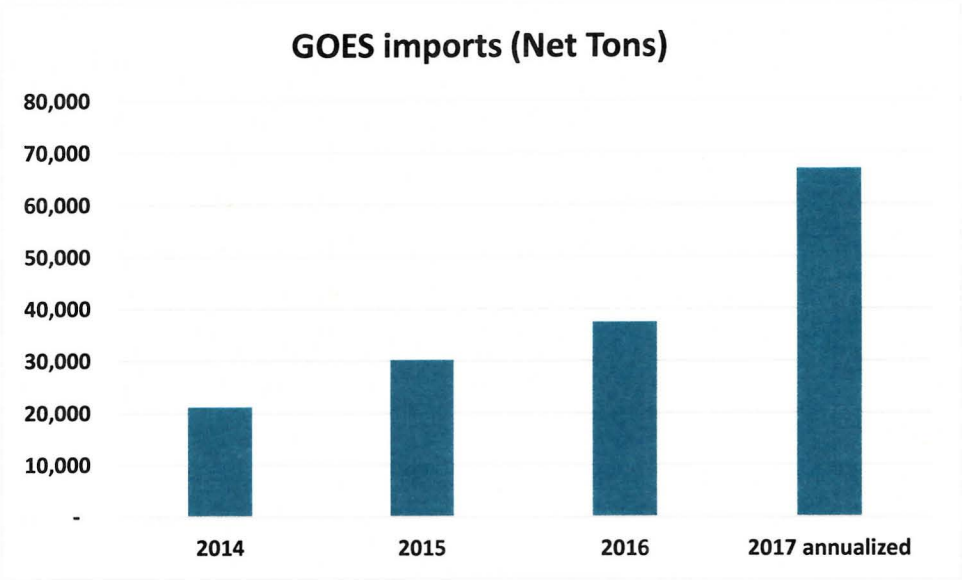
A. The Quantity Of Imported Steel And Circumstances Related To The Importation Of Steel Strongly Support An Affirmative Determination

As seen in the table and chart below, GOES imports have significantly increased in recent years, and they are dramatically increasing in 2017.

U.S. Imports of GOES (Net Tons)				
	2014	2015	2016	2017
Monthly Averages	1,753	2,509	3,116	5,562
Annual	21,036	30,108	37,392	66,744[47]
Source: U.S. Department of Commerce				

[46] Further details on this point can be found in Section III.H of these written comments.

[47] Total 2017 imports are annualized based on import data from the first quarter of 2017.



Imports accounted for approximately 37,000 tons in 2016.[48] In 2017, imports that are annualized based on first quarter data are on pace to exceed 65,000 tons on an annualized basis, a 76 percent increase from 2016. Absent government action, AK Steel expects this trend to continue for the foreseeable future as imports continue to take market share using unprofitable prices and under payment terms that cannot be matched by AK Steel, leading to lost sales.

AK Steel estimates domestic GOES consumption in the United States for use in transformer production was [ ] tons in 2016.[49] Despite AK Steel having sufficient capacity to service the entire domestic GOES market,[50] imports have seized a significant portion of the market share. After ATI discontinued production, AK Steel was able to serve some of the market share vacated by ATI.[51] This small increase in market share was short-

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48 Reference to "tons" in this brief means "short tons."

49 [ ] Declaration at para. 5.

50 AK Steel's total GOES production capacity [ ]. *Id.* at para. 6.

51 *Id.* at para. 8.

lived, however, as AK Steel lost a substantial portion of this business to imports.[52] In addition, as the volume of GOES imports continues to surge in 2017, so does the share of the market occupied by sales of foreign-made GOES. In 2016, imports accounted for over [ ] percent of the U.S. GOES market.[53] If demand were to remain stable in 2017, the estimated market share of imports on an annualized basis would jump to over [ ] percent, an 11 percent increase in just one year.[54]

B. AK Steel's Production Capacity Is Sufficient To Satisfy The Projected Demand For GOES

AK Steel currently has annual production capacity [ ].[55] AK Steel's current capacity level would be able to meet not only current GOES demand, but also the increased demand that would be required for major infrastructure improvements to update and improve the national electricity grid. AK Steel has reacted to increased demand in times of crisis before. For example, the aftermath of Hurricane Katrina, AK Steel disrupted its operations and altered its production schedules in order to provide electrical steel to its customers so that they could supply desperately needed transformers for the rebuilding process.[56]

Even if there were a dramatic spike in GOES demand beyond AK Steel's current GOES capacity, the company would have the ability to increase its capacity. Previously, AK Steel's capacity was [ ] per year.[57] AK Steel could return to this higher level of capacity

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52 *Id.*

53 [ ]

54 [ ]

55 *Id.*

56 *Id.* at para. 6.

57 *Id.* at para. 7.

with some capital investment.[58] AK Steel has elected not to make these capital investments thus far because it cannot be assured that there will be any return whatsoever in light of imports unfairly taking market share through unreasonably low pricing and potential government subsidization.[59]

AK Steel produces GOES to meet every application required to build and support the electrical grid from the initial power generation stage, through the transfer of power across the grid and ultimately to end-user applications, including the high-grade types of GOES required to meet new DOE efficiency standards (TSL-II). [60]

AK Steel's GOES is not simply used for large power transformers—a substantial consumer of GOES is step-down transformers for residential neighborhoods and businesses.[61] Thus, AK Steel's GOES sales are driven in large part by the U.S. residential and non-residential real estate development. To the extent there is no longer a domestic source for electrical steel, cores, core assemblies and transformers, residential homebuilders and commercial construction will become solely dependent upon foreign sources for ongoing growth in these critical areas of the economy.

C. AK Steel's Existing And Anticipated Availability Of Human Resources, Products, Raw Materials, Production Equipment, And Facilities To Produce GOES Are Sufficient To Satisfy Existing And Projected Demand

AK Steel has produced GOES for decades and, as a result, the company has a sophisticated, highly-trained, workforce both in production and in R&D.[62] These specialized

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58 *Id.*

59 *Id.*

60 *Id.* at para. 3.

61 *Id.* at para. 3. An overview of the end uses for AK Steel's GOES and NOES production is provided in **Exhibit 3**.

62 *Id.* at para. 3.

employees have the knowledge and experience necessary to manufacture this challenging product and create the next generation of GOES products. Without these specialized, knowledgeable employees' know-how and experience, AK Steel would not be able to produce GOES.[63] Many employees at AK Steel's Butler, Pennsylvania and Zanesville, Ohio plants, along with researchers at its Research and Innovation Center in Middletown, Ohio, are electrical steel experts. With ATI being forced by low-priced, unfairly traded imports to exit the market, AK Steel possesses the only electrical steel production and R&D expertise in the United States.

Moreover, AK Steel is the sole domestic company (and the only North American company) with the substantial dedicated equipment to produce and service the GOES market. An estimated replacement value of this equipment would be in the billions of dollars.[64] AK Steel also has a mature supply chain for raw materials to support GOES production.[65] To the extent that AK Steel was forced to exit the GOES market because of imports, it would be very challenging and take significant time and effort to re-establish an adequate supply chain.[66]

As noted above, AK Steel has been forced to reduce its prices and has suffered lost revenues due to competition from unfairly traded imports. Among other impacts, this negative financial pressure decreases the likelihood that AK Steel will be able to continue its aggressive research and development activities to produce the next-generation of increasingly efficient electrical steels. Thus, import competition is having a direct, adverse impact on the nation's ability to satisfy these critical needs.

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63 *Id.*

64 *Id.* at para. 4.

65 *Id.*

66 *Id.*

D. AK Steel Has The Ability To Grow To Meet Projected Future Demand

AK Steel estimates that annual domestic GOES consumption is approximately [ ] tons.[67] AK Steel also estimates that domestic GOES consumption increases at a rate of approximately [ ] percent per year.[68] AK Steel can easily meet U.S. demand, as AK Steel also produces GOES to meet every application required to build and support the electrical grid from the initial power generation stage, through the transfer of power across the grid, to the ultimate end-use applications, including the high-grade types of GOES required to meet new DOE efficiency standards such as TSL-II. AK Steel also serves all markets, and its GOES is used in applications from large power transformers to step-down transformers for residential neighborhoods and businesses.

AK Steel has the capacity to produce [ ] of GOES per year, which is not only sufficient to meet current GOES demand, but it also could meet any increase in demand required for major infrastructure improvements to update and improve the national electricity grid.[69] In fact, AK Steel could increase its capacity to [ ] per year with a moderate level of capital investment.[70] Therefore, even if a massive modernization scheme for the electrical grid increased demand by more than an additional [ ] per year, AK Steel would be able to increase its capacity to meet that demand.

AK Steel, however, has decided against making any such capital investments at this time. As foreign imports take market share from the domestic industry through sales at or below cost, the company would be unable to make any return on any additional investment.[71] In fact, if

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67 *Id.* at para. 5.

68 The [ ] percent estimate is exclusive of any major electrical grid modernization project.

69 [ ] Declaration at para. 6.

70 *Id.* at para. 7.

71 *Id.*

illegally priced imports continue to undersell AK Steel's GOES, the company would be forced to reduce its capacity and production, not increase it. Ultimately, if these trends continue, AK Steel would be forced out of the GOES business, leaving no domestic producers of GOES to serve this vital market and the nation's security interests.

E. Imports Have Had A Devastating Impact On AK Steel's Economic Welfare

Not only are foreign producers exporting increasing volumes of GOES to the United States, but these producers are also importing the highest quality GOES products at prices lower than those at which AK Steel charges for lower-grade products.[72] As a result, imports are underselling domestically produced GOES by [ ].[73] AK Steel cannot match these low prices, which are unprofitable for AK Steel, and are taking away sales and market share from the company.[74] The low prices also depress existing contract sales that are tied to market prices, turning sales that were initially profitable for the company into lost revenues.[75] Imports are also being sold under payment terms previously unseen of in the U.S. market. [ ], using what AK Steel believes is government financial support, resulting in suppressed market prices.[76]

Due to the large volumes of low-priced GOES imports, [ ].[77] If AK Steel is forced to lower its prices further to even less profitable and sustainable

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72 *Id.* at para 10.

73 *Id.*

74 *Id.*

75 *Id.*

76 *Id.*

77 *Id.* at para. 11.

levels, the company will not be able to reinvest in the business. Without reinvestment, AK Steel will not be able to innovate in order to keep pace with the latest in production technology or be able to meet increasingly stringent DOE efficiency standards.[78] In short, without innovation, AK Steel will not be competitive with foreign imports. If AK Steel is not competitive with imports, AK Steel, like ATI in 2016, would eventually be forced to exit the GOES business, leaving a critical, national need to be supplied by foreign producers.

F. Imports Have Caused Serious Adverse Effects, Including Substantial Unemployment And A Loss Of Specialized Skills And Productive Capacity

Foreign steel imports have already negatively impacted AK Steel and its employees. In December 2015, AK Steel was forced to idle its Ashland, Kentucky Works facility, resulting in the layoff of over 600 employees.[79] In the event that foreign GOES imports forced AK Steel to exit the GOES market, the losses would be so severe that AK Steel would likely never return to the production of electrical steel in the future

After decades of GOES production, AK Steel has a highly-trained, specialized workforce, both in production and in research and development, with the knowledge and experience necessary to manufacture this challenging product, and to create the next generation of products.[80] Without these specialized, knowledgeable employees' know-how and experience, AK Steel would not be able to produce GOES.[81] Many employees at the company's Butler and Zanesville plants, along with researchers at the new Research and Innovation Center in Middletown, Ohio, are electrical steel experts. After ATI left the electrical steel market in 2016,

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[78] *Id.*

[79] AK Steel Issues Notice to Temporarily Idle Portions of Ashland, Kentucky Works, attached as **Exhibit 12.**

[80] [ ] Declaration at para. 3.

[81] *Id.*

this electrical steel production expertise now exists nowhere else in America. If AK Steel was forced to stop production of GOES due to unfairly traded imports, this expertise would be lost, as the approximately 1,800 electrical steel workers would need to find new jobs. Additionally, the loss of hundreds, or possibly thousands, of additional jobs at businesses and contractors supporting AK Steel's production facilities would also be in jeopardy.

AK Steel is the sole domestic producer – and the only North American producer – possessing the substantial dedicated equipment to produce and service the GOES market. This equipment, with an estimated replacement value in the billions of dollars, would be mothballed if AK Steel idled production.[82] AK Steel also has a mature supply chain for the raw materials needed in GOES production. To the extent AK Steel was forced to exit the GOES market because of imports, it would likely be challenging and take significant time and effort to re-establish an adequate supply chain.[83]

G. Imports Of GOES Threaten The National Economy And Thereby Threaten To Impair National Security

As noted above, products made from GOES – power transformers, switchgear, step-up, step-down, and distribution transformers – are all necessary to complete the delivery of electricity to end-users throughout the entire country.[84] In addition, the national electrical grid is in need of significant investment and repair. Electrical outages cost the national economy dearly. The loss of the domestic electrical steel production capacity could have wide-ranging impacts on employment, both directly and in downstream products produced in the United States and in the industries that rely on those products. Moreover, the loss of the domestic electrical steel industry

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82 *Id.* at para. 4.

83 *Id.*

84 *Id.* at para. 2.

would also likely have a significant negative impact on future innovation and developments in downstream products and uses.

H. Any Relief On Imports Of GOES Must Include Imports Of Cores And Transformers

Competition from low-priced imports of GOES warrants the imposition of trade relief. It is important for Commerce to understand, however, that trade relief must apply to not only electrical steel products – GOES and NOES – but to downstream articles like cores, core assemblies and transformers as well.[85] The threat to downstream products is not mere speculation, but a likelihood given recent developments in these downstream industries.

After AK Steel and ATI filed a petition on imports of GOES in 2013, there was a dramatic rise in new core-making capacity outside of the United States, particularly in Canada and Mexico.[86] While the GOES case was ultimately terminated after the ITC's negative determination, the capacity in Canada and Mexico has already been built up in these countries. Currently, there is significant volume of unused cores, core assemblies and transformer capacity in Canada and Mexico, ready to commence production in the event that relief is imposed only on imports of GOES.[87] Increased imports of cores and transformers made with foreign electrical steel would undermine any potential benefit the domestic industry might obtain from the relief.

Even without a trade barrier on imports of illegally priced GOES in the U.S. market, there is already movement by domestic downstream producers to import cores and transformers rather that produce them here in the United States. In recent years, several customers of AK

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[85] In fact, several customers of AK Steel who produce cores, core assemblies, and/or transformers also support the company's efforts in this investigation, including Howard Industries, Inc., Pennsylvania Transformer Technology, Inc., and ERMCO. Those customers' letters of support are attached as **Exhibit 14**.

[86] Cores and core assemblies are not subject to any antidumping or countervailing duty orders in the United States.

[87] [ ] Declaration at para. 12.

Steel have chosen not to invest in modernizing their core-making equipment. Instead, these customers are idling that equipment and laying off U.S. workers to purchase cores from facilities in Canada and Mexico instead. Cores from Mexico and Canada are made with low-priced GOES from Chinese, Korean, Japanese and other foreign producers.[88]

Imports of transformers are also damaging the domestic industry, as low-priced foreign transformers comprised of unfairly traded foreign GOES material have undercut domestic industry sales. Between 2005 and 2015, the total value of large transformers, including medium- and high-voltage units, imported to the United States almost tripled in that ten year span, from $284 million to $821 million.[89] This increase occurred despite significant domestic production capacity expansions during this period. Some relief on this product is in place, as the Commerce Department assessed final anti-dumping duties against large power transformers ("LPTs"), whether assembled or unassembled, from Korea in March 2012.[90] Other types of transformers and LPTs from other countries, however, are still undercutting domestic transformer makers.

Additionally, transformer manufacturers are already attempting circumvention schemes which indicate the danger in any remedy that covers GOES but not cores and transformers. [

].[91] Not only does this highlight the need for a comprehensive remedy on GOES, as well as cores and transformers, but also the need to

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88 *Id.*

89 USITC Dataweb, Annual Data for HTSUS – 8504.23.0080, attached as **Exhibit 15.**

90 *Large Power Transformers From the Republic of Korea: Final Determination of Sales at Less Than Fair Value*, 77 Fed. Reg. 40857 (Dep't. Commerce, July 11, 2012).

91 [ ] Declaration at para. 13.

ensure that any remedy applies not only to GOES directly imported "for consumption" into the United States, but that any electrical steel imported into a free trade zone must pay any duties or be applied to any quota at the time of entry into that free trade zone to avoid importers using free trade zones as a route for circumvention of relief.[92]

A stable domestic manufacturing base for cores and transformers, built from domestically produced electrical steel, is critical to the vital national security interests of the United States. For example, for large power transformers, which are custom-built products, the average lead time can increase when the demand is high, up to 18 to 24 months. This lead time could extend beyond 20 months and up to five years in extreme cases if the manufacturer has difficulty obtaining any key raw materials, such as high-quality electrical steel. In the case of a natural disaster, cyber- or physical attack on the country's electrical grid, the United States' national security cannot be put in jeopardy as a result of the absence of a domestic supply chain supporting the key components of the electrical grid. Increasing the country's dependence on foreign suppliers would create a severe risk of catastrophic failure of the electrical grid and disruption to the nation's businesses and citizens' way of life.

AK Steel's preferred remedy on imports of electrical steel (GOES and NOES), as well as downstream products including transformers, generators, and parts thereof, is country-specific quotas based on historical import quantities with an overall quota cap. The recent surge of GOES imports, for example, demonstrates the urgent need to limit the quantity of imports. Quotas would enable a commercially reasonable and sustainable level of imports to enter the country to serve specialized needs, but quota limits would prevent imports from increasing rapidly, overwhelming domestic producers and driving them out of business. Accordingly,

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[92] In this scenario, a company can request a duty drawback on any electrical steel that is used in the manufacture of a downstream article that is ultimately exported to a third country outside the United States.

quotas on steel would protect U.S. national security. Although AK Steel would not object to the imposition of tariffs on steel products, quotas would be preferable because they would enable domestic producers to recover lost market share; they could not be undermined by even lower, dumped prices or fraudulent undervaluation of imports; and they could be tailored effectively to the specific circumstances of individual products and markets.

IV. CONCLUSION

Although the focus of these comments is on electrical steel and downstream products containing electrical steel, AK Steel supports remedies on all of the other products it manufactures, including semi-finished steel, hot-rolled steel, cold-rolled steel, corrosion-resistant steel, and stainless steel. Broad and comprehensive remedies on all of these products are necessary to prevent circumvention and the seemingly inevitable "whack-a-mole" problem that arises when imports from new sources appear and increase after country-specific measures are imposed. With respect to circumvention, the recently imposed AD and CVD orders on cold-rolled steel and corrosion-resistant steel from China have been undermined by the shipments of Chinese steel through Vietnam, with minimal processing, prior to export to the United States. While this circumvention should be addressed under the anti-circumvention provisions of current law (investigations are currently pending), the process is time-consuming, expensive, and uncertain, and should be avoided with respect to other products. Similarly, increases in "whack-a-mole" imports from "non-subject" countries undermine AD and CVD relief and prevent producers from recovering their health and exiting from a perpetually injured state. Comprehensive and effective relief is necessary for U.S. producers to fully recover from injury

caused by imports, invest in plant, equipment, and people, and grow for the benefit of American national security.

Respectfully submitted,

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