

September 24, 2004

Mr. Kelly Parkhill  
Director for Industry Support and Analysis  
Import Administration, Room 3713  
U.S. Department of Commerce  
14<sup>th</sup> Street and Constitution Avenue, N.W.  
Washington, D.C. 20230

Re: Comments on Advanced Notice of Proposed Rulemaking  
regarding the Proposed Extension of the Steel Import  
Monitoring and Analysis System

Dear Mr. Parkhill:

On behalf of the Korea Iron and Steel Association and its members, we appreciate the opportunity to comment on the Department's Advanced Notice of Proposed Rulemaking of August 25, 2004, (69 FR 52211) regarding the proposed extension of the steel import monitoring and analysis system.

The Korean steel industry is opposed to the extension of the steel import monitoring and analysis system. We respectfully note that this monitoring system, due to expire on March 21, 2005, was established as part of steel safeguard measures imposed and implemented by the President on certain steel products on March 20, 2002. The World Trade Organization's Appellate Body found that such measures violated the obligations of the United States in its report of November 10, 2003 (WT/DS244/AB/R), and the President terminated the measures on

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protection." (Emphasis added).

December 4, 2003. Given that the legal foundation of the monitoring system is the President's Proclamation of March 5, 2002 (Proclamation 7529) which established the measures, and that legal foundation has been revoked, there no longer exists a legal basis for the steel import monitoring system. We note that the market did not collapse in response to the termination of safeguards. Indeed, steel shortages in the United States continued and prices increased.

Given its linkage with the safeguard measures that afforded illegal protection to the U.S. domestic steel industry, the U.S. import monitoring system may constitute a separate violation of U.S. obligations under the WTO Agreement on Safeguards. We note that Footnote 4 to Article 11.1(b) of the WTO Agreement on Safeguards provides that WTO Members are prohibited from establishing or maintaining protective import monitoring systems: Article 11.1(b) states: "Furthermore, a Member shall not seek, take or maintain any voluntary export restraints, orderly marketing arrangements or any other similar measures on the export or the import side." "Similar measures," according to Footnote 4 of that provision, include "export moderation, export-price or import-price monitoring systems, export or import surveillance, compulsory import cartels and discretionary export or import licensing schemes, any of which afford protection." (Emphasis added).

Further, we are concerned about the Administration's and the Department's proposals to expand the steel import monitoring system to additional products and to make it a permanent feature of U.S. steel trade policy. We note, in particular, that proposals to include products such as line pipe, which was also subject to a separate safeguard action that was also determined to be in violation of U.S. obligations under the WTO (WT/DS202/AB/R), or OCTG, which was not

subject to safeguards because the International Trade Commission made a negative determination, is subject to the same problems noted above. We believe that the extension and expansion of the steel import monitoring system would be trade restrictive, trade-distortive, administratively burdensome on importers, and an impediment to the free and fair flow of trade. In this context, the Korean steel industry stresses to the United States the importance of compliance with the related provisions of the WTO Agreement on Import Licensing Procedures.

In conclusion, the Korean steel industry opposes the extension of the steel import monitoring and analysis system and respectfully urges the United States to adhere to its international legal obligations.

Thank you for the opportunity to comment on the advanced notice of proposed rulemaking.

Sincerely,



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and its members*