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VIA ELECTRONIC MAIL

Ms. Gloria Blue, Executive Secretary
Trade Policy Staff Committee
Office of the United States Trade Representative
600 17th Street, N.W.
Washington, D.C. 20508

Re: Certain Steel Products: Comments on Presidential Action

Dear Ms. Blue:

Pursuant to the *Notice of Request for Comments on What Action the President Should Take Under Section 203 of the Trade Act of 1974*, 66 Fed. Reg. 54321 (Oct. 26, 2001) and the *Extension of Deadline for Submission of Responses and Modification to the Earlier Instructions for the Submission of Written Comments*, 66 Fed. Reg. 59599 (Nov. 29, 2001), the following comments are submitted on behalf of Tubos del Caribe S.A. ("Tubocaribe") regarding the Committee's remedy recommendation for imports of welded tubular products other than OCTG (Product No. 20).

Tubocaribe is a manufacturer and exporter of welded tubular products other than OCTG located in Cartagena, Colombia. To our knowledge Tubocaribe is the sole Colombian exporter of these products to the United States.

U.S. imports of welded tubular products other than OCTG from Colombia are free of duty under the Andean Trade Preference Act of 1991 (the "ATPA"). Section 204(d)(2) of the ATPA (codified at 19 U.S.C. 3203(d)(2)) provides that in any report under Section 202(f) of the

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Trade Act of 1974, the International Trade Commission ("Commission") must state whether and to what extent the Commission's injury findings and remedy recommendations apply to articles that receive duty-free treatment under the ATPA. The Commission unanimously recommended that its proposed action to address the serious threat of injury to domestic producers of welded tubular products other than OCTG "**not** apply to imports of welded pipe . . . entered duty-free from beneficiary countries under . . . the Andean Trade Preference Act." *Steel*, TA-201-73, USITC Pub. 3479 (December 2001) at 397 (emphasis added). The Committee should similarly advise the President to exclude imports of welded tubular products other than OCTG from ATPA countries from any proposed action.

Moreover, the Committee should advise the President that imports of welded tubular products other than OCTG from Columbia meet the requirements for exemption from safeguards actions that are set forth in Article 9.1 of the WTO Safeguards Agreement.[1] Imports of welded tubular products other than OCTG from developing countries account for only 8.74% of total U.S. imports and Colombia's share thereof is less than 3 percent. *See* attached table. Article 9.1 imposes an explicit and mandatory limitation on the application of safeguard measures. Any

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[1] Article 9.1 provides:

> Safeguard measures shall not be applied against a product originating in a developing country Member as long as its share of imports of the product concerned in the importing Member does not exceed 3 percent, provided that developing country Members with less than 3 percent import share collectively account for not more than 9 percent of total imports of the product concerned.

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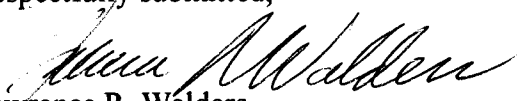
presidential proclamation imposing import restrictions must comply with Article 9.1. Otherwise the action will be inconsistent with U.S. obligations under the Safeguards Agreement and will expose the U.S. to retaliation.[2] The Committee's import relief recommendations would be incomplete if they fail to alert the President to the consequences of those recommendations under Article 9.1.

For the foregoing reasons, we respectfully submit that the Committee should recommend to the President, in its remedy recommendations regarding welded tubular products other than OCTG, that imports from beneficiary countries under the ATPA should be excluded from any proposed action.

Respectfully submitted,



Lawrence R. Walders
Neil C. Pratt

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[2] In United States — Definitive Safeguard Measures on Imports of Circular Welded Carbon Quality Line Pipe from Korea, DS202/R (29 October 2001) at paras. 7.175-7.184, a WTO panel found that the presidential proclamation was inconsistent with Article 9.1 because it did not contain any express exclusion of developing countries that were individually below 3 percent of total imports or collectively below 9 percent of total imports.

U.S. Imports of Welded Tubular Products other than OCTG from WTO Member Developing Countries in Year 2000 Compared to Total Imports

In Quantity (short tons)

Total Imports: 2,627,208

WTO Developing Country[1]	Imports from Developing Country[2]	Percentage of Total Imports[2]
Turkey	40,013	1.52
South Africa	36,310	1.38
Indonesia	33,797	1.29
India	30,771	1.17
Romania	19,153	0.73
Colombia	15,801	0.60
Argentina	9,920	0.38
Philippines	8,536	0.32
Egypt	7,609	0.29
Pakistan	5,496	0.21
Chile	5,025	0.19
Oman	4,553	0.17
Guatemala	3,335	0.13
Croatia	2,046	0.078
Georgia	1,645	0.063
Brazil	1,454	0.055
Czech Republic	1,291	0.049
Venezuela	1,069	0.041
Peru	1,069	0.041
Zimbabwe	605	0.023
Belize	38	0.0014
Kenya	6	0.00022
Total	**229,542**	**8.74**

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1 The chart includes countries designated as beneficiary developing countries for purposes of the generalized system of preferences (GSP) under the Harmonized Tariff Schedule of the United States (HTSUS) (2001) – Supplement 1 (Rev. 1). Developing countries listed in the HTSUS are not included in the chart if their share of imports exceeds three percent or if they have no imports for 2000.

2 *Source*: Compiled from official statistics of the U.S. Department of Commerce, available on the Commission dataweb at www.usitc.gov.