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December 5, 2001

BY ELECTRONIC MAIL
to FR0001@ustr.gov

Ms. Gloria Blue
Executive Secretary
Trade Policy Staff Committee
Office of the U.S. Trade Representative
600 Seventeenth Street, N.W.
Washington, D.C. 20508

Re: Section 201 Steel Investigation:
Exclusion Requests regarding Stainless Steel Flanges

Dear Ms. Blue:

In accordance with the notices published in the Federal Register on October 26, 66 Fed. Reg. 54321 (2001) and November 29, 66 Fed. Reg. 59599 (2001), we hereby respond on behalf of Gerlin, Inc. to the requested exclusion from import relief of stainless steel flanges for the approved market ("AM flanges") and large diameter stainless steel flanges ("large flanges"). These exclusions were requested in a November 13 filing of the Association of European Quality Flange Producers ("AEQFP"). Gerlin opposes both of these exclusions. (Gerlin supports the third exclusion requested by the AEQFP, regarding stainless steel flange forgings, as explained in Gerlin's November 13 submission to the TPSC.)

First, with respect to AM flanges, AEQFP alleges that there is insufficient domestic supply to meet domestic demand.[1/] AEQFP supplies no evidence to support these claims, and

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[1/] Interestingly, in its briefs on the issue of injury filed with the International Trade Commission, AEQFP argued that imported flanges could not be injuring the approved segment of the domestic market because "a significant proportion of imported stainless steel flanges" are unable to "compete in the important 'approved' segment of the market." (Pre-Hearing Brief of AEQFP in ITC Inv. No. TA-201-73, dated September 10, 2001). Far from claiming that there was an insufficient domestic supply of AM flanges, AEQFP argued before the Commission that the domestic industry caters to these more lucrative markets, leaving imports to focus on the lower-end markets. (Post-Hearing Brief of AEQFP in ITC Inv. No. TA-201-73, dated October 9, 2001).

indeed they are insupportable. The major U.S. manufacturers all produce flanges for the AM market; this includes Gerlin, despite AEQFP's representations to the contrary. Gerlin is on the approved lists of a wide variety of companies in various sectors, such as the chemical industry (e.g., Dow Chemical), the food processing industry (e.g., Anheuser-Busch) and the oil and gas industry (e.g., ExxonMobil). A copy of the relevant page of the ExxonMobil Accepted Manufacturer List showing that Gerlin is an approved supplier of stainless steel flanges is enclosed. Regardless of the domestic industry's ability to supply the AM market, however, customers turn to foreign suppliers to take advantage of the low price of imported flanges. It is not the case that domestic supply is inadequate; rather domestic market share has decreased as a result of the surge of low-priced imports.

Second, AEQFP overstates the distinction between the approved and non-approved markets for stainless steel flanges. In fact, the line between the approved and non-approved markets has blurred considerably as prices for foreign flanges have plunged over the past several years. As Jack Sharkey, Executive Vice President of Gerlin, stated, in sworn testimony before the International Trade Commission on September 28, a copy of which is enclosed, "A 40-percent price advantage can really help a supplier gain 'approved' status." In his sworn testimony on November 9, a copy of which is enclosed, Mr. Sharkey elaborated, "The bright line between approved and non-approved markets that the Europeans portray has dimmed in recent years as low-priced European and non-European imported flanges have found acceptance by all end-users. For the Commission to exempt stainless steel flanges for approved markets would undermine the effectiveness of the remedy."

Any exclusion from import relief for AM flanges would simply perpetuate the injury to the U.S. industry from imported flanges. In addition, as a practical matter, it would be extremely difficult to administer an exclusion for flanges imported for the approved market. Any system would be fraught with the potential for fraud and circumvention.

As for large flanges, while Gerlin does not produce flanges above 12 inches in diameter, it is concerned that excluding large flanges from import relief will adversely affect the pricing structure of the entire flange market, and the sales of domestic flanges of all sizes. First, allowing low-priced large flanges into the market while imposing import relief on smaller flanges would likely suppress prices across the board, since cheap prices of 14-inch flanges, for example, would create a drag on the prices of 12-inch flanges, for example. Furthermore, an importer would have substantial leverage over its U.S. customers wishing to purchase a full range of flanges if it were able to offer its large flanges at rock-bottom prices: the irresistibly low prices of the larger flanges would induce customers to purchase smaller flanges from the same source. Excluding large flanges from import relief would thus undermine the domestic industry's ability to adjust to import competition involving flanges of all sizes.

AEQFP also claims that the Commission had insufficient evidence that stainless steel flanges injured the domestic industry. It is true that the Commission aggregated stainless steel flanges and stainless steel fittings for certain analyses, and that it chose, as its representative

product for the calculation of underselling margins, a type of fitting. But the Commission also had the benefit of sworn testimony from officers of stainless steel flange manufacturers, who testified extensively about the injury being caused by imported flanges. Moreover, officers from Gerlin specifically addressed the substantial underselling by foreign flanges in the U.S. market. As stated in the enclosed testimony of Jack Sharkey, delivered to the Commission during the September 28 hearing: "[P]rice competition is intense in the stainless steel flange market, and we have had many instances in which customers shifted from Gerlin to foreign sources because we could not meet the import price. Within the past year, for example, we lost a two million dollar order because the import price was about forty percent below the best price we could offer for our U.S. flanges." Furthermore, official import statistics show that from 1996 to the first half of 2001, the average unit value of stainless steel flanges declined by 30 percent. In short, the Commission had ample evidence of injury due to imported stainless steel flanges.

For these reasons, Gerlin urges that the President not exclude from import relief stainless steel AM flanges and stainless steel large flanges, both classified under HTSUS 7307.21.5000.

Respectfully submitted,

/s/ Simeon M. Kriesberg

Simeon M. Kriesberg
Carol J. Bilzi
Lisa L. Levine

Counsel for Gerlin, Inc.

3.0 FLANGES

3.1 CARBON STEEL

	Acceptable from following source only
All Manufacturers listed in Category #3.7	
BEBITZ	Bebitz, GERMANY
BOLTEX	Houston, TX
COFFER	Houston, TX
ECHJAY INDUSTRIES (H/OIL)	Rajkot, INDIA
FRIEDRICH GELDBACH	Gelsenkirchen, GERMANY
GROUP GENOYER (CARLYLE)	
WILHELM GELDBACH (WGI)	Gelsenkirchen, GERMANY
• DAN=LOC	Houston, TX
KERKAU	Bay City, MI
KOFCO	Ulsan, KOREA
METALFAR	Cesana Brianza, ITALY
NATIONAL FLANGE	Houston, TX
TRILAD	Brantford, CANADA
TRINITY INDUSTRIES	
HACKNEY- LADISH (existing inventory)	Houston, TX
ULMA – FORJA	Oñati, SPAIN

3.2 LOW CHROME - (UP TO 13% CR)

All Manufacturers listed in Category #3.7	
BEBITZ	Bebitz, GERMANY
GROUP GENOYER (CARLYLE)	
WILHELM GELDBACH (WGI)	Gelsenkirchen, GERMANY
KOFCO	Ulsan, KOREA
METALFAR	Cesana Brianza, ITALY
NATIONAL FLANGE	Houston, TX
TEXAS METAL WORKS	Beaumont, TX
• *(Flo Bend TRINITY INDUSTRIES Deleted)*	
ULMA – FORJA	Oñati, SPAIN
WESTBROOK (WMI)	Houston, TX
WESTERN FORGE	Santa Clara, CA
WESTERN FORGE	Lumberton, TX

3.3 STAINLESS STEEL

- Stainless steel includes TP 304, 316, 321, and 347 materials.

All Manufacturers listed in Category #3.7	
BEBITZ	Bebitz, GERMANY
GERLIN/TUBE-LINE STAINLESS	Carol Stream, IL
GROUP GENOYER (CARLYLE)	
WILHELM GELDBACH (WGI)	Gelsenkirchen, GERMANY
IDEAL	Southington, CT
KOFCO	Ulsan, KOREA
MAASS	Houston, TX
METALFAR	Cesana Brianza, ITALY

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Before the
United States International Trade Commission

IN THE MATTER OF:	)	
	)	Inv. No. TA-201-73
CERTAIN STEEL PRODUCTS	)	

TESTIMONY
OF
JACK J. SHARKEY
EXECUTIVE VICE PRESIDENT, GERLIN, INC.
ON
IMPORTS OF STAINLESS STEEL FLANGES
(PRODUCT CATEGORY 33)

September 28, 2001

Good morning, my name is Jack Sharkey.

Let me focus now on the growing and negative impact that imports of finished stainless flanges have had on my company, Gerlin.

The first point to be made is that imports of finished stainless flanges have increased substantially in recent years. The volume of imports in 2000 was more than double the volume in 1996. A substantial share of the import growth was attributable to Mexican imports, which by themselves more than tripled during the same four-year period. Mexico has been the second or third largest foreign supplier of finished stainless flanges in every year under investigation, including the first half of 2001.

The second point to be made is that the influx of imports has placed tremendous pressure on the domestic industry. We have suffered injury in many ways, whether measured by capacity utilization or profitability, by employment or sales, by inventories or production. Even if the Commission defines the industry as including all of product category 33, these same indicators of injury show significant deterioration in recent years.

And the prospects for further deterioration are very real. Imports have made major inroads into the stainless flange market, cutting into our sales, our market share, and our profitability. These economic pressures have crippled our ability to make the capital expenditures that we need in order to strengthen our ability to compete. The

threat of serious injury is also plain from the aggregate information available on the producers of all products within product category 33, as summarized in our brief.

The linkage between the influx of stainless flange imports and the injury being suffered by Gerlin and other domestic producers is demonstrated in several ways. First, the dramatic rise in the sheer volume of imports coincides with the harm that is measurable in the many ways described in our brief. Second, the import data show that while the volume of flange imports was rising, the unit value of those imports was declining year after year. From 1996 to the first half of 2001, the unit value of imports declined by 30 percent. As noted in our brief, during the same period the unit values of Gerlin's flanges and of the products shipped by the U.S. producers in product category 33 reflected the sharp drop in import unit values.

Third, these unit value trends have been occurring in a market in which price is a crucial consideration for purchasers. Our customers of course need to feel confident of the quality of the product they are buying and the reliability of the supplier. But price competition is intense in the stainless flange market, and we have had many instances in which customers shifted from Gerlin to foreign sources because we could not meet the import price. Within the past year, for example, we lost a two million dollar order because the import price was about forty percent below the best price we could offer for our U.S. flanges.

The volume and pricing of stainless flanges from Mexico have made them especially harmful. While overall stainless flange imports doubled from 1996 to 2000, the Mexican imports more than tripled. Furthermore, the unit values of the Mexican imports have dropped about 15 percent from 1996 to the first half of 2001, and the Commission found evidence of substantial underselling by Mexican products within product category 33. The principal Mexican supplier opened a major new flange manufacturing plant in Acuna, Mexico, in 1996, which has helped power the surge in Mexican flange shipments into the U.S. market.

I know that those opposing restrictions on stainless flange imports try to explain away the injury that the domestic industry has suffered and the role that imports have played in causing that injury. Let me briefly respond. First, it is not correct that a significant proportion of stainless flange imports cannot compete in the "approved" segment of the market. Many foreign suppliers now serve that small segment. A 40-percent price advantage can really help a supplier gain "approved" status.

Second, it is not correct that a significant proportion of imports are subject to antidumping duties. The only stainless flanges subject to antidumping duty orders are those from India and Taiwan. In the case of India, the antidumping duties vary greatly, so Indian flanges may still enter the U.S. market. Indeed, India was the fourth largest supplier of stainless flanges to the United States in the first half of 2001. In

the case of Taiwan, any Taiwanese product that was displaced has been replaced by other foreign suppliers.

Finally, it is not correct that domestic stainless flange producers suffer from outmoded facilities or inefficient production processes. At Gerlin, we have state-of-the-art heat-treating, drilling, machining, passivating, and other processes. We still can't compete with imports at rock-bottom prices.

In summary, the surge of imports of finished stainless flanges has had a severe impact on my company. Since 1984, when Joe and I established Gerlin, we have worked hard to make Gerlin a competitive force in the U.S. market. We are proud of our products and proud of our people, but the overwhelming pressure of high-volume, low-priced imports is crushing our ability to remain competitive. We ask for the Commission's help in providing at least temporary stability to the marketplace. We will do the rest. Thank you.

Before the
United States International Trade Commission

IN THE MATTER OF:	)	
	)	Inv. No. TA-201-73
CERTAIN STEEL PRODUCTS	)	

TESTIMONY
OF
JACK J. SHARKEY
EXECUTIVE VICE PRESIDENT, GERLIN, INC.
ON
IMPORTS OF STAINLESS STEEL FLANGES
(PRODUCT CATEGORY 33)

November 9, 2001

Good morning, Mr. Chairman and members of the Commission. My name is Jack Sharkey, and I am the co-owner and Executive Vice President of Gerlin, Inc. Gerlin is a manufacturer of stainless steel flanges and butt-weld pipe fittings, and we are located in Carol Stream, Illinois. I am here to discuss the kind of remedy we need regarding imports of stainless flanges. Later today we will explain why this remedy should not apply to stainless flange *forgings*, which are not causing injury.

In reading the public pre-hearing briefs on remedy, it appears to me that some folks are still arguing about injury. The Europeans say that they are not causing injury — it is the Mexicans. The Mexicans say that they are not causing injury — it is the Europeans. The fact of the matter is that the import problem we are facing is global: the Europeans, the Mexicans, the Asian countries, all are contributing to the serious injury that you have found. This global problem requires a global solution, which is precisely why Section 201 is so appropriate.

The remedy we seek is a tariff-rate quota that applies to imports from all sources. A TRQ is the best approach, we believe, because it addresses both the volume and the price aspects of the import problem. Imports of stainless flanges more than doubled in volume from 1996 to 2000, and we have encountered

underselling margins of 40 percent on stainless flanges. This is not a market in which an additional duty alone will have an impact.

Nor should the quota aspect of the remedy be set based on recent import volumes. The base period should be the years 1993-95, the last years before the period in which we suffered such serious injury. If more recent years were used, it would only reward those foreign suppliers whose surges of imports have distorted — indeed, almost destroyed — the market for our flanges. Those surges also offer compelling reasons for structuring the remedy to address excess importer inventories and potential surges in flange imports over the next few months. Our proposed remedy does address these issues.

Finally, it is crucial that the remedy on flanges remain in place for a full four years, so that there is time to restore stability and confidence to the market, revive our sales and profitability, and make investments to enable us to compete effectively once the relief is removed. The adjustment plan that is presented in our pre-hearing brief could not be justified if the remedy period were shorter than four years.

There are a few statements made in the public pre-hearing brief of the European flange producers that simply do not reflect reality. First, they claim that imports of fittings, not flanges, are the cause of injury. But Gerlin's briefs and our

testimony have presented information specifically on stainless flanges, and that information shows that our *flange* business has been devastated during the past five years. During this same 1996-2000 period, flange imports doubled, while their unit values fell by over one third. Nearly half of the volume increase was due to two European suppliers, Italy and Germany. So, flange imports have been no innocent bystanders to the destruction of the U.S. industry.

Second, the Europeans claim that any injury we are suffering is due to a shortage of flange forgings. We have *not* experienced a shortage of flange forgings during the period of investigation. As we have explained during the injury phase and will discuss again later today, we urge that no remedy apply to flange forgings. But, certainly, the cause of our current distress is not a shortage of forgings: it is, rather, the glut of cheap *finished* flanges from suppliers around the world.

Finally, the Europeans continue to draw an artificial distinction between approved and non-approved markets, claiming that the approved market is not being hurt and that therefore flanges for the approved market should be free to continue to enter the country without limitations. Gerlin supplies both the approved and the non-approved markets, and we encounter cheap imports in both of those markets, imports that are able to capture sales due to their lower prices.

The bright line between approved and non-approved markets that the Europeans portray has dimmed in recent years as low-priced European and non-European imported flanges have found acceptance by all end-users. For the Commission to exempt stainless flanges for approved markets would undermine the effectiveness of the remedy.

On behalf of my company and its employees, I urge you to recommend the remedy proposed in our pre-hearing brief and enable us to take steps to improve our ability to compete. Thank you.