EXCLUSION REQUEST BY ACO MINAS GERAIS AND CONNECTICUT STEEL CORPORATION FOR HIGH-CARBON BILLETS

(a) Product Designation HTS: 7207.20.00.25

(b) Product Description: **Carbon Steel Blooms and Billets**: Specifically, semifinished products of iron or nonalloy steel containing by weight 0.25% or more of carbon, of rectangular (including square) cross section, having a width measuring less than twice the thickness.

(c) Basis for Exclusion: The US International Trade Commission found that imports of carbon and alloy steel ingots, blooms and billets, regardless of carbon content were not a substantial cause of serious injury to the US industry. (For further discussion see below).

(d) Nature and Location of US and Foreign Producers: Not fully known (confidential data supplied to USITC in injury investigation).

(e) US Consumption: Unknown (not specifically broken out by USITC).

(f) US Production: Unknown (not specifically broken out by USITC).

(g) Substitutable Products: None.

On behalf of Aço Minas Gerais, a Brazilian exporter of carbon steel blooms and billets, and Connecticut Steel Corporation, a US purchaser of imported and domestically-produced billets, we respectfully request that the president exclude high-carbon blooms and billets from any restrictions he may place on carbon steel flat products. The reason for this request are set forth below.

Nature of the Problem

The USITC found, by a vote of 4 to 2, that imports of "ingots, blooms and billets" were not a substantial cause of serious injury to the US industry. Ingots, blooms and billets are included in the product group known as "long products". At the same time, the USITC found that imports of slabs, which are included in the group known as "flat-rolled

products", were a substantial cause of serious injury. The USITC has recommended that the President impose a tariff-rate quota (TRQ) on imports of slabs.

The problem, however, is that high-carbon billets and blooms have erroneously been included in one of the tariff categories used to exemplify "flat-rolled products", rather than among the tariff categories used to delineate long products. Specifically, the president included in his list of HTS numbers included in the flat-rolled group, HTS item 7207.20.0025, which is --

> Semifinished products of iron or nonalloy steel, containing by weight 0.25 percent or more of carbon, of rectangular (including square) cross section: having a width measuring less than four times the thickness.

Virtually all of the products included in this category are either billets or blooms, with the overwhelming majority of products being billets.

In short, while the ITC has specifically ruled that imports of billets and blooms are not a substantial cause of injury, the president has erroneously included a substantial quantity of blooms and billets within the category of "flat products", which have been found to be causing injury and therefore are subject to potential import restraints. If the president were to include HTS category 7207.20.00.25 within those products on which he imposes restraint, he would be violating Article XIX of the GATT, 1994, which requires an injury determination before import restrictions can be imposed. In order to avoid this problem, the president must exempt blooms and billets from any restrictions that he may impose on semifinished flat products.

I. THE USITC FOUND THAT IMPORTS OF INGOTS, BLOOMS AND BILLETS WERE NOT A SUBSTANTIAL CAUSE OF SERIOUS INJURY TO THE US INDUSTRY.

Although the Commissioners have not issued their written opinions on injury yet, in the notice of their decisions it is clear that four commissioners voted in the negative

with respect to "ingots, blooms and billets". The Commission's definition of blooms and billets, as set forth in the Commission's questionnaires, is:

> Blooms and billets are semifinished products of rectangular cross-section with a width less than two times the thickness if carbon steel, or less than four times the thickness if of other alloy steel.

Based on this definition, as far as we are aware questionnaire respondents included in their bloom and billet information (export and sales data) both low carbon (less than 0.25% carbon) and high carbon (0.25% carbon and above) within the category of billets and blooms. Thus, the ITC must have based its negative determination on the basis of a product definition that included both high and low carbon billets and blooms.

Despite the ITC's decision that ingots, blooms and billets are not injuring the US industry, as noted, the list of tariff categories included within "long products" does not include HTS item number 7207.20.00.25. That tariff number appears in the "flat-rolled" product group. This appears to be a simple error in classification. This conclusion stems from the fact that HTS item number 7207.11.00.00 within the classification of long products. Item 7207.11.00.00 is --

> Semifinished products of iron or nonalloy steel; containing by weight less than 0.25 percent of carbon; of rectangular (including square) cross section, the width measuring less than twice the thickness.

Thus, item 7207.11.00 is clearly not subject to restrictions, by virtue of its mistakenly being included in the long products category, whereas item 7207.20.00.25 may be subject to restrictions, by virtue of its being included in the flat products category.

The only differences between this HTS item number and HTS item number 7207.20.00.25 are: (1) that this tariff item is for low-carbon steel, whereas item 7207.20.00.25 is high carbon; and (2) that this item is exclusive to blooms and billets

(width measuring less than twice times thickness), whereas item 7207.20.00.25 includes both blooms and billets as well as some products that are not blooms and billets (width measuring between two and four times thickness).

Our concern here, however, is with blooms and billets. Nothing in the USITC's decision indicates that they intended to reach a determination for high-carbon blooms and billets that was different from its determination for low-carbon blooms and billets. On the contrary, based on the Commission's questionnaire, it is evident that the ITC intended a negative injury determination for all blooms and billets. The overwhelming portion of the products included within item 7207.20.00.25 are billets (width measuring less than twice the thickness). Thus, if the USITC reached a negative injury determination for item 7207.11.00.00, it must equally have intended a negative determination for that portion of item 7207.20.00.25.

II. IN ORDER TO EFFECTUATE THE USITC'S DECISION, THE PRESIDENT SHOULD EXCLUDE BLOOMS AND BILLETS FROM ANY RESTRICTIONS THAT HE IMPOSES ON SEMIFINISHED FLAT-ROLLED PRODUCTS.

In order to assure that there are no restrictions imposed on products for which there is not an affirmative injury determination, therefore, the president must clearly exclude blooms and billets from any remedy that he might otherwise impose on semifinished flat-rolled products. This can be relatively easily accomplished.

The president could simply issue, as part of whatever remedy he may impose on semifinished carbon flat-rolled steel products (slabs), language similar to the following:

> These provisions shall not apply to any steel products, classified under HTSUS item number 7207.20.00.25, having a width measuring less than twice the thickness.

Alternatively, the president could accomplish the exclusion of virtually all blooms and billets by simply excluding products of square cross-section, as follows:

> These provisions shall not apply to any steel products, classified under HTSUS item number 7207.20.00.25, having a square cross-section.

Regardless of how the president does it, it is clear that in order to avoid imposing restrictions on products that the ITC has not found to be injuring a US industry, he must exempt high-carbon blooms and billets, classified under HTS item number 7207.20.00.25, from any restrictions that may be applied against semifinished flat-rolled products.

Respectfully submitted,

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