

COMMENTS OF THE GOVERNMENT OF CANADA ON THE PETITION REQUESTING THE IMPOSITION OF SHORT SUPPLY EXPORT CONTROLS AND MONITORING AS TO RECYCLABLE METALLIC MATERIALS CONTAINING COPPER

Pursuant to the US Department of Commerce Bureau of Industry and Security's notice of April 22, 2004, published at 69 Fed. Reg. 21, 815, the Government of Canada wishes to provide the following comments on the above mentioned petition.

Canada is aware of the impact that increased copper scrap prices may have on a consuming industry. Many Canadian metal producers, reliant upon international trade to supplement raw material supplies, have been affected by rapidly rising commodity prices.

Canada concurs with the view of the petitioner that the increase in copper scrap prices has been prompted largely by China's emergence in the international marketplace as a growing purchaser of this commodity. As China's domestic demand for minerals, metals and other raw materials increases, and as its industrialization and development evolve, the world should expect China to remain a strong international force as both a producer and user of such materials. It is well recognized that solid metals are the primary inorganic materials of choice demanded by industrializing countries. They can readily be used directly in industrial applications or can easily be transformed through remelt and refining operations into a ready source of useable metal product. Also in this context, Canada is of the view that the barriers to trade in copper scrap already erected by some countries have also contributed to the increase in its price.

However, unlike the petitioners, Canada is of the view that the best way to address increased prices in raw materials, caused by increased demand, is to encourage the free flow of commodities. It is Canada's belief that this, in turn, will spur further production and allow markets to balance supply and demand. We consider this to be a long-term solution to the problem of short supply and high prices engendered by the positive economic growth occurring in industrializing countries.

Canada would also note that export restrictions can have unintended consequences. For example, the majority of the processed copper scrap being produced in Canada from US copper scrap is currently being sold back to US copper and brass producers as a needed input. As well, export restrictions could set a precedent that other trading partners might emulate, leading to ever increasing barriers as supply tightens and prices rise.

Canada believes that one of the important ways to facilitate international flows of copper scrap is to ensure that international trade obligations, such as those set out in the WTO and the NAFTA, are adhered to by our trading partners.

While export restrictions would, thus, clearly be inappropriate in this case, Canada notes that the North American Free Trade Agreement (NAFTA) contemplates a Canadian exemption from such a measure, if imposed. Though Canada's imports currently account for only 6.3% of US scrap copper exports, that amount represents 94.5% of Canada's imports of the copper scrap covered by the petition. Given the long-term supply relationship reflected in those figures, export controls

would entail an unwarranted disruption of Canadian industrial activity. Consequently, if the US chooses to implement export restrictions, Canada requests that the US exempt Canada.

Were such an export restriction to be nonetheless extended to Canada, Canada would wish to draw attention to Article 315 of the NAFTA. Specifically, in addition to incorporating by reference the relevant Articles of the GATT, that provision would require the US to continue permitting the same proportion of US exports, relative to US domestic supply over the previous 36 months, to continue entering Canada. As well, normal supply channels, such as those to Canadian copper producers and brass mills, would need to be maintained.