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January 12, 2009

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VIA HAND/ELECTRONIC MAIL DELIVERY

Mr. Kelly Parkhill
Director for Industry Support and Analysis
Import Administration, Room 3713
Department of Commerce
14th and Constitution Avenue, NW
Washington, DC 20230

Re: *Comments on the 2008 Proposed Steel Import Monitoring and Analysis System Rule*

Dear Mr. Parkhill:

On behalf of the Rebar Trade Action Coalition (“RTAC”) and its members, domestic steel producers, we submit the following comments in response to the Department of Commerce’s (“Department”) publication of its proposed rule to extend the Steel Import and Monitoring System (“SIMA”) beyond its current expiration date for an additional period of four years.¹ As discussed in more detail below, the SIMA system is a necessary system of practical utility for both the Department and the private sector. With the current SIMA system set to expire on March 21, 2009, RTAC supports making the SIMA system permanent, or, at minimum, extending the SIMA system until March 2013.

¹ *Steel Import Monitoring and Analysis System*, 73 Fed. Reg. 75,624 (Dep’t Commerce December 12, 2008) (Proposed Rule).



I. **The SIMA System is an Invaluable Tool for the Department**

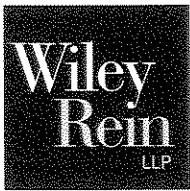
The Department has made clear that “{t}he purpose of the SIMA system is to provide statistical data on steel imports entering the United States seven weeks earlier than is otherwise publicly available.”² By providing the most accurate and timely information, this system allows the Department to efficiently and effectively monitor U.S. trade laws.

First, the real-time volume, value, and pricing data obtained through the SIMA system allows the Department to detect potential import surges. Global steel markets are in a constant state of flux. The SIMA system’s detailed statistics on steel mill imports allow the Department to identify and better understand such rapidly changing market conditions. With its enhanced ability to monitor import levels, the Department, in conjunction with the International Trade Commission, can properly enforce U.S. trade laws, thereby helping protect a vital sector of the U.S. economy from import-induced economic injury.

Second, the SIMA system assists the Department in ensuring that the U.S. Customs and Border Patrol is properly collecting antidumping and countervailing duties. As the Department has stated, the original intent of the Steel Monitoring and Analysis System³ “was to provide a monitoring tool to ensure that the effectiveness of the safeguard was not undermined by large quantities of imports originating from

² *Steel Import Monitoring and Analysis System*, 70 Fed. Reg. 72,373 (Dep’t Commerce Dec. 5, 2005) (Final Rule).

³ “The SIMA system (formerly referred to as Steel Monitoring and Analysis system) was originally outlined in the President’s March 5, 2002, Proclamation about Steel Safeguards, which also placed tariffs temporarily on many steel imports and provided the steel industry time to restructure.” *See Steel Import Monitoring and Analysis System*, 70 Fed. Reg. 72,373 (Dep’t Commerce Dec. 5, 2005) (Final Rule).



countries that were excluded from the tariffs.”⁴ Given the reality that many companies accidentally or purposefully circumvent antidumping and countervailing duty orders through undervaluation or misclassification, the SIMA system provides a beneficial tool for the Department to gauge the administration of trade remedy orders and assess whether U.S. trade remedy laws are being effectively enforced.

II. **The SIMA System is of Great Practical Utility for the Private Sector**

The primary purpose of the SIMA system is “to provide steel producers,” among other actors, “with accurate and timely information on anticipated imports of certain steel products.”⁵ Therefore, in addition to providing the Department with an efficient and effective means to administer U.S. trade laws, the SIMA system also provides steel companies (as well as importers and purchasers) with an essential tool for recognizing and monitoring changing patterns in steel imports. The SIMA system provides an early warning system for import surges. With this advance warning, steel companies can make important business decisions and take decisive action to counteract surges in competing exports before it is too late to do so. Thus, the SIMA system gives domestic producers valuable additional time to react to increases in imports and to plan their businesses accordingly. This is particularly important given the recent deterioration in global market conditions and global steel production and pricing.

⁴ *Id.*

⁵ *Steel Import Monitoring and Analysis System*, 73 Fed. Reg. 75,624 (Dep’t Commerce December 12, 2008) (Proposed Rule).



III. **Given the Necessity of the SIMA System, the Department Should make this System Permanent, or, at Minimum, Extend this System**

As discussed above, the SIMA system is of invaluable utility to both the Department and private sector. Given its importance, the Department should make the SIMA system permanent, or, at minimum, extend this system for an additional four years.

Since the initial inception of a U.S. steel import licensing and monitoring program in 2002, the government has routinely emphasized its value. For example, when President Bush lifted the steel safeguard measures in 2003, he pledged to “continue our steel import licensing and monitoring program so that {his} Administration {could} quickly respond to future import surges that could unfairly damage the industry.”⁶ In addition, the Department has stated that the SIMA system is an important tool for “collect{ing} timely detailed statistics on steel mill imports.”⁷

The Department and private sector’s need for accurate and timely information on a vital U.S. industry is continual, and not dependent on any set period of time. Making the SIMA system permanent would bring stability and continuity to the Department’s efforts to ensure that the government and steel industry have access to the most timely and accurate information on steel imports. In fact, for many of these reasons, a significant number of the U.S.’s trading partners already have permanent steel import licensing in place.

⁶ White House Press Release, Statement on Steel (Dec. 4, 2003), *available at* <http://www.whitehouse.gov/news/releases/2003/12/20031204-5.html>.

⁷ International Trade Administration: About the Steel Import Monitoring and Analysis, *available at* <http://ia.ita.doc.gov/steel/license/about-the-import-monitor-and-graphics.pdf>.



Moreover, making the SIMA system permanent is well within the bounds of the Department's legal authority. Under U.S. law, the Secretary of the Department has broad power to collect steel import information on a permanent basis. As the statute states:

The Secretary is authorized to collect information from all persons...importing into, the United States...and shall compile and publish such information pertaining to...imports...as he deems necessary or appropriate to enable him to foster, promote, develop, and further the commerce, domestic and foreign, of the United States and for other lawful purposes.⁸

Further, "{t}he Secretary may make such rules, regulations, and orders as he deems necessary or appropriate to carry out the provisions of this chapter," a chapter on foreign trade statistics.⁹

For the aforementioned reasons, the Department should make the SIMA system permanent. However, should the Department choose not to do so, at minimum, it should ensure that the SIMA system is renewed well before its current authorization expires on March 21, 2009. The Department's failure to act expeditiously on this matter could result in the expiration of the current system prior to its renewal, thereby unnecessarily disrupting steel import monitoring and rendering the steel industry vulnerable to unanticipated export surges.

⁸ 13 U.S.C. 301(a).

⁹ 13 U.S.C. 302.



IV. **Conclusion**

The Rebar Trade Action Coalition respectfully requests that the Department make permanent the SIMA system or at minimum, the Department should renew the SIMA system for four years, until March 21, 2013. The import monitoring and analysis system is an important tool that allows the Department to properly and efficiently administer and ensure compliance with U.S. trade laws. Additionally, this system provides domestic steel producers with detailed, timely information that allows them to properly recognize and react to steel import surges. By making this system permanent, the Department would bring stability and continuity to a system of permanent value and of permanent need.

Sincerely,

A handwritten signature in black ink, appearing to read "Alan H. Price".

Alan H. Price
Timothy C. Brightbill

*Counsel to the Rebar Trade Action
Coalition (RTAC)*