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BY HAND DELIVERY
Joseph A. Spetrini
Acting Assistant Secretary for Import Administration
Attention: Import Administration
Central Records Unit, Room 1870
U.S. Department of Commerce
14th Street and Constitution Avenue, N.W.
Washington, D.C. 20230

Re: Market Economy Inputs Practice in Antidumping Proceedings Involving Non-Market Economy Countries

Dear Acting Assistant Secretary Spetrini:

On behalf of United States Steel Corporation ("U.S. Steel"), we hereby respond to the Department's request for comments regarding the proposed changes to its methodology in non-market economy cases for valuing inputs obtained from market economy sources.[1]

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1 See Market Economy Inputs Practice in Antidumping Proceedings Involving Non-Market Economy Countries, 70 Fed. Reg. 46816 (Dep't Commerce Aug. 11, 2005) (Request for Comments).

Under the Department's proposed new methodology, where a respondent obtains the majority of an input (i.e., more than 50%) from market economy sources, the Department would use such market economy purchases to value 100% of that input.[2] Where the respondent obtains less than a majority of the input from market economy sources, the Department would use a proportional valuation methodology whereby it would weight-average the portion that was purchased from market economy countries, using the actual price paid, with the portion that was sourced domestically, using a surrogate value.[3] The Department has requested comments on two issues: (1) whether its proposal would appropriately address distortions caused by the Department's current input valuation methodology and (2) whether its proposal would be consistent with the Department's regulations.[4] U.S. Steel responds to each of these issues in turn.

First, U.S. Steel welcomes that part of the Department's proposal adopting a proportional valuation methodology for valuing inputs obtained from market economy sources. However, the Department's proposal to establish a bright

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2 Id. at 46817.

3 Id.

4 Id.

line threshold for input purchases beyond which it would use the market economy purchases to value 100% of an input would not appropriately address the distortions caused by the Department's current methodology. In fact, it would simply perpetuate such distortions.

Specifically, establishing a bright line threshold for market economy input purchases (i.e., more than 50%) would continue to encourage respondents to manipulate the results so as to favorably affect the calculation of their dumping margins. Respondents whose market economy input purchases were near the bright line threshold established by the Department could readily manipulate their purchases so as to determine whether or not they reach the threshold based on the result that is more favorable to their dumping margin. In this manner, respondents would be required to do very little to have a significant impact on their dumping margin. The Department's proposal would cede substantial control to respondents and would encourage them to make input purchase decisions based on how such decisions affect their antidumping duty liability, rather than for commercial reasons.

U.S. Steel does not dispute that once a certain level of input purchases from market economy countries is reached, 100% of the input in question should be valued at the market economy price. Nevertheless, the Department should not establish a bright line threshold to determine that level. Whether the level of market economy purchases of an input is so great as to warrant 100% of the input being valued at the market economy price will vary by industry and by input. The Department should adopt a flexible standard that allows it to establish the appropriate level of purchases based on the circumstances present in a particular case.

With respect to the second issued raised by the Department in its request for comments, the Department's proposal as well as the refinement to that proposal set forth herein by U.S. Steel would require a minor change to the Department's regulations. Section 351.408(c)(1) of the Department's regulations currently provides as follows:

> The Secretary normally will use publicly available information to value factors. However, where a factor is purchased from a market economy supplier and paid for in a market economy currency, the Secretary normally will use the price paid to the market economy supplier. In those instances where a portion of the factor is purchased from a market economy supplier and the remainder from a nonmarket economy supplier, the Secretary normally will value the factor using the price paid to the market economy supplier.[5]

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[5] 19 C.F.R. § 351.408(c)(1) (2005).

To implement the Department's proposal and the refinement proposed herein by U.S. Steel, the Department would need to revise Section 351.408(c)(1) as follows:

> The Secretary normally will use publicly available information to value factors. However, where a factor is purchased from a market economy supplier and paid for in a market economy currency, the Secretary normally will use the price paid to the market economy supplier. In those instances where a portion of the factor is purchased from a market economy supplier and the remainder from a nonmarket economy supplier, the Secretary normally will value the factor ~~using the price paid to the market economy supplier~~ by weight-averaging the portion that was purchased from the market economy supplier, using the actual price paid, with the portion that was purchased from the nonmarket economy supplier, using a surrogate value. Where the portion of the factor purchased from the market economy supplier represents predominantly all of the purchases of the factor, the Secretary may value the entire amount of the factor at the price paid to the market economy supplier. The Secretary will determine whether the portion purchased from the market economy supplier represents predominantly all of the purchases of the factor on a case-by-case basis..[6]

In sum, the Department should adopt the proportional valuation methodology proposed in its request for comments. However, it should not establish a bright line threshold for market economy input purchases beyond which it would use such purchases to value 100% of an input. Adopting a more flexible approach is

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6 Deletions from the current Section 351.408(c)(1) are denoted by the portions that are stricken out whereas additions to that provision are denoted by the portions that are double underlined.

essential to appropriately address the distortions created by the Department's current methodology and would require only a minor change to the Department's regulations.

Respectfully submitted,

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