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Good morning Mr. Chairman, and thank you for inviting me to participate in this important hearing.

I am Skip Hartquist, counsel to the Specialty Steel Industry of North America (SSINA) and a partner in Kelley Drye & Warren. SSINA’s member companies produce stainless steel, superalloys, high-nickel materials, electrical steel, and other sophisticated, high-tech products.

### State of the Specialty Steel Industry

Like other sectors of the steel industry, specialty steel producers face great challenges these days. Stainless and specialty steel consumption in 2009 is about one-half of the same period in 2008. Virtually all of our member companies have suffered substantial layoffs of production workers. Reflecting the economy, imports are roughly half of the same period in 2008. We believe much of the imports coming in are dumped and/or subsidized. We are monitoring the import situation very carefully to determine whether the filing of trade cases will be required.

### Cuban Nickel

China buys virtually all of its nickel, a crucial component of stainless steel from Cuba. U.S. sanctions against Cuba prohibit the importation of Chinese stainless steel if it contains Cuban nickel. Yet, despite our best efforts to convince the Treasury Department’s Office of Foreign Assets Control (OFAC), they have not taken action on this matter. OFAC has the obligation to require certification of steel importers that Cuban nickel is being used in their products. We would deeply appreciate the support of the Steel Caucus to ensure that this law is enforced.
China Currency

SSINA joins with other sectors of the steel industry, and U.S. manufacturing in general, in urging action to encourage China and other countries whose currency are clearly undervalued to make appropriate adjustments. We support the Currency Reform for Fair Trade Act of 2009, offered in the House by Congressmen Tim Ryan and Tim Murphy.

Specialty Steels – Critical to the National Defense

Let me shift for a moment and discuss some concerns arising out of the defense side of our business. All specialty metals found in DOD weapon systems are required by law to be melted in the United States. The Specialty Metals Amendment, previously known as the Berry Amendment, was enacted in 1973 and has been a major factor in maintaining the overwhelming U.S. technological lead in the production of specialty metals. The guarantee provided by this clause -- that our weapons systems will be built with domestically-melted material – has provided the incentive that our companies required to make the substantial investments necessary to preserve that technological lead. This is sound economic policy, and more importantly, it is sound national security policy. There is not a single weapons systems or military aircraft that does not rely heavily on the use of specialty metals.

Congress obviously agrees, as it has preserved this law for more than three decades. At the same time, the law has been modified to address some of the concerns expressed by defense contractors, who have had difficulty complying (or simply refused to comply) with the law. Get well periods were established during a recent legislative cycle, and modifications were made to the law including a de minimis clause to cover the inadvertent inclusion of small amounts of non-compliant metal, as well as a provision that would permit, under certain conditions, the co-mingling of domestic and foreign specialty metals.
Despite these modifications, the Department of Defense, during the prior Administration, took regulatory actions that reflected a desire to undermine the effectiveness and objectives of the Specialty Metals Amendment. In implementing the FY08 National Defense Authorization Act, DOD has taken major liberties in its interpretation of the statute, including:

- Creating a new definition of U.S. “production” to allow the importation of foreign material and qualifying it as “domestic” through the application of minimal processing operation.
- Creating a major “commercial-off-the-shelf” loophole that could classify nearly everything DOD buys commercially as exempt from the law.

The Department persisted in these interpretations despite being instructed by Congress on numerous occasions that these interpretations were inconsistent with the law and the intent of Congress. This attitude on the Department of Defense was further reflected in a report issued at the end of 2008 by DOD’s Strategic Materials Protection Board. The Report concluded that specialty metals, like the titanium and superalloys from which we build our military aircraft, and the specialty steels that are used in the production of armor plate, are not critical to national security. The Report further concludes that there is no national security reason for DOD to take any action to ensure a long term domestic supply of these specialty metals. In other words, there is no need for a domestic sourcing requirement for strategic metals, since there is no problem sourcing these materials from suppliers in Russia and China.

The genius of the Specialty Metals Amendment is that it has promoted investment in reliable domestic sources for our military systems without requiring special subsidies. The law has been successful in insuring that the United States will always have a competitive and innovative domestic source of critical materials to supply our defense industrial base. Our
industry will be working extra hard to ensure that the new Administration understands the rationale and importance of this law, and we look forward to the Caucus’ support as we seek to undo these previous regulatory interpretations.