



January 4, 2021

The Honorable Wilbur L. Ross, Jr.
Secretary of Commerce
U.S. Department of Commerce
1401 Constitution Avenue, NW
Washington, DC 20230

Dear Secretary Ross:

On behalf of the American Iron and Steel Institute (“AISI”), the Steel Manufacturers Association (“SMA”), the Specialty Steel Industry of North America (“SSINA”), and the Committee on Pipe and Tube Imports 232 Coalition (the “CPTI 232 Coalition”), we are writing to express our concern regarding the Department of Commerce’s (“Department”) recent adoption of General Approved Exclusions (“GAEs”) pursuant to the agency’s December 14, 2020 interim final rule (“final rule”) on the Section 232 product exclusion process.¹ If permitted to stand, the GAEs will effectively eliminate the Section 232 tariffs on a large number of steel products that the domestic industry is capable of producing. Immediate action is required to ensure that the GAEs do not severely undermine the effectiveness of the Section 232 program.

In its final rule, the Department identified 108 codes under the Harmonized System of Tariffs (“HTS”) that are approved for import under a GAE. Any steel product classified in these HTS codes can now be imported into the U.S. free from Section 232 tariffs without the need to apply for an exclusion. These permanent, blanket exclusions are alarming for several reasons.

First, while the GAEs are intended to capture steel products for which the domestic industry has never objected, the list contains numerous carbon, stainless and alloy steel products that domestic steelmakers can and do produce. These products include, but are not limited to, hot-rolled sheet and strip (*e.g.*, GAE 102/HTS 7211140090), cold-rolled sheet and strip (*e.g.*, GAE 24/HTS 7211296080), corrosion-resistant steel (*e.g.*, GAE 38/HTS 7212200000), coated and uncoated wire (*e.g.*, GAE 25/HTS 7217201500), steel tubing (*e.g.*, GAE 45/HTS 7306617060), steel bar (*e.g.*, GAE 14/HTS 7215500018), and steel sections (*e.g.*, GAE 78/HTS 7216400010). The fact that the domestic industry has not previously objected to a product exclusion request does not justify an indefinite blanket exclusion. There are many reasons why the domestic industry may not object to a given request that are unrelated to domestic production capabilities (*e.g.*, duplicative requests, minimal volume requested, misclassifications in the requests, requests in metric sizes, pending trials, and other commercial reasons). Indeed, the sheer volume of requests alone has

¹ See *Section 232 Steel and Aluminum Tariff Exclusions Process*, 85 Fed. Reg. 81,060 (Bureau of Industry and Security Dec. 14, 2020).

made it difficult for the domestic industry to carefully review and object to each request where it is capable of producing the product at issue.

Second, the GAE list is overly broad in its coverage and goes far beyond the Department's stated purpose in implementing this change, which is to "create a more efficient method for approving exclusions" where objections have not been received on exclusion requests. Instead of being narrowly tailored to the specific products subject to exclusion requests that have received no objections, the GAE list is based on broad HTS categories that capture products beyond those defined in the underlying exclusion requests. For example, an exclusion request may have encompassed a minimal volume of an unavailable proprietary grade, and yet the entire HTS category for that grade may have been included in the GAE. As a result, the GAEs will allow imports to enter the U.S. market free from Section 232 tariffs in volumes that exceed the actual tonnage at issue in the specific exclusion requests.

Specifically, from April 2018 to March 2020, the total volume of imports covered by the underlying exclusion requests related to the 108 HTS codes was 1,484,375 metric tons; this is compared to the 2,469,747 metric tons of imports that entered the U.S. market under the same HTS codes during the same period. As one specific example, the total volume of imports for the 4 exclusion requests submitted under HTS 7208390015 (certain flat-rolled high strength hot-rolled steel) was 2,000 metric tons as of March 2020; by contrast, 324,763 metric tons of imports entered the U.S. market under this HTS code during the same period.

By adopting the GAEs based on broad HTS categories instead of narrowly defined products, the Department is effectively excluding a wide range of steel products from the Section 232 program that were never subject to an exclusion request and that the domestic industry is producing, contrary to the purpose of the program. The end result will likely be a sharp increase in steel imports entering our market tariff free at a time when the industry is recovering from the COVID-19 shock.

Section 232 relief has enabled the domestic industry to make real progress in shoring up the U.S. steel supply chain, after being hollowed out by years of unfair trade and subsidized excess capacity overseas. Adoption of the GAEs, however, will severely undermine the effectiveness of the Section 232 program. The final rule permits the Department to remove or revise the GAE list as warranted. The Department should immediately revoke all GAEs until it can narrowly tailor the scope of these exclusions to products that the domestic industry is not capable of producing.

Please do not hesitate to contact us if you have any questions.

Sincerely,

American Iron and Steel Institute
Committee on Pipe and Tube Imports 232 Coalition
Specialty Steel Industry of North America
Steel Manufacturers Association

CC: Corey Stewart, Acting Under Secretary for Industry and Security
Matthew Borman, Deputy Assistant Secretary, Bureau of Industry and Security