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Kevin M. Dempsey
President and CEO

September 10, 2024

Ryan Majerus
Deputy Assistant Secretary
Policy and Negotiations
U.S. Department of Commerce
Room 18022
1401 Constitution Avenue N.W.
Washington, D.C. 20230

**RE: Regulations Enhancing the Administration of the Antidumping and
Countervailing Duty Trade Remedy Laws [ITA-2023-0003]**

Dear Mr. Majerus:

In response to a notice from the U.S. Department of Commerce,¹ the American Iron and Steel Institute (AISI) hereby submits the following comments to the International Trade Administration (ITA) regarding the Enhancement of the Administration of the Antidumping and Countervailing Duty Trade Remedy Laws.

AISI serves as the voice of the American steel industry in the public policy arena and advances the case for steel in the marketplace as the preferred material of choice. AISI's membership is comprised of integrated and electric arc furnace steelmakers, and associate members who are suppliers to or customers of the steel industry.

Introduction

We appreciate the opportunity to provide input on the Department of Commerce's efforts to enhance the administration of the antidumping and countervailing duty (AD/CVD) laws. These laws provide domestic industries with a legal remedy to combat unfairly traded imports from around the world. With respect to the steel industry alone, the Department of Commerce currently has 309 AD/CVD orders in place on steel-related products from 45 different countries,² highlighting the prevalence

¹ Department of Commerce, "Regulations Enhancing the Administration of the Antidumping and Countervailing Duty Trade Remedy Laws", 89 Federal Register No. 134 (July 12, 2024) 57286-334

² International Trade Administration, "ADCVD Proceedings", last accessed August 21, 2024, available at <https://www.trade.gov/data-visualization/adcvd-proceedings>

of unfair trade in our sector and the important of full and vigorous enforcement of the AD/CVD laws.

The following are AISI's comments on a number of specific proposals in the Department of Commerce's recent notice.

Business Proprietary Information Sharing

AISI and our member companies strongly support the Department of Commerce modifying § 351.306(a)(3) of the Department's regulations to align with statutory language, as amended pursuant to the Trade Preferences Extension Act of 2015 (TPEA), permitting the Department to share business proprietary information (BPI) with U.S. Customs and Border Protection (CBP) officials in CBP investigations involving negligent and grossly negligent conduct in addition to fraudulent conduct. Inter-agency sharing of information is essential to comprehensive enforcement of AD/CVD duty collection. Those enforcement efforts should not be hampered merely because potential underpayments under investigation may have arisen from conduct other than fraud.

Nonmarket Economies

AISI supports the Department of Commerce's proposed revisions to its regulations to codify and update the methodology by which it determines if an entity exporting products from a nonmarket economy (NME) country should receive the NME entity rate rather than a separate AD duty rate. NMEs have been and continue to be a major concern for the domestic steel industry in the U.S. Last year, China -- the largest NME -- exceeded one billion metric tons in steel production for the fourth year in a row, massively contributing to the overcapacity issue facing steel producers around the world, and over the last year and a half has been significantly increasing its exports of steel products to world markets. The Department's proposed new regulation will ensure it has the tools needed to account for the many ways in which the government of China exercises influence or control over commercial entities in that country, even when the Chinese government may own less than 50 percent of a particular enterprise's shares.

Facts Available

AISI supports the Department of Commerce's proposed modification to the regulations governing the use of adverse facts available in § 351.308, both to codify the Department's long-standing practice to apply either partial or total facts available depending on the circumstance as well as to implement changes made to the statute pursuant to TPEA. It is essential that Commerce have all available tools at its disposal to

ensure that nonparticipating companies do not benefit from their lack of participation in AD/CVD investigations and related proceedings.

Countervailing Duty Proposed Changes

Additionally, AISI generally supports the proposed CVD specific changes. CVD laws are an important tool for the Commerce Department and serve as a legal recourse for domestic industries who have been injured by subsidized imports. Ensuring that Commerce has the tools necessary to combat these unfair trade practices is of the utmost importance to AISI and our member companies. Some examples of the proposed revisions important to the steel industry are covered below.

AISI supports the proposed revisions to § 351.525(b)(6)(iv) providing clarification for when Commerce will consider an input to be primarily dedicated to the production of a downstream product, however AISI would recommend the Department of Commerce consider including subsidies to upstream input suppliers even if those suppliers are not cross-owned with the subject merchandise producer. In the stainless steel industry, for example, many producers in foreign countries are receiving subsidized nickel for stainless steel production which distorts the market and provides those foreign producers with an unfair competitive advantage.

AISI also supports modifying the provision regarding the transfer of subsidies between cross-owned corporations to specify that a transferred subsidy from a cross-owned corporation will be attributed solely to products produced by the recipient of the transferred subsidy.

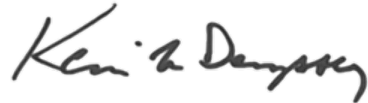
Finally, AISI supports the proposed replacement of current § 351.526 with language codifying the Department of Commerce's existing practice with respect to subsidy extinguishment from changes in ownership, including by establishing a presumption that non-recurring subsidies continue to benefit a recipient in full over an allocation period determined consistent with Commerce's regulations, notwithstanding an intervening change in ownership, and by setting forth factors to be considered to evaluate whether that presumption has been properly rebutted.

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Conclusion

Thank you for the opportunity to provide comments on the Department of Commerce's continued efforts to strengthen enforcement of the AD/CVD laws. Effective trade remedy laws are important not only to the American steel industry, but to industries across the United States. We look forward to continuing to work with you on policies to support American manufacturing industries and their workers.

Sincerely,

A handwritten signature in black ink that reads "Kevin M. Dempsey". The signature is written in a cursive style with a large, sweeping initial "K".

Kevin M. Dempsey
President and CEO