



AMERICAN INSTITUTE FOR INTERNATIONAL STEEL, INC.

Economic Growth through Competition in Steel Trade

Statement of AIIS on Retrospective versus Prospective Duties

Thank you very much for the opportunity to provide information about what has been the top trade law issue for the American Institute for International Steel for decades, the retrospective duty collection process.

We understand that one of the reasons that this issue has gotten the attention of the Congress and now the Department of Commerce is related to unpaid trade duty collections from the aquaculture industry. However, in the steel world, the kind of corporate irresponsibility exhibited in those cases is not how our members do business. AIIS's importing members are longstanding suppliers to steel consumers in the US, many of the trading companies have large physical investments in the US, including service center operations and processing. AIIS trading company members are also involved in the growing steel export trade. In short, our trading company members play a critical role in supplying steel to the steel-short US market and exporting high quality American made steel around the world. American steel consumers employ 60 workers for every American steel worker and their value added is critical to the US manufacturing base. Steel imports are an important part of the international competitiveness of American steel consumers and, through the growing export trade, the domestic industry itself.

The US is the only country that uses the retrospective duty collection methodology. Almost all of the rest of the world uses the prospective duty collection methodology and some, like our NAFTA partner Canada, has an even better system, a prospective duty collection system with a "normal value" component that allows a company to import without payment of a dumping duty if the import price is above a certain calculated level. Otherwise, the duty is set at the time of importation, as it is in the rest of the world.

Why are these systems better than the US system? We understand that we are dealing with importations that have been found to have been dumping and injuring the domestic industry and so are required to pay an additional tariff upon entry into the US. However, under WTO rules, the penalties are required only to remedy the injury, nothing more. The retrospective system has created a remedy that is more penalizing than the dumping warrants in many cases and it is therefore we believe, inconsistent with our WTO obligations. For example, one of our members in the past who had a zero AD rate for hot rolled sheet did not purchase that product due to the unlimited potential liability that the retrospective system causes. That is, the fact that two years from the time of importation the Department of Commerce could send a bill for additional duties – and that bill had no upper limit -- meant that, as prudent businesspeople, they would not import their own parent corporation's product. The zero AD duty rate says that they were not dumping, but the retrospective system makes it too risky to import. Thus, the retrospective system creates a remedy for dumping – in this case, no dumping – that far outweighs what AIIS believes the

WTO allows. Note that this is a mill employing Americans processing those imports into cold rolled sheet and other flat rolled products, some of which would be exported – as this administration supports.

This example is not unique. Low AD rates should allow an importer to sell products covered under an AD order if the market is strong enough and the order's rate is sufficiently low to allow the trading company to do the business. The payment of the duty at the time of importation should finalize the transaction with the government. There should be no future liability possible.

AIIS believes that the justification for the current retrospective system – that it gets the duty right for the instant importation – has become a ruse for blatant protectionism. What businessperson in any business can do his or her business if, two years after the completion of the transaction, the purchase cost is retrospectively doubled – or more. It could change what the business person thought was a profitable transaction into an unlimited loss.

Another insidious side-effect of the current system is even more disagreeable. It is not uncommon for petitioners to ask for an administrative review for an exporter/producer who has been shipping to the US at a moderate AD or CVD rate and then, faced with the possibility that what they thought were profitable sales in the US would become unprofitable, the exporter/producer offers cash to the petitioners' lawyers to drop the request for a review. Once the request for an administrative review is rescinded, the original posting rate charged to the importer at the time of importation becomes the final duty. This dirty extortion game is legal, but it is a natural outgrowth of the retrospective system, and was reported on in the Wall Street Journal on April 3, 2007.

The US steel market is short of domestically produced steel. Steel consumers need imported steel to run their factories. The retrospective duty collection system serves no legitimate purpose other than to provide a remedy for dumping that is excessive of what the WTO countenances – and as discussed, even a zero AD rate is vulnerable to unlimited AD charges.

Every business needs a fair degree of certainty to engage in business transactions. The retrospective duty system eliminates any level of certainty and is on its face, protectionist and needs to be changed for the system used by the rest of the world, the prospective system.