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April 20, 2010

Mr. Ronald K. Lorentzen  
Deputy Assistant Secretary of Commerce for Import Administration  
U.S. Department of Commerce  
Room 1870  
1401 Constitution Avenue, N.W.  
Washington, D.C. 20230

**RE: Comments of Precision Metalforming Association on Retrospective Antidumping and Countervailing Duty System**

Dear Mr. Lorentzen:

The Precision Metalforming Association (PMA) submits these comments in response to the Notice published on March 31, 2010 by Import Administration (75 Fed. Reg. \_\_\_\_\_ (March 31, 2010)). PMA is the full-service trade association representing the \$113-billion metalforming industry of North America—the industry that creates precision metal products using stamping, fabricating, spinning, slide forming and roll forming technologies, and other value-added processes. Its nearly 1,000 member companies also include suppliers of equipment, materials and services to the industry. It is very important to PMA members that trade remedy actions, including antidumping actions, designed to protect one domestic industry do not unduly harm other domestic industries. To remain globally competitive, it is critical that antidumping duties be fairly calculated and reasonably predictable for importers and U.S. purchasers of these products, as well as competing products. In today's economy, manufacturing in the United States faces a great number of challenges. While unfairly traded imports can be part of this challenge, other factors are of greater concern to the small manufacturers that comprise our membership, and who together employ tens of thousands of workers across the U.S.

PMA believes that the retrospective system of assessment and collection of antidumping and countervailing duties is an important factor in making these laws work against U.S. consuming industries. It is important for Congress and the Department to have a full understanding of the problems caused by the current system and to consider options for reform. It is our understanding that only the United States employs the retrospective system.

Under the retrospective system, entries into the United States for consumption that are covered by a preliminary determination or an antidumping or countervailing duty ("AD/CVD") order are subject to the payment of those duties. However, the duty is not assessed at the time of entry. The Department, through U.S. Customs and Border Protection ("CBP"), requires the deposit of estimated antidumping and countervailing duties at the time of consumption entry.

Except for entries during the initial investigation, which are subject to a deposit “cap,” the final liability for duties is not limited by the duty deposit. Importers therefore do not know at the time of entry the final amount of AD/CVD duties that may be applied to their imports subject to antidumping and countervailing duty proceedings.

The entire burden of liability for additional duties lies on the “importer of record.” However, the importer is not in possession of the facts on which to base an estimate of the final duty liability. In an AD case, the necessary information includes, inter alia:

- Home market selling prices of the exporter/producer
- Costs of production of the exporter/producer
- The accounting records and ability to cooperate of the exporter/producer
- Identity and amount of adjustments for physical characteristics of merchandise sold in the home or third country market
- Circumstances of sale adjustments
- Packing, movement expenses, insurance

The retrospective system does no significant damage to foreign producers and exporters, unless it is assumed that the U.S. is the only market where they can sell. This is not usually the case. With respect to intermediate goods and raw materials, producers have a wide variety of markets. This trend is increasing as emerging markets ramp up their manufacturing. A producer that is foreclosed from the U.S. market is much more likely to sell to domestic customers or third-country markets, where there is certainty regarding conditions of competition.

The result is that imports tend to dry up when these orders are imposed. This dynamic can have crucial consequences for PMA members who, as domestic purchasers of these products, will face higher prices because there will be less competition in the U.S. market. For most PMA members, steel represents a significant component of overall costs – up to 60% of total costs for many companies. PMA members use steel to manufacture products that are essential inputs for downstream manufacturers around the globe. Like many manufacturers, PMA member companies generally operate on thin margins and are extremely sensitive to price increases because those increases jeopardize their ability to compete against products manufactured at lower cost overseas.

Even though our members purchase virtually all of their steel domestically, a lack of competition in these inputs can increase the cost of the raw materials that they use to manufacture their products – costs they typically cannot pass along. The absence of imports in the market is not limited to unfairly traded imports. Due to the tremendous exposure importers face from retrospective assessments, and the lack of information about the amount of potential duties, imports are deterred whether they are fairly traded or not. Clearly, the U.S. market loses the benefit of competition from imports even if they are fairly traded.

Petitioners in AD/CVD cases tend to benefit from the absence of competition in the market, which in the short term can raise prices for their products. In the longer term, when imports into the U.S. decline, they will be replaced by downstream products that are not subject to AD/CVD duties because of the scope of the existing orders. Foreign companies and workers

will make products from the inputs excluded from the U.S. market, reducing activity and employment in the U.S., and ultimately undermining the market for the very petitioners that filed these cases.

There is a better way to enforce the law and balance the interests of all. The prospective system of assessment is employed by all countries that enforce AD/CVD laws in the world, except the United States. PMA believes that such a system would better protect the interests of domestic producers while effectively guarding against the import of unfairly traded goods.

Thank you for the opportunity to comment on this important issue. We ask that your report to Congress reflect PMA's views.

Sincerely,



William E. Gaskin  
President