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November 16, 2001

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BY HAND DELIVERY

The Honorable Donna R. Koehnke
Secretary
U.S. International Trade Commission
500 E Street, S.W.
Washington, D.C. 20436

Inv. No. TA-201-73
Remedy phase
Confidential business information has been deleted from pages 3, 5, 6 and 22 through 27 of the enclosed posthearing brief.

NON-CONFIDENTIAL VERSION

RE: **Steel – Stainless Steel flanges and Fittings (Product 33)**

Dear Secretary Koehnke:

On behalf of Flanschenwerk Bebitz GmbH, Friedrich Geldbach GmbH, Metalfar Prodotti Industriali S.p.A., MGI S.A., Officine Ambrogio Melesi & Cie., Ulma Forja S.A., Wilhelm Geldbach GmbH, and Vilmar S.A. of Romania (collectively, "The Respondents" or "European Flange Producers"), enclosed are an original and five (5) copies of the non-confidential version of the posthearing brief filed by the European Flange Producers.

Pursuant to 19 C.F.R. § 201.6, confidential business information has been deleted from Pages 3, 5, 6 and 22 through 27 of the enclosed brief. This bracketed information consists of either confidential business information ("CBI") submitted by other parties to this proceeding under administrative protective order ("APO") or CBI of commercial value within the meaning of 19 C.F.R. § 201.6(a)(1) for which confidential treatment was requested on behalf of the Respondents. Public disclosure of the bracketed information likely would either: (1) impair the Commission's ability to obtain such information as is necessary to perform its statutory functions; or (2) cause substantial harm to the competitive position of the person, firm, partnership, corporation, or other organization from which the information was obtained.

Enclosed are the certifications required by 19 C.F.R. §§ 201.6(b)(3)(iii) and 206.8(a). This submission has been served in accordance with the attached certificate of service. Please contact the undersigned if there are any questions concerning this submission.

Respectfully submitted,

HOGAN & HARTSON L.L.P.

By: _____
Lewis E. Leibowitz
Craig A. Lewis
Elizabeth V. Baltzan

HOGAN & HARTSON L.L.P.

CERTIFICATION

City of Washington)
)
District of Columbia)

In accordance with Section 201.6(b)(3)(iii) of the Commission's regulations, 19 C.F.R. § 201.6(b)(3)(iii), I hereby certify that information substantially identical to that for which confidential business information treatment has been requested in the attached submission is not available: Flanschenwerk Bebitz GmbH, Friedrich Geldbach GmbH, Metalfar Prodotti Industriali S.p.A., MGI S.A., Officine Ambrogio Melesi & Cie., Ulma Forja S.A., Wilhelm Geldbach GmbH, and Vilmar S.A. of Romania.

In accordance with Section 206.8(a) of the Commission's regulations, 19 C.F.R. § 206.8(a), I hereby also certify that: (1) I have read the foregoing submission; and (2) based on the information provided to me, the information contained in the attached submission is, to the best of my knowledge, complete and accurate.

Craig A. Lewis
Counsel

Subscribed and sworn to before me this 15th day of November, 2001.

Notary Public

My Commission Expires:

LaVerne L. Stevenson
Notary Public District of Columbia
My commission Expires March 31, 2005

CERTAIN STEEL PRODUCTS
INV. NO TA-201-73

ITC PUBLIC CERTIFICATE OF SERVICE

I, Nicholas J. Graber, hereby certify that on Friday, November 16, 2001, a copy of the foregoing submission has been served by hand, by overnight mail or its equivalent on the following parties:

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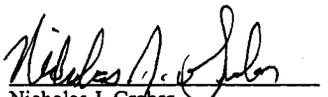

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NON-CONFIDENTIAL VERSION
CONFIDENTIAL BUSINESS INFORMATION DELETED FROM BRACKETS

BEFORE THE
UNITED STATES INTERNATIONAL TRADE COMMISSION
WASHINGTON, D.C.

In the Matter of:	**NON-CONFIDENTIAL VERSION**
Steel –	**Inv. No. TA-201-73** **Remedy Phase**
Product 33 – Stainless Steel Flanges and Fittings	**Confidential business information has been deleted from pages 3, 5, 6 and 22 through 27.**

POSTHEARING BRIEF
ON BEHALF OF
THE ASSOCIATION OF EUROPEAN QUALITY FLANGE PRODUCERS
(PRODUCT 33)

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November 16, 2001

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POSTHEARING BRIEF ON BEHALF OF THE ASSOCIATION OF EUROPEAN QUALITY FLANGE PRODUCERS

This posthearing brief on remedy issues is submitted on behalf of the Association of European Quality Flange Producers consisting of Flanschenwerk Bebitz GmbH, Friedrich Geldbach GmbH, Metalfar Prodotti Industriali S.p.A., MGI S.A., Officine Ambrogio Melesi & Cie., Ulma Forja S.A., Wilhelm Geldbach GmbH, and Vilmar S.A. (hereinafter "European Flange Producers"), in response to the U.S. International Trade Commission's ("Commission's") notice of institution of the remedy phase of the above-captioned safeguards investigation of Steel, 66 Fed. Reg. 54,285 (Oct. 26, 2001) and the hearing held on November 9, 2001.

This posthearing brief responds specifically to the proposals for remedy and adjustment plans submitted by the law firm of Schagrin Associates on behalf of Maass Flange Corporation ("Maass") and Ideal Forging Corporation ("Ideal"), 1/as well as the remedy proposals and adjustment plans submitted by the law firm of Mayer, Brown & Platt and behalf of Gerlin, Inc. ("Gerlin") 2/ with respect to stainless steel flanges and fittings. The European Flange Producers welcome this opportunity to address the important question of the selection of a remedy and to comment on the remedies proposed by the domestic industry pertaining to stainless steel flanges and flange forgings.

1/ Domestic Producers' Prehearing Remedy Brief: Carbon and Alloy Steel Tubular Products and Stainless and Tool Steel Products (Oct. 29, 2001) ("Schagrin Brief")

2/ Pre-Hearing Brief of Gerlin, Inc. on Remedies and Adjustment Plans Regarding Imports of Stainless Steel Flanges and Flange Forgings (Product Category 33) (Oct. 29, 2001) ("Mayer Brown Brief").

I. SUMMARY

As discussed in their Prehearing Brief to the Commission, the European Flange Producers believe that the Commission's remedy analysis should consider relief for flanges separately from relief for other products included within Product Group 33, such as stainless steel butt-weld pipe fittings. We note that we are effectively joined in this position by the only representatives of domestic stainless steel flange producers that are actively participating in this proceeding. 3/

The European Flange Producers also wish to reiterate their request for the exclusion from any remedy proposed by the Commission of: (1) stainless steel flange forgings; (2) stainless steel flanges that are manufactured by producers included on the major approved/accepted manufacturer lists ("AML's"), and (3) large diameter (i.e., diameter of 360 mm or larger) stainless steel flanges. As outlined in the European Flange Producers' Prehearing Brief to the Commission and in submissions provided to the United States Trade Representative's Office (see **Attachment 1**), there is no credible evidence on the record of this proceeding that imports of these particular products have undersold domestic producers or otherwise have contributed to the substantial injury identified by the Commission. The European Flange Producers also submit that there is inadequate domestic supply of these specialty flanges, meaning that restrictions on imports of these products will cause serious economic harm to downstream end users.

3/ Mayer Brown Brief at 1 (arguing for HTS-specific quota levels); In the Matter of: Steel, Inv. No. TA-201-73 (Injury Phase), Transcript at 2413 (Testimony of Roger Schagrin) ("{W}hen we first commented to the Commission on product breakouts we said make flanges separate. Flanges aren't anything like fittings. I know nipples, couplings, fittings, a lot of them are made from pipe. Flanges are a totally different basket.").

The European Flange Producers also reiterate their view that measures other than import-restrictive measures are better suited to address the condition of the domestic industry. As the adjustment plans submitted by the domestic industry indicate, [

] The European Flange Producers submit that it is not appropriate to obtain the funding for such measures through market-distorting trade restrictions. Such funding is more efficiently and fairly obtained through direct government assistance in such available forms as the expansion of the existing Emergency Steel and Oil and Gas Loan Guarantee Program. 4/ Such existing or future legislative measures would have the added benefit of imposing badly needed external supervision by lenders to diminish the possibility of wasteful and counterproductive investment decisions that would merely contribute to existing over capacity (specifically in the commodity flange market) without adding anything to the underlying competitive strength of the domestic industry.

Having examined the various import restrictive proposals submitted by the domestic industry, the European Flange Producers offer the following points for the Commission's consideration, should it consider such measures:

- **Quotas are preferable to tariffs in this case**. There is no justification or basis for applying a tariff based remedy in the absence of evidence of underselling by imports of stainless steel flanges. Even if the Commission wished to apply tariffs, there is simply no effective means of determining an appropriate level for such tariffs.

- **The Base Period for Quotas Must be Within the Five-Year Period of Investigation**. The Commission should reject the domestic industry's attempts to use import volumes outside of the five-year period of investigation as the basis for determining quota volumes. Going outside

4/ Emergency Steel Loan Guarantee Act of 1999 and Emergency Oil and Gas Guaranteed Loan Program, Pub. L. 106-51, 45 U.S.C. § 15.

the Commission's five-year period is contrary to the statute, the WTO, and Commission precedent, as well as the views expressed by other representatives of domestic producers.

- **There Must be a Steady and Substantial Annual Increase in the Quota Levels** As required by statute, the quota volumes should be increased on an annual basis at significant levels so that import volumes at the end of the period are free of restraint.

- **There Must be a Short-Supply Mechanism** Any quota applied by the Commission must include a mechanism for consideration and grant of short-supply waivers so that end-users will be assured of adequate supplies.

II. FLANGES AND FITTINGS ARE DISTINCT PRODUCTS AND SHOULD BE ANALYZED SEPARATELY

As we stated in our prehearing brief and at the hearing, flanges and fittings are different products and should therefore be treated differently for remedy purposes. 5/ Flanges and fittings serve different purposes: flanges provide "disconnectability" for pipes, valves, metering systems, filters, etc., whereas fittings merely change the direction of the pipe or combine or separate flows in piping systems. They are made from different raw materials: flanges are made from billets and bars, whereas fittings are made from pipe. These products are also made with different equipment, and few companies manufacture both.

These distinctions are particularly relevant for remedy purposes because the concern might arise that imposing a remedy on one product alone (for examples fittings only) would invite circumvention or overproduction of the unrestricted import (flanges). However, the lack of substitutability or interchangeability between flanges and fittings eliminates this concern.

5/ Prehearing Brief on behalf of the Association of European Quality Flange Producers Regarding Stainless Steel Flanges and Fittings (Product 33) (Remedy), at 6-7; In the Matter of: Steel (Remedy Phase) Inv. No. TA-201-73, Transcript (hereinafter "Transcript") at 1133 (Testimony of Craig A. Lewis).

It is further necessary to distinguish flanges and fittings for remedy purposes because no credible evidence has been provided that imports of flanges have caused serious injury to the domestic industry. 6/ Moreover, as will be discussed in greater detail below, the proposed relief for flanges and fittings is based on theories of underselling that pertain to fittings alone. Therefore, the Commission is simply not in a position to calculate a remedy for flanges.

III. OTHER NON-RESTRICTIVE MEASURES ARE BETTER SUITED TO FACILITATE THE DOMESTIC INDUSTRY'S ADJUSTMENT TO IMPORT COMPETITION

As further discussed below in Section V, the adjustment plans put forward by the domestic industry indicate that the industry's plans to adjust to import competition consist [

] These adjustment plans, of course, confirm the European Flange Producers' original contention that the problems faced by the domestic industry in competing in the market stem from [

] not imports. However, at this point, the more immediate question presented to the Commission is whether these goals are best addressed through import restrictive measures or some other form of assistance.

6/ Gerlin has provided data on its flange operations it would have the Commission use as a surrogate measure. However, information on one domestic producer that is not even the largest domestic producer, cannot suffice to provide an accurate benchmark for discerning the existence or amount of injury. [

].

The European Flange Producers submit that the Commission should always give preference to non-trade distorting measures to achieve the objectives of the safeguards statute where such measures are available and will be effective. In this case, to the extent that the domestic industry is seeking to [ ], it is simply not the case that these objectives can only be achieved by restricting imports. To begin with, this industry was profitable throughout every year of the period of investigation. This overall health is reflected in the Commission's tie vote on whether serious injury even occurred. There is no evidence that the program identified by the U.S. producers could not easily be self-financed without government assistance.

However, to the extent that government assistance is justified, the European Flange Producers submit that such assistance is better provided directly in the form of loan guarantees, worker training, and similar programs. Some programs of this kind already exist and could relatively easily be expanded to accommodate the needs of domestic producers. If any additional direct assistance is desirable, the Commission can, and should, recommend to the President legislative proposals that would address those concerns.

IV. ANY IMPORT-RESTRAINING REMEDY WILL INJURE THE DOMESTIC INDUSTRY

As the European Flange Producers stated in the prehearing brief 7/ and at the hearing on remedy, 8/ the Commission is in the impossible position of having to pick winners and losers within the domestic industry. Import restraints on stainless forgings will hurt Gerlin, which relies upon forgings for its converter business. Relief on stainless finished flanges alone

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7/ Prehearing Brief (Remedy) of Hogan & Hartson, at 5.

8/ Transcript at 1134-1135 (Testimony of Craig A. Lewis).

will hurt integrated producers such as Maass and Ideal because their advantage vis-à-vis the converters is their captive production of forgings. If relief is granted on finished flanges alone, then demand for imports of forgings will increase, the price of forgings will drop, and the integrated producers' competitive advantage will be severely reduced, if not eliminated. Gerlin has responded by noting that the integrated producers will have the "freedom" to source their forgings from wherever they choose, a euphemism for importing forgings. 9/ Note, however, the result that would obtain if the integrated producers join Gerlin in importing their forgings: in that case, the integrated producers will have eliminated the only aspect of flange production that actually uses U.S. steel. Thus, the Commission's recommendation in the Steel investigation would be to push steel production offshore, resulting in a further hollowing of the domestic industry.

Gerlin also replied that the Commission always picks sides in its investigations. 10/ This comment is at best misleading. While there are always winners and losers in Commission decisions, those winners and losers are not normally found within the same industry producing the same like product. The European Flange Producers are not aware of an example of a Section 201 case in which two producers of the same like product faced opposite results were the Commission to choose one form of relief over another. Considering that only three Commissioners found serious injury, the most effective action the Commission could take is to avoid import restrictions on forgings and finished flanges.

9/ Id. at 1139 (Testimony of Jack Sharkey).

10/ Id. at 1138.

V. THE IMPORT RESTRICTIVE REMEDIES PROPOSED BY DOMESTIC PRODUCERS ARE EXCESSIVE AND UNNECESSARY

The Commission has received two proposals for remedies affecting imports of stainless steel flanges. Gerlin recommends a four-year tariff rate quota based on the years 1993 to 1995. 11/ The in-quota rate for countries other than Mexico would be the current tariff, and the over-quota rate would be the maximum relief available under the law, 50 percent (in addition to the existing duty.) The over-quota tariff would be "phased down" by 2 percent per year.

The Committee on Pipe and Tube Imports ("CPTI"), on behalf of Maass and Ideal, proposes a four-year quota using 1996-1998 as the base period. 12/ The quota would be adjusted upward by 2 percent per year.

As discussed below, these proposals are clearly excessive and in many respects unlawful, particularly when the Commission did not definitively find serious injury in this case. 13/

A. If Import Restrictions are Recommended, a Quota is a More Appropriate Remedy in This Case Than Tariffs or a Tariff Rate Quota ("TRQ")

First, the European Flange Producers urge the Commission to reject tariff measures, including TRQs. 14/ As traditionally applied by the Commission, tariffs have sought to address evidence of injury caused by underselling and associated price suppression or

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11/ Mayer Brown Brief at 2-4.

12/ Schagrin Brief at 17-18.

13/ Chairman Koplan indicated during the hearing that the fact that a product was subject to a tie vote is relevant for purposes of fashioning remedy. Transcript at 1015.

14/ As pointed out in the General Counsel's *Remedy Recommendations in Section 201 Cases*, TRQs are a form of tariff, not a form of quota. A TRQ is a multiple-rate tariff. See *Remedy Recommendations in Section 201 Cases*, General Counsel, USITC GC-H-190, 1984 WL 273443, July 3, 1984 at 12.

depression. This logic underpins Gerlin's request for a TRQ. 15/ It also underpins Maass' and Ideal's request for a quota. 16/

A critical flaw in this recommendation, however, is the fact that the Commission has not collected any pricing data for stainless steel flanges and therefore cannot base its recommendations on pricing data pertaining to the flange imports. The underselling margin included in the data collected by the Commission relates to butt-weld pipe fittings, not to flanges. Yet, as the European Flange Producers have established, the conditions of competition for flanges and fittings are entirely different. There is simply no credible and independently verifiable evidence of underselling for flanges on the record of this proceeding. The Commission therefore has no basis for recommending a tariff where there is no basis for calculating the tariff.

The European Flange Producers also disagree that a preference for tariffs exists in the statute. Section 201 by its terms seeks to deal with injurious import surges, and the remedy therefore should be tailored to prevent any future import surges. The recommended remedy must address the volume effects of imports since volume is ostensibly the cause of injury under Section 201. However, adequate and measured volume effects can be achieved directly with a quota at a standstill level.

For these reasons, to the extent that the Commission deems it necessary and appropriate to recommend that import restrictive relief measures be applied with respect to these products, the European Flange Producers submit that a quota is the appropriate measure. Further, in light of the considerations discussed above and to achieve an even more targeted

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15/ Mayer Brown Brief at 2.

16/ Schagrin Brief at 2.

result, the quota should be WTO-member or country-specific, as well as product-specific (i.e., HTS number-specific).

The European Flange Producers further submit that at best very modest relief is appropriate where, as here, only three Commissioners determined that serious injury had occurred, where the industry has been profitable throughout the period of investigation, and where only the most recent import increases caused a downturn, as is the case for stainless steel flanges.

The European Flange Producers are, of course, aware that Commissioners have expressed concern about the feasibility of quota administration. 17/ Quotas can be complex. However, in this case they need not be; and quotas, rather than tariffs, are essential to a fair administration of any import relief. These quotas could be directly administered by tariff number, since each product in question has a distinct tariff item. Exclusions could also be handled without significant difficulty by establishing a temporary tariff number. 18/

B. The Base Period Of 1993 Through 1995 Proposed By Gerlin Is Inconsistent With U.S. law and WTO Principles

For purposes of establishing an HTS-specific quota, Gerlin has proposed a "representative period" encompassing the years 1993 through 1995, outside the period of investigation. 19/ This proposal is inconsistent with U.S. law and the World Trade Organization Agreement on Safeguards.

17/ See Transcript at 664 (Question by Commissioner Hillman).

18/ If the Commission is concerned about administration of quotas, then it should certainly not accept suggestions that the quota be administered on a quarterly basis, which would only increase the administrative burden without creating any benefits.

19/ Mayer Brown Brief at 3.

We note that we are joined in this view by Mr. Schagrin on behalf of certain domestic flange and fitting producers. During the remedy hearing, Mr. Schagrin stated the following:

> I believe that Trinity and the other flange producers want a quota period based on '93 to '95. We believe that both the Commission and the Administration, and you will hear their arguments next, I am sure, would have difficulties consistent with our WTO obligations in determining that that should be the basis period for a quota because it seems fairly far in the past from a WTO perspective. 20/

At the hearing, several Commissioners also questioned the proposal that 1993-1995 should be the base period for determining a quota. 21/

Further, under § 2253(e)(4) of the U.S. safeguards statute,

> "{a}ny action taken under this section proclaiming a quantitative restriction shall permit the importation of a quantity or value of the article which is not less than the average quantity or value of such article entered into the United States in the most recent 3 years that are representative of imports of such article and for which data are available." (emphasis added).

The statute also requires the Commission to take the steps necessary to "address" the serious injury. 22/ In addition, the Agreement on Safeguards requires members to "apply safeguard measures only to the extent necessary to prevent or remedy serious injury and to facilitate adjustment." 23/ Providing relief by limiting imports to their 1993 to 1995 quantity would more

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20/ Transcript at 775-76.

21/ Id. at 779 (Statement of Vice Chairman Okun); 796 (Statement of Chairman Koplan); and 1018 (Statement of Chairman Koplan).

22/ 19 U.S.C. § 2252(e)(1).

23/ Agreement on Safeguards, ¶ 5.1.

than address the serious injury and would therefore exceed the Commission's authority under the statute and would violate the Agreement on Safeguards.

The proposal is inappropriate and excessive for several additional reasons. First, the years 1993 through 1995 can hardly be construed as "recent" under even the most generous of interpretations. Gerlin seeks to evade this requirement by characterizing the entire period of investigation as a single injurious surge in import volumes. 24/ However, the entire period of the investigation cannot logically have been injurious within the meaning of Section 201 since the injury at issue for Section 201 is expressly related to a specific import volume surge that ostensibly occurred during the POI. As the WTO recently noted in Argentine Footwear, a surge forming the basis for safeguards relief must be "recent enough, sudden enough, sharp enough, and significant enough." 25/ It contradicts reason to argue that such a surge could last five years. 26/ Indeed, the World Trade Organization confirmed this point when it stated that an increase in imports – and thus the source of injury, since one must have caused the other -- over a five year period did not meet the statutory requirements because it was too attenuated. 27/ As the recent string of WTO panel reports (e.g., Lamb Meat and Line Pipe) has confirmed, while it is permissible for the Commission to examine a five year period to provide context in identifying the existence of a surge, such a surge cannot be deemed recent or sudden if it started five years

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24/ Mayer Brown Brief at 2.

25/ Argentina — Safeguard Measures on Imports of Footwear, Report of the Appellate Body, WTO 99-5419 (Dec. 1999) at ¶ 131 ("Argentina — Safeguard Measures on Imports of Footwear.").

26/ Whatever else a sustained five-year increase in imports is (perhaps, a normal shift in long-term trading patterns?), it cannot reasonably be characterized as a sudden surge.

27/ Argentina – Safeguard Measures on Imports of Footwear. at ¶ 130.

ago. Nor can it sensibly be termed a "surge" if it lasted for five years. Clearly, structural changes have caused a shift in import patterns.

The statute also requires the three-year "representative" period to be among those for which "data are available." 28/ Data on conditions of competition are available for the period of investigation – indeed, a primary purpose of having a five-year period of investigation is to provide such data over a reasonably long period of time. The data are, however, not available for the years 1993 through 1995 because the Commission did not gather such data. Therefore, the Commission 29/ cannot go beyond the period of investigation because it would not have the data necessary to make a well-considered recommendation. 30/

Gerlin's theory that import volumes in the 1996 to 1999 period are tainted because of surging import volumes throughout the period is also factually incorrect. An examination of the underlying import data shows that imports (and domestic consumption) remained at essentially constant levels. For the years 1997, 1998, and 1999, domestic consumption was 30,832, 31,758, and 31,228 short tons, respectively, and non-NAFTA imports

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28/ 19 U.S.C. § 2253(e)(4).

29/ The President has the authority to find that the "importation of a different quantity or value is clearly justified," but the statute does not extend such authority to the Commission. 19 U.S.C. § 2253(e)(4).

30/ The domestic industry might argue that "data" simply refers to raw import data, and since import data are available for years preceding the period of investigation, the requirement is met. However, the statute does not state that the data that must be available are merely the raw import figures. The Commission must also determine that the import levels at issue are "representative." For data outside of the period of investigation, the Commission has no information upon which to make such an evaluation. The European Flange Producers also note that the, the requirement under discussion was added in 1994, at a time when historical import data were readily available. Thus, an interpretation of the statute as referring only to import data would render the phrase meaningless, which would be absurd and therefore contrary to principles of statutory construction. Witco Chem. Corp. v. United States, 742 F.2d 615, 619 (Fed. Cir. 1984), cited in Sharp Electronics Corp. v. United States, 124 F.3d 1447, 1449 (Fed. Cir. 1997).

were 19,807, 21,151, and 19,947 short tons, respectively. 31/ These numbers are similarly consistent for flanges and flange forgings alone, which entered at 11,168, 12,140, and 9,033 short tons for the years 1997, 1998, and 1999, respectively. 32/

In short, there is no factual or legal justification for using the years 1993 through 1995 as the representative period for establishing a quota or tariff-rate quota as advocated by Gerlin. The domestic industry's proposal would inappropriately fix imports at a level that has no relationship to historical market conditions in the period under examination. While the result would no doubt suit the domestic industry by constraining imports below representative levels, it would do more than "address" any serious injury experienced by the industry and therefore would exceed the scope of the Commission's authority under Section 202(e)(1).

C. The Representative Years Proposed By Maass and Ideal are Also Flawed

The representative years proposed by Maass and Ideal are likewise inappropriate. Although they suggest that the representative years for non-NAFTA imports are 1996 through 1998, they also suggest that the representative years for NAFTA imports should be 1998 through 2000. No doubt this has little to do with the law and everything to do with the fact that Maass has production facilities in Mexico. 33/ It would otherwise be difficult to make sense of the distinction. While overall import volumes were stable in the same period as noted above, imports from Canada increased by 49.3 percent from 1998 to 1999, and imports from Mexico increased by 40.9 percent. 34/ Yet Maass and Ideal represent these increases as "representative"

31/ Final Staff Report, STAINLESS-C-12.

32/ USITC Tariff and Trade DataWeb for HTSUS 7307.21.1000 and 7307.21.5000.

33/ Maass has stated its opposition to duties on imports from Mexico. Schagrin Brief at 18.

34 Final Staff Report, STAINLESS-C-12.

for purposes of remedy under Section 201. Imports from non-NAFTA countries did not increase by margins that high during any year in the period of investigation; notwithstanding that fact, Maass and Ideal implicitly deem the years 1999 and 2000 as unrepresentative with respect to those imports. The Commission should ignore results-driven proposals of this kind and should instead focus on the relevant data.

As Maass and Ideal have concluded the period 1998 through 2000 is representative with respect to NAFTA countries, then the same period is likewise representative for non-NAFTA countries.

D. Any Import-Restrictive Relief Must be Regularly Phased Out over the Period of Relief

Gerlin proposes a phase down of tariff levels by two percent per year, 35/ while Maass and Ideal suggest an increase in the quota by two percent per year. This would lead to a situation in which the tariff imposed on flanges would drop from 44 percent in the fourth year to zero, and the quota would increase only minimally prior to exposure to import competition. Plainly, domestic interests are already planning their case for an extension of restrictions after four years. The Commission should not recommend relief that is so basically flawed.

If the Commission chooses to apply import-restrictive measures to imports of stainless steel flanges and flange forgings, it should reject these ill-conceived phase-out scenarios. The statute dictates that import restrictive relief (whether in the form of quotas or tariffs) must be "phased-down at regular intervals during the period in which the action is in effect." 36/ The underlying purpose of this requirement is to give the domestic producers an

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35/ Mayer Brown Brief at 7; Schagrin Brief at 18.

36/ 19 U.S.C. § 2253(e)(5).

opportunity to gradually adapt again to open-market competition. That objective cannot be accomplished if import restraints are applied in a stark and abrupt "on-again/off-again" basis, as proposed by the domestic producers.

Consistent with the statute, therefore, the European Flange Producers urge the Commission, to the extent that it chooses to recommend import relief, to recommend realistic phase-out periods in equal measures leading to complete elimination of the import measures following the last year of relief, as is clearly directed by the statute.

E. There is No Basis for Retroactive Application of the Proposed Measures

Gerlin has requested that the Commission adjust any quota levels to reflect the marginal increase in imports made between the Commission's affirmative serious injury finding and the effective date of the President's proclamation. 37/ This is essentially a proposal for retroactive application of relief to the date upon which the Commission made its injury determination, a measure that is contrary to U.S. law and the Agreement on Safeguards.

Before addressing the legalities of this request, however, it is important to point out that the U.S. industry has presented absolutely no evidence that imports of subject stainless steel flanges have increased significantly since the Commission's serious injury vote. The Commission certainly cannot make recommendations to the President for draconian forms of import restrictions based on the mere hunch that import volumes may increase.

In any event, the domestic industry has not followed the proper procedures to obtain consideration of such extraordinary relief. Application of safeguards remedies to imports

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37/ Mayer Brown Brief at 9.

before the President's action are currently authorized only under "critical circumstances." 38/ Critical circumstances investigations are subject to specified procedures and timetables as set forth in the statute. In this case, however, the domestic industry did not file a timely critical circumstances request when the investigation was commenced, as it was required to do under Section 202(d)(2)(A). The domestic industry's failure to comply with the requirement reveals the lack of substance underlying the request for retroactive relief.

Critical circumstances – as the name implies – is a specific and extraordinary remedy. Such relief is designed to prevent injury that would be irreparable. For example, under § 202(d)(2)(A)(ii), critical circumstances relief is only available if "delay in taking action . . . would cause damage to that industry that would be difficult to repair." This language mirrors that of Article 6 of the Agreement on Safeguards. By its very nature, then, critical circumstances relief is only available prospectively because the damage that would be caused absent such relief would be difficult to remedy. That is why the domestic industry must allege critical circumstances at the initiation of the investigation, so that the Commission can be prepared to make the requisite determination upon making a finding of serious injury.

No other provision of the statute authorizes relief to be imposed prior to the completion of the investigation. Having failed to allege critical circumstances, the domestic industry cannot seek imposition of retroactive duties consistent with U.S. and WTO law, and this proposal should therefore be rejected by the Commission.

38/ 19 U.S.C. § 2252(d)(A)(2); Agreement on Safeguards, Article 6.

F. There is No Basis for Adjusting the Quota Levels for Allegedly "Overhanging Importer Inventories"

Gerlin has also proposed reducing the first year's quota by the marginal increase in U.S. importers' inventories. 39/ However, the Commission has no authority to adjust quantitative restrictions in this manner.

As a preliminary matter, the European Flange Producers note that under Section 203(e), only the President – not the Commission – has the authority to adjust the restrictions if such adjustment is clearly justified.

The attempt to reduce the quota by existing inventories is also grounded on unproven factual assumptions. Implicit in Gerlin's analysis is the assumption that importer inventories in 1993-1995 were lower than importer inventories in 2000. Yet the proponents of this scheme offer no evidence whatsoever that this was the case. The Commission certainly does not have this data, since the period of investigation was 1996-2000. The European Flange Producers note that this is exactly the reason why the statute requires the Commission to calculate quantitative restrictions based on years for which data are available – because taking figures out of context can lead to erroneous and distortive results.

This proposal is also problematic for legal reasons. It is effectively a request for critical circumstances relief, without meeting the statutory requirements for requesting such relief. It is grounded in the erroneous assumption that importers have stockpiled imports that will then evade any relief granted. However, critical circumstances relief – when properly

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39/ Mayer Brown Brief at 8.

sought – does not authorize this measure. It only authorizes relief dating to the finding of injury. 40/

G. These Remedies are Particularly Excessive in Light of the Existing Antidumping and Countervailing Duty Orders on Stainless Steel Flanges and Forgings

The legislative history of the Uruguay Round Agreements Act, which *inter alia* implemented changes to Section 201, states that the Commission is expected "in making the recommendation to the President required by section (202)(e)(1), will take into account the existence of other relief, such as relief under the antidumping or countervailing duty laws . . . ." 41/ This language implies that the existence of antidumping or countervailing duty relief should lessen the amount of relief the Commission recommends. Since antidumping orders already exist with respect to stainless steel flanges and forgings and were imposed on two major import sources, India, and Taiwan, any supposed "underselling" has already been addressed and should not be included in the Commission's recommendation for relief, if any.

H. Any Quantitative Restrictions Should Be Administered to Respect Members' Historical Shares of Trade

To the extent that the Commission recommends relief in the form of import restrictions including quotas or tariff rate quotas, those restrictions must "aim at a distribution of trade . . . approaching the shares which the various {members} might be expected to obtain in the absence of such restrictions . . . ." 42/ According to the decision in United States – Definitive

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40/ 19 U.S.C. § 2252(d)(2)(A); Agreement on Safeguards, Art. 6.

41/ United States Senate, Joint Report of the Committee on Finance, Committee on Agriculture, Nutrition and Forestry, and Committee on Governmental Affairs, Rep. No. 103-412 (November 22, 1994), at 109.

42/ General Agreement on Tariffs and Trade 1947, Article XIII:2, applied to tariff rate quotas through Article XIII:5.

Safeguard Measures on Imports of Circular Welded Carbon Quality Line Pipe from Korea, "{t}rade flows before the imposition of a safeguard measure provide an objective, factual basis for projecting what might have occurred in the absence of that measure." 43/

Based on these requirements, any quantitative restriction, including a tariff rate quota, should be administered with specific allocations to those members whose products constitute a significant percentage of U.S. imports. For these purposes, the European Union should be considered collectively as one member. The allocations should be based on the same representative period used to establish the aggregate quota or tariff rate quota amount.

Member-specific allocations are particularly important in this case because of the significant disparities in quality and value among the products even within each tariff number. For example, the European Union tends to supply the more specialized flanges that serve the approved market segment, whereas other countries tend to supply commodity-grade products. A member-specific allocation would provide a greater opportunity to ensure that all sectors of the market are supplied and would be useful in limiting the potential for short supply situations.

I. Quotas Should Include a Short Supply Mechanism

In order to limit potential harm to downstream U.S. businesses and consumers of flanges, the Commission should include a short supply mechanism in its recommendation to the President.

The statute permits the Commission to recommend tariffs, quotas, tariff rate quotas, and other import measures. Implicit in the authority to impose such measures is the authority to make exceptions in appropriate cases. In situations involving a short supply, such as

43/ United States – Definitive Safeguard Measures on Imports of Circular Welded Carbon Quality Line Pipe from Korea , WTO 01-5229 (Oct. 2001), at ¶ 7.54.

for large diameter flanges, such an exception is clearly appropriate. It makes no sense to impose restrictions on products that are not available in the United States. Thus, while the up-front exclusion process currently being undertaken by the U.S. Trade Representative is useful, it is clearly not sufficient, particularly with regard to products currently not imported or which will later be developed. There is a clear need for an after the fact procedure regarding product exclusions/ short supply.

In the event the Commission recommends import restraints, the recommendation should also include a recommendation for "short supply" provisions. If the relief involves quotas, the short supply provision can be modeled on the steel voluntary restraint agreement ("VRA") program of 1989. Even if the Commission were to recommend a tariff scheme as opposed to a system of quotas, it is also important to establish a short supply mechanism. No purpose is served in imposing tariffs on imports that can not be obtained domestically. This harms downstream consuming industries without providing any benefit to domestic producers. The Consuming Industries Trade Action Coalition ("CITAC") has developed a model short supply provision that was designed to apply in the AD/CVD context, but which would also work in the context of a Section 201 remedy. 44/ The European Flange Producers endorse this approach.

VI. THE COMMISSION SHOULD CONSIDER THE EFFECT OF IMPLEMENTATION ON DOWNSTREAM CONSUMERS AND THE U.S. ECONOMY

Section 203(a)(2)(F), requires the President, among things, to consider the effect of implementation of actions under Section 201 on consumers as well as United States industries

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44/ We would like to refer the Commission in this regard to the post-hearing brief (remedy) filed on behalf of the Consuming Industries Trade Action Coalition ("CITAC").

and firms. 45/ While this provision applies to presidential action, it is logical that the recommendations of the Commission must also take these considerations into account. In this regard, the European Flange Producers note that the carbon and alloy steel flanges, particularly the high quality carbon and alloy steel flanges produced by the European manufacturers, are heavily directed to critical applications in the specialty chemical, petrochemical, and food processing industries. Any safeguards relief the Commission recommends should take into account the potential impact on these end users.

VII. THE DOMESTIC PRODUCERS' PROPOSED ADJUSTMENT PLANS ARE INADEQUATE

The Commission should carefully examine the adjustment plans proposed by the domestic industry. The various adjustment plans submitted by the domestic producers generally propose [

] It is not clear that these goals can only or best be pursued if import restraints are imposed, particularly since the industry is currently profitable. Further, it is far from clear that the proposed measures must be implemented in order for domestic producers to be able to compete with fairly trade imports.

As a preliminary matter, the European Flange Producers observe that these adjustment proposals tend to confirm that, to the extent that the domestic industry in fact has difficulty competing with imports (questionable, given the tie vote in this case), such difficulties stem not from imports but from [ ] It is unfortunate that this fact was not more fully developed prior to the Commission's injury determination. However,

45/ 19 U.S.C. § 2253(a)(2)(F).

there is no reason for the Commission to ignore it now in selecting its remedy or in deciding how these overdue investments should be financed.

To the extent that the domestic producers' proposed adjustments will result in expanded capacity, the European Flange Producers submit that such proposals are counterproductive and should not be supported in the Commission's recommendations. As evidenced by the data summarized in the Staff Report, the domestic industry operated at capacity utilization levels that were [

]. 46/ It is not appropriate to encourage the domestic industry to increase capacity when it is clearly not able to use its existing capacity efficiently, in contrast to the foreign producers.

Finally, as discussed earlier, there is a fundamental question as to whether the need to finance such plans, even if those plans are otherwise justifiable, should be addressed indirectly through import restrictions or more directly through government assistance. The European Flange Producers are strongly of the view that direct assistance would be preferable under these circumstances to trade-distorting import restrictions. Import restrictions will impose significant burdens on downstream users and the U.S. economy. Other measures are better suited for this purpose.

In addition to these general comments, the European Flange Producers have comments specific to each producer's proposed adjustment plan.

46/ Final Staff Report, STAINLESS-C-12; STAINLESS-90.

A. Gerlin's Adjustment Plan

Gerlin offers little in its attempt to convince the Commission that it even has a viable adjustment plan. It states that it will acquire [

]. 47/ These improvements would arguably [

]. 48/

Curiously, Gerlin offers [

]. 52/

47/ Mayer Brown Brief at 11.

48/ Id.

49/ Final Staff Report, STAINLESS-C-12.

50/ Id.

51/ Id.

52/ Id.

It appears that any problems Gerlin may be experiencing relate to its inability to devise appropriate business strategies, rather than to import competition. Given the [ ] in the adjustment plan, the Commission cannot have confidence that any import measures will leave Gerlin in a position to compete once those restrictions are ultimately lifted.

In addition, Gerlin's plan [

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B. Adjustment Plans of Maass and Ideal

The submitted adjustment plans of Maass and Ideal are even more troubling than the plan submitted by Gerlin. Maass [

53/ In the Matter of: Steel (Injury Phase), Transcript at 2232 (Testimony of Jack Sharkey).

54/ Schagrin Brief at 19.

55/ Id.

]

Ideal's proposal is no more convincing. [

] Again, these industry plans offer no reason to believe that either company will able to compete effectively once import restrictions are lifted, be it one year or four years from now.

VIII. QUESTIONS FROM COMMISSIONERS

Question from Chairman Koplan

"For your post-hearing submission, I'd like each party to submit their separate demand projections for the next four years . . . ." (Chairman Koplan, Transcript at 866)

The European Flange Producers were not able to identify economic information related specifically to stainless steel flanges or flange forgings. Therefore, these predictions are based on the European Flange Producers' expectation of the performance of the economy as a

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56/ Id.

57/ www.idealforging.com/design.html

whole, including [ ] . The demand projections contained herein also assume that there is no war economy.

[

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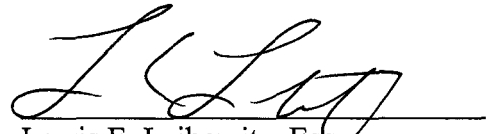
IX. CONCLUSION

For the foregoing reasons, the European Flange Producers urge the Commission: (a) to consider the issue of remedy for flanges separately from consideration of other products included in Product Group 22; (b) to recommend to the President that no import restrictions be placed on stainless steel flanges and forgings; (c) that if relief is granted, flange forgings, approved market flanges, and large diameter flanges be excluded entirely from the scope of any relief granted; and (d) where relief is appropriate, that the President at most authorize trade adjustment assistance and other direct forms of aid to the affected producers.

Respectfully submitted,



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Dated: November 15, 2001

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November 13, 2001

BY ELECTRONIC MAIL
to FR0001@ustr.gov

Ms. Gloria Blue
Executive Secretary
Trade Policy Staff Committee
Office of the U.S. Trade Representative
600 Seventeenth Street, N.W.
Washington, D.C. 20508

Re: Steel 201 – Relief Recommendations Under Section 203 – Exclusion Requests for Certain Stainless Steel Flanges

Dear Ms. Blue,

In accordance with the notice published in the Federal Register on October 26, 66 Fed. Reg. 54321 (2001), we hereby submit a request to exclude certain stainless steel flange products from import relief under Section 203 on behalf of the Association of European Quality Flange Producers, consisting of Flanschenwerk Bebitz GmBH, Friedrich Geldbach GmBH, Metalfar Prodotti Industriali S.p.A., MGI S.A., Officine Ambrogio Melesi & Cie., Ulma Forja S.A., Wilhelm Geldbach GmBH, and Vilmar S.A., ("European Flange Producers"). This request applies to three subcategories of stainless steel flanges:

- Stainless Steel Flanges for the Approved Market
- Large Diameter Stainless Steel Flanges
- Stainless Steel Flange Forgings

(a) Designation of the Product under a recognized standard or the commercial name for the product and the HTS number under which the product enters the United States:

This exclusion request pertains to three subcategories of stainless steel flanges that are currently included within ITC Product Group 33 ("Stainless Steel Flanges and Fittings"):

(1) <u>Stainless Steel Flanges for the Approved Market</u>. This product consists of stainless steel flanges produced for use in the oil and gas and chemicals

industries and for which the manufacturer of the flange is included on designated "approved manufacturer lists" ("AML's") such as those published by ExxonMobil, Shell, Dow Chemical, and other major multinational oil and gas and chemicals manufacturers. Such products are classified under HTSUS 7307.21.5000.

(2) **Large Diameter Stainless Steel Flanges.** This product consists of stainless steel flanges with inside diameters of 360 mm or more and is classified under HTSUS 7307.21.5000.

(3) **Stainless Steel Flange Forgings.** This product consists of unfinished stainless steel flanges not machined, not tooled and not otherwise processed after forging, classified under HTSUS 7307.21.1000.

(b) Description of the product based on physical characteristics:

Flanges are used to connect pipe sections at points at which the ability to connect, disconnect and reconnect the pipe sections is of greatest importance. Flanges are used in a variety of applications, including in the oil and gas industry, the chemical industry, other manufacturing facilities and in the piping systems of buildings. Flanges are made from rough steel forms, known as "forgings," which in turn are made from billet or, to a lesser extent, bars. Flanges come in many shapes – e.g., weld necks lap joints, slip-ons, blinds, threaded, and socket welds – each of which is designed for a particular pipe connection and performance specification.

The following provides further physical descriptions of the particular stainless steel flange products for which exclusion has been requested.

(1) **Stainless Steel Flanges for the Approved Market.** As noted, Stainless Steel Flanges for the Approved Market consist of stainless steel flanges produced by manufacturers that are listed on "Approved/Accepted Manufacturer Lists" or "AML's." Such "approved market" flanges are sold for use in the oil and gas and chemical industry markets and are distinguishable from "commercial" market flanges by virtue of a number of physical and chemical characteristics – pertaining, for example, to tighter tolerances for carbon content and steel cleanliness – particular to their specialized uses. Only products included on AML's can be sold for use in the approved market.

(2) **Large Diameter Stainless Steel Flanges**. Large Diameter Stainless Steel Flanges are distinguishable from other stainless steel flanges as having inside diameters of 360 mm or more. Such flanges are used in a variety of highly specialized applications, particularly for large-scale pipeline, refinery and gas production installations and, accordingly, are often produced to satisfy customized specifications and tolerances.

(3) **Stainless Steel Flange Forgings (HTSUS 73037.21.1000).** This product consists of unfinished stainless steel flanges that have not been machined, tooled or otherwise processed after forging. Such flanges are classified under a separate tariff number from other finished stainless steel flanges (i.e., HTSUS 7307.21.1000).

(c) Basis for requesting an exclusion:

The European Flange Producers submit that the three products at issue should be excluded from any import relief that may be imposed by the President for two reasons: (1) there is inadequate domestic supply of these products; and (2) there is insufficient evidence that these specific products have contributed to the injury found by the ITC.

A. Inadequate Domestic Supply

Because the ITC failed to collect information on a product-specific level, it is not possible to specifically quantify domestic capacity and domestic demand for the three products at issue. Nevertheless, evidence collected by the Commission supports the conclusion that domestic supply is inadequate to meet demand for these products.

Stainless Steel Flanges for the Approved Market: These flanges are sold in the oil and gas and chemical industry markets. Major consumers in these end-use sectors such as ExxonMobil, Shell, and Dow Chemical have developed approved manufacturer lists which include a limited number of qualifying U.S. and foreign manufacturers that meet the stringent qualifications necessary to supply stainless steel flanges for these purposes.

Imports of approved market flanges have played a stable and complementary role in these markets. Indeed, the major European suppliers have had a pivotal role in the development of the approved market sector and have been part of this sector since its inception. Limiting or excluding imports of approved market flanges will seriously disrupt the supply of these critical components and will inevitably result in severe hardship and economic distress to downstream consumers in the oil and gas industry. There simply is not enough production capacity represented among the domestic producers that qualify to supply stainless steel flanges to this sector of the market to make up for the loss or significant curtailment of import supplies.

Large Diameter Stainless Steel Flanges: Large diameter stainless steel flanges should also be excluded from any remedies imposed by the President, as there is likewise inadequate domestic capacity to produce the full range of these products required by consuming U.S. industries. Imposing a remedy on these goods therefore would not provide significant benefits to domestic producers, yet at the same time would impose substantial costs and economic hardship on downstream U.S. consumers of these goods.

Stainless Steel Flange Forgings: Stainless steel flange forgings are imported into the United States to be processed by "converters" into finished flanges through such operations as machining and tooling. Domestic converters of stainless steel flanges have claimed before the ITC that stainless steel forgings are in short supply and that stainless steel flange forgings in particular cannot be obtained in commercial quantities from domestic sources. Indeed, at least one U.S. converter has stated in its submissions to the Commission that it cannot continue to operate without continued access to imported stainless steel flange forgings. Accordingly, it is reasonable to conclude that imposition of import restraints on stainless steel flange forgings will hurt a significant segment of the domestic industry without affording any tangible benefits.

B. Insufficient Evidence That Imports of These Products Have Injured Domestic Producers

The second basis for exclusion of these products is the patent insufficiency of evidence that these particular products have in any significant sense contributed to the serious injury found by the Commission.

In the ITC's safeguards investigation of Steel, stainless steel flanges of all kinds were inappropriately grouped together with stainless steel fittings of all kinds in a single aggregate Product Group 33. Nevertheless, most parties to the ITC's investigation, including representatives of the domestic stainless steel flange producers participating in the injury phase, were in agreement that stainless steel flanges and stainless steel fittings have entirely different physical characteristics and end uses, are produced for the most part in entirely different facilities, and are manufactured from different inputs (flanges from bars and billets, fittings from pipe). Accordingly, flanges and fittings constitute separate like products and should have been considered separately by the ITC for purposes of investigating injury and, as necessary, recommending remedy.

Unfortunately, by grouping stainless steel flanges with stainless fittings, the Commission was unable to evaluate information concerning stainless steel flanges alone. Finished and unfinished stainless steel flanges accounted for slightly more than 21 percent of the value of total Product Group 33 imports in 2000. Moreover, comparative pricing data was collected only for butt-weld pipe fittings. No pricing data was collected for stainless steel flanges. It is our firm conviction that the Commission's affirmative serious injury determination was driven in large measure by consideration of data, particularly pricing data, pertaining to stainless steel fittings, not stainless steel flanges.

There is, in short, no credible independent evidence on the record of the Commission's investigation that imports of stainless steel flanges have caused serious injury to domestic industry. Accordingly, there is no proper basis for determining that imposing restrictions on imports of stainless steel flanges will in any way address serious injury or otherwise assist domestic flange producers in making a positive adjustment to import competition.

While the Commission cannot now revisit its injury determination, USTR can properly distinguish actions taken to remedy injuries caused by imports

of stainless steel fittings from those that would be improperly applied to imports of stainless steel flanges. An exclusion applying to all stainless steel flanges (i.e., all imports classified under HTSUS 7307.21.1000 and 7307.21.5000) would clearly be appropriate under the circumstances. An even stronger case can be made for application of an exclusion to approved market flanges, where demand for the products is so closely identified with the oil and gas sector. Indeed, imposing a remedy on these products would also be inconsistent with the ITC's companion negative finding of serious injury for oil country tubular goods ("OCTG"), which also are energy sector piping-related products.

For all of these reasons – shortage of supply, the disruption and economic hardship that would be inflicted on downstream industries and other domestic producers, and the absence of credible evidence that there is even a need for a remedy with respect to these products, the European Flange Producers respectfully urge USTR to exclude these products from the scope of any relief granted by the President.

(d) Names and locations of any producers, in the United States and in foreign countries, of the product:

Based upon information available to the European Flange Producers, U.S. and foreign manufacturers of the products for which exclusion has been requested include the following:

(1) Stainless Steel Flanges for the Approved Market

U.S.	Non-U.S.
Flowline	Bebitz (Germany)
Gerlin	Kofco (Korea)
Ideal Forge	Metalfar (Italy)
Maas Flange and Fittings	
Texas Metals	

(2) Large Diameter Flanges

U.S.	Non-U.S.
Ideal Forging	Bebitz
Maass Flange	Maass Flange
Gerlin	
General Flange	
Federal Flange	

(3) Flange Forgings

The only known U.S. suppliers of stainless steel flange forgings are Maass Flange Corporation and Ideal Forging Corporation. Foreign manufacturers of flange forgings include the following:

Maas Flange
Galperti
F. Geldbach
MGI
Ulma Forja

(e) Total U.S. consumption, if any, by quantity and value for each year from 1996 to 2000, and projected annual consumption for each year from 2001 to 2005, with an explanation of the basis for the projection:

As foreign producers, we are not in possession of this information. However, the quantity consumed is relatively small.

(f) Total U.S. production of the product for each year from 1996 to 2000, if any:

As foreign producers, we are not in possession of this information. However, the quantities produced in the United States are believed to be small.

(g) The identity of any U.S.-produced substitute for the product, total U.S.-production of the substitute for each year from 1996 to 2000, and the names of any U.S. producers of the substitute:

There are no known substitutes for these products.

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For the reasons discussed above, the European Quality Flange Producers respectfully request that the USTR recommends that the President exclude stainless steel flanges for the approved market, large diameter stainless steel flanges, and stainless steel flange forgings from the scope of any relief to be provided pursuant to Section 203 in the on-going steel safeguards investigation.

Should you have any further questions or concerns regarding this matter, please do not hesitate to contact the undersigned.

Respectfully Submitted,

/s/ *Lewis E. Leibowitz*

Lewis E. Leibowitz
Craig A. Lewis
Jeremy B. Zucker

Counsel for the Association of European Quality Flange Producers