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March 16, 2017

Case No. A-580-870  
Administrative Review  
7/18/14-8/31/15

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**Via Electronic Filing**

The Honorable Wilbur Ross  
Secretary, U.S. Department of Commerce  
Attn: Import Administration  
14<sup>th</sup> Street and Constitution Ave., N.W.  
Washington, D.C. 20230

**Re: Oil Country Tubular Goods from South Korea: Comments of ILJIN Steel Corporation on the March 8, 2017 Memorandum to the File**

Dear Secretary Ross:

On behalf of ILJIN Steel Corporation ("ILJIN"), we hereby comment on the March 2 submission in this review of Mr. Peter Navarro, Director of the National Trade Council (NTC), placed on the record in this proceeding on March 8, 2017 (hereinafter the "NTC Memorandum"). This document is timely filed pursuant to the Department's Schedule for Submission of Comments on the March 8, 2017 and March 13, 2017 Memoranda to the File, issued on March 14, 2017. It contains no new factual information.

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As an initial matter, ILJIN is compelled to address the impropriety of the apparent attempt to prejudge and influence the Department's consideration of the Particular Market ("PTMS") issue, and possibly other issues, being addressed in this review. After a lengthy review of the PTMS issue, subject to extensive briefing from interested parties, the Department issued its conclusion on February 21, 2017, "that there is insufficient evidence to show that the particular market situations alleged by Maverick exist in the instant POR."<sup>1</sup> A week later, the NTC memorandum was sent to the Secretary of Commerce.

The memorandum suggested a pre-determined result independent of any facts on record,<sup>2</sup> contravened the express statutory responsibility of the Department of Commerce,<sup>3</sup> exceeded the NTC's defined area of responsibility,<sup>4</sup> and made suggestions that were inherently inconsistent and factually incorrect, especially as applied to ILJIN Steel Corporation.

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<sup>1</sup> *2014-2015 Administrative Review of the Antidumping Duty Order on Certain Oil Country Tubular Goods from the Republic of Korea: Memorandum on Particular Market Situation Allegations*, issued February 21, 2017.

<sup>2</sup> Contrary to 19 U.S.C. § 1677m.

<sup>3</sup> See 19 U.S.C. § 1677(1) (defining the "administering authority" as "the Secretary of Commerce, or any other officer of the United States to whom the responsibility for carrying out the duties of the administering authority under this subtitle are transferred by law.")

<sup>4</sup> According to the applicable press release from the incoming Administration, "the mission of the National Trade Council will be to advise the President on innovative strategies in trade negotiations, coordinate with other agencies to assess U.S. manufacturing capabilities and the defense industrial base, and help match unemployed American workers with new opportunities in the skilled manufacturing sector." President-Elect Donald J. Trump Appoints Dr. Peter Navarro to Head the White House National Trade Council (Dec. 21, 2016), available at <https://greatagain.gov/navarro-national-trade-council-c2d90c10eacb#.ufgk9xnrf> (last visited on this date).

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Based on what appears to be extra-record information of dubious validity, the memorandum rejects the Department's preliminary results and calls for the assignment of a minimum weighted-average margin of at least 36% in the Final Results of Review. There is no actual record support for that margin or the "factual" bases upon which it is based. Instead, the suggested margin is based on a back-of-the-envelope calculation to the effect that:

At present, the US has a successful case against Chinese dumping of hot rolled coil with a roughly 60% margin. Given that hot rolled coil constitutes about 60% of the cost, a logical setting of margin in the Tenaris case would provide for margins at a minimum of about 36%.<sup>5</sup>

The problems inherent with this computation are legion, particularly in ILJIN's case. The suggestion that hot rolled coil constitutes about 60% of the cost of OCTG is not even remotely accurate as to ILJIN. As a matter of record in this proceeding, ILJIN is a producer of seamless OCTG. It does not produce welded OCTG. As such, its input material is not hot rolled coil, it is billets, which ILJIN submitted to the Department in its Comments on Respondent Selection of November 27, 2015 and accompanying excerpt of the production process for seamless OCTG taken from the USITC Report on OCTG from India, et al.<sup>6</sup> As to ILJIN, therefore, the production cost attributable to hot rolled coil is zero, not 60%. If, therefore, the

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<sup>5</sup> NTC Memorandum at 1.

<sup>6</sup> Oil Country Tubular Goods from South Korea: Comments of ILJIN Steel Corporation on Respondent Selection, Letter from Joel Kaufman to the Honorable Penny Pritzker, of November 27, 2015, and accompanying excerpt on the manufacturing process for seamless OCTG contained in *Certain Oil Country Tubular Goods from India, et al., Inv. Nos. 701-TA-499-500 and 731-TA-1215-1217 and 1219 - 1223 (Final)*, USITC Pub. 4489 (September 2014), pp. I-21 through I-22.

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Department were to make an adjustment to cost based on an adjustment for hot rolled coil, the result would be totally inaccurate for ILJIN and would be unlawful if applied to ILJIN through a rate calculated on the basis of such a weighted average margin.

As to any of the respondents, moreover, the application of the 36% rate is meritless. It is inconsistent with actual data on the record of this proceeding. In fact, it is not even consistent with other statements contained in the same memorandum. For example, the requested minimum dumping rate of 36% is based on an unsupported and unproven conclusion that 60% of the cost of OCTG constitutes the cost of the hot-rolled coil. Even if that percentage were correct, which it is not, by using the full 60% in its minimum duty “calculation,” the memorandum assumes that all of the coil used in Korean OCTG production was of Chinese origin. However, earlier in the memorandum, the NTC acknowledges that the coil used in OCTG production in Korea is a mix of Chinese and Korean origin.<sup>7</sup> In the absence of any consideration of the non-Chinese sources of hot rolled coil existing in the record or of companies that use no hot rolled coil, like ILJIN, the use of the 60% cost figure is obviously overstated. Finally, the alleged dumping margin on sales to the United States of “approximately 60%” is neither supported by the record nor correct, and is irrelevant to Chinese pricing practices to Korean producers of OCTG in this review. Any conclusions, like the 36% minimum margin, based on such inaccurate and imprecise information is meaningless and obviously overstated.

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<sup>7</sup> NTC Memorandum at page 1 (“In this case, we have a situation in which South Korea appears to be relying on both dumped Chinese hot rolled coil and domestically-produced hot rolled coil to manufacture OCTG at export prices that arguably constitute dumping.”)

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One final comment on the procedure followed by the NTC in this review is warranted. The submission of such a document in a pending proceeding and suggestion to confer further on this matter outside the confines of this case are totally unacceptable. When the Department issues its final results, it must do so based on the record of this proceeding and the law. The Department has already issued its recommendation on the particular market allegations raised by the petitioner. Any attempt by the NTC to relitigate that decision for political ends must be rejected. It is of no moment whether Tenaris S.A. wants high margins to justify its investments or its possible future plans regarding subsidiaries outside the United States. Neither is it appropriate to substitute decisions based on “the broader implications of the use of PTMS methodology by Commerce” for the factual and legal determinations that must be based on the record of this review, limited to the facts supporting the calculation of the weighted-average dumping margin.

In conclusion, ILJIN submits that the NTC’s recommendations be rejected. ILJIN does not use hot rolled coil in its seamless OCTG production and any adjustment to costs based on the cost of hot rolled coil would be factually and legally unsupported if applied to ILJIN or others.

Sincerely,



Richard O. Cunningham, Esq.  
Joel D. Kaufman, Esq.

Counsel to ILJIN Steel Corporation

## CERTIFICATE OF SERVICE

### Oil Country Tubular Goods from South Korea

Case No. A-580-870

#### Investigation

I, Roe Granger, hereby certify that on March 16, 2017, I caused a copy of the attached filing to be served, via electronic mail, on the party listed below:

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