

# SCHAGRIN ASSOCIATES

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June 20, 2023

**Via Email: CBP PRA@cbp.dhs.gov**

Seth D. Renkema  
Chief, Economic Impact Analysis Branch  
U.S. Customs and Border Protection  
Office of Trade, Regulations and Rulings  
90 K Street NE, 10th Floor  
Washington, DC 20229-1177

**Re: Comments Regarding U.S. Customs and Border Protection's Entry  
Summary (Form 7501) – OMB Control Number 1651-0022**

Dear Mr. Renkema:

On behalf of domestic steel producer Steel Dynamics, Inc. (“SDI”), we hereby submit comments to U.S. Customs and Border Protection (“CBP”) pursuant to the notice in the *Federal Register* regarding the proposed additional data fields to be included in CBP’s Entry Summary Form 7501 (“Form 7501”).<sup>1</sup> SDI commends CBP for proposing this step to ensure more accurate reporting for steel imports of the country where the steel used in the manufacture of the imported product was melted and poured and urges the Office of Management and Budget (“OMB”) to approve CBP’s request. These comments are timely filed pursuant to the deadline established in the *Federal Register* notice.

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<sup>1</sup> *Entry Summary (Form 7501): 60-Day notice and request for comments; revision of an existing collection of information*, 88 Fed. Reg. 24,203 (CBP Apr. 19, 2023) (“*CBP Proposal*”).

**I. THE PROPOSED COLLECTION OF INFORMATION IS NECESSARY FOR THE PROPER PERFORMANCE OF THE FUNCTIONS OF THE AGENCY**

Importers currently report the country where the steel used in the manufacture of the imported steel product was melted and poured when applying for an import license in the Steel Import Monitoring and Analysis (“SIMA”) system.<sup>2</sup> This import license must be acquired prior to completing entry summary documentation with CBP, as the number of the license must be reported on Form 7501.<sup>3</sup> Importers apply for the license using an online form, and licenses are issued automatically after that form is completed.<sup>4</sup>

As set out in the *Federal Register* notice, CBP proposes that the same melted and poured information that must be reported under the SIMA system also be reported on the Form 7501.<sup>5</sup> SDI agrees with CBP that the inclusion of this information in the Form 7501 will assist CBP in its mandate to determine the proper amount of duties, applicable fees, taxes, and imports subject to quotas.<sup>6</sup> Indeed, the requirement to include melted and poured information on the Form 7501 will support the agency to perform these functions because it will ensure more accurate data is collected by incentivizing importers to provide truthful responses under the threat of penalties that are not part of the SIMA system.

Currently, an importer who incorrectly reports melted and poured data, even if that misreporting was part of a deliberate and intentional concealment of the origin of the steel used

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<sup>2</sup> 19 C.F.R. § 360.103(c). *See also Steel Import Monitoring and Analysis System: Final Rule*, 85 Fed. Reg. 56,162 (Dept’ Commerce Sept. 11, 2020).

<sup>3</sup> 19 C.F.R. § 360.101(b).

<sup>4</sup> 19 C.F.R. §§ 360.102 and 360.103(a) (“Steel import licenses will be issued to registered importers, customs brokers or their agents through an automatic steel import licensing system. The licenses will be issued automatically after the completion of the form”).

<sup>5</sup> *CBP Proposal*, 88 Fed. Reg. at 24,204.

<sup>6</sup> 19 U.S.C. §1862.

to manufacture a product to avoid paying tariffs or to import articles in excess of a quota, is limited to the potential loss of that importer's ability to use the electronic licensing system.

Commerce's regulations state as follows:

Should Commerce determine that a filer *consistently* files inaccurate licensing information or otherwise abuses the licensing system, Commerce *may* revoke its electronic licensing privileges without prior notice. The filer will then only be able to obtain a license directly from Commerce. Because of the additional time need to review such forms, Commerce may require up to 10 working days to process such forms. Delays in filing caused by the removal of a filer's electronic filing privilege will not be considered a mitigating factor by the U.S. Customs Service.<sup>7</sup>

This penalty is only applied when an importer "consistently" reports inaccurate information.<sup>8</sup> In other words, importers can falsely report the melted-and-poured source of a steel article without penalty, or, even if a penalty is imposed after the importer makes multiple false reports, an importer can still import the steel article, just with a short delay in receiving the automatic license under the SIMA system. As such, the SIMA system does not ensure accurate and truthful reporting of the melt-and-pour country for steel articles.

Requiring importers to report melt and pour information on Form 7501 would severely impact importers' ability to misreport melted and poured information, as any statement regarding the country of melt and pour would be subject to significant penalties. Under 19 U.S.C. § 1485, Form 7501 requires the importer to declare that the statements in the entry "are true and correct."<sup>9</sup> Under 19 U.S.C. § 1592, violation of this declaration, and, by extension, misreporting of the melted and poured information on Form 7501 due to intentional fraud or negligence would

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<sup>7</sup> 19 C.F.R. § 360.108 (emphasis added).

<sup>8</sup> *Id.*

<sup>9</sup> 19 U.S.C. § 1485(a)(3).

result in significant financial penalties. For example, a violation based on fraud “is punishable by a civil penalty in an amount not to exceed the domestic value of the merchandise.”<sup>10</sup> This is a significant penalty, particularly when compared to the current status quo where misreporting only results in the mere loss of the ability to use the automated SIMA system.

Bringing the collection of melted and poured data within the penalty regime set out for the Form 7501 would advance the public policy objectives of the SIMA system itself. “The purpose of the SIMA system is to provide steel producers, steel consumers, importers, and the general public with accurate and timely information on anticipated imports of certain steel products into the United States.”<sup>11</sup> Increasing the integrity of the data obtained, therefore, would allow other actors outside the agency, such as the domestic steel industry and the Department of Commerce, to have access to better data, permitting them to quickly identify changes in import patterns, such as trends that indicate circumvention of trade remedy measures, and act accordingly.

## **II. THE PROPOSED COLLECTION OF INFORMATION WOULD ASSIST IN ADMINISTERING THE SECTION 232 QUOTAS AND TARIFF-RATE QUOTAS**

As discussed, CBP’s proposed changes to Form 7501 would incentivize importers to provide true and accurate melted-and-poured information for imported steel articles into the United States. As CBP recognized when publishing its request for comments on its proposal, this would increase the reliability of the information gathered by CBP to carry out the agency’s functions in administering the tariffs, quotas, and tariff rate quotas (“TRQs”) for imported steel

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<sup>10</sup> 19 U.S.C. § 1592(c)(1).

<sup>11</sup> 85 Fed. Reg. at 56,163

products under Section 232 of the Trade Expansion Act.<sup>12</sup> For example, on January 3, 2022, in Proclamation 10328, President Biden stated that the United States would begin implementing a number of actions, including a TRQ that restricts the quantity of steel articles imported into the United States from the European Union (“EU”) without the application of the Section 232 tariffs of 25 percent proclaimed in Proclamation 9705.<sup>13</sup> Under the arrangement, steel articles that are melted and poured in the EU are eligible for in-quota treatment.<sup>14</sup> There are similar TRQs in place under Section 232 for imports of steel articles from Japan and the United Kingdom.<sup>15</sup> Accordingly, it is important that CBP have accurate information that would prevent imports of specific steel products to exceed the quota and threaten to impair the national security of the United States. CBP’s proposed additions to the Form 7501 would improve the reliability of that data, thus providing increased utility for the agency.

### **III. THE PROPOSED COLLECTION OF INFORMATION WOULD ASSIST IN ENFORCING SANCTIONS**

In addition, strict penalties for falsifying melted and poured information would help prevent circumvention of sanctions regimes. For example, after Commerce first began requiring steel import license applicants to identify the country where the steel used in the manufacture of

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<sup>12</sup> *CBP Proposal*, 88 Fed. Reg. at 24, 204 (citing Proclamation 10328 of December 27, 2021 (87 Fed. Reg. 11, January 3, 2022) (steel imports from the European Union); Proclamation 10356 of March 31, 2022 (87 Fed. Reg. 19,351, April 1, 2022) (steel imports from Japan); and Proclamation 10406 of May 31, 2022 (87 Fed. Reg. 33,591, June 3, 2022) (steel imports from the United Kingdom)).

<sup>13</sup> Proclamation 10328 of December 27, 2021 (87 Fed. Reg. 11, January 3, 2022).

<sup>14</sup> *Id.*

<sup>15</sup> Proclamation 10356 of March 31, 2022 (87 Fed. Reg. 19,351, April 1, 2022) (steel imports from Japan); and Proclamation 10406 of May 31, 2022 (87 Fed. Reg. 33,591, June 3, 2022) (steel imports from the United Kingdom).

the imported steel product was melted and poured in late 2020,<sup>16</sup> importers of steel pipe and tube products from the United Arab Emirates (“UAE”) were falsely reporting that the country of melt and pour for the vast majority of such products is the UAE. Steel pipe and tube is made from hot-rolled steel that is formed into a hollow tubular shape and then welded at the seam.<sup>17</sup> Thus, the country of melt and pour for such products would be where the hot-rolled steel is produced. There are no producers of hot-rolled steel in the UAE.<sup>18</sup> As a result, the license applicants’ statements that the steel used to make pipe and tube in the UAE was melted and poured in the UAE are blatantly false.

Significantly, there was evidence that some of the hot-rolled steel used to produce the steel pipe in the UAE was melted and poured in Iran.<sup>19</sup> Moreover, the U.S. Treasury has imposed sanctions on 12 Iranian companies as well as one Iranian man involved with steel production and sales.<sup>20</sup> In imposing these sanctions, the United States stated that it “remains committed to denying revenue flowing to the Iranian regime as it continues to sponsor terrorist groups, support

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<sup>16</sup> See *Steel Import Monitoring and Analysis System*, 85 Fed. Reg. 56,162 (Dep’t Commerce Sept. 11, 2021).

<sup>17</sup> See, e.g., *Circular Welded Carbon-Quality Steel Pipe from India, Oman, the United Arab Emirates, and Vietnam Investigation*, USITC Inv. Nos. 701-TA-482-484 and 731-TA-1191-1194 (Final), USITC Pub. 4362 (Dec. 2012) at 16.

<sup>18</sup> See *Iron & Steel Works of the World 2021: UAE* (showing no producers of hot-rolled steel in the UAE).

<sup>19</sup> *Circular Welded Carbon-Quality Steel Pipe From the United Arab Emirates: Preliminary Results of Antidumping Duty Administrative Review; 2017-2018*, 85 Fed. Reg. 7,279 (Dep’t Commerce Feb. 7, 2020) and accompanying Decision Memorandum at 9.

<sup>20</sup> See Treasury Press Release: Treasury Sanctions Key Actors in Iran’s Steel Sector (Jan. 5, 2021).

oppressive regimes, and seek weapons of mass destruction.”<sup>21</sup> These sanctions are worthless if steel that is melted and poured in Iran can be laundered in countries such as the UAE before being shipped to the United States.

Even after CBP and Commerce were notified of this problem in early October 2001, license applicants continued to misreport the melt-and-pour information. In fact, in 2022, license applicants continued to report the UAE as the country of melt and pour for roughly 31 percent of U.S. imports of steel pipe and tube from the UAE valued at over \$169 million.<sup>22</sup> Adoption of CBP’s proposed changes to the Form 7501 would help combat this practice, and help ensure that steel products manufactured from Iranian steel substrate would not enter the United States under false melted and poured information.

#### **IV. THE PROPOSED COLLECTION OF INFORMATION WOULD ASSIST IN IMPLEMENTING A GLOBAL ARRANGMENT ON STEEL**

Finally, accurate melted and poured information will be vital to enforcing any future agreement relating to greenhouse gas (“GHG”) emissions intensity of steel produced in foreign countries. On October 31, 2021, the United States and the EU announced their intention to negotiate a Global Arrangement to address GHG emissions intensity and global non-market excess capacity in the steel and aluminum sectors.<sup>23</sup> A primary goal of the Global Arrangement will be to discourage trade in emissions-intensive steel products that contribute to global non-market excess capacity from other countries and to ensure that domestic policies support

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<sup>21</sup> *Id.*

<sup>22</sup> See SIMA Melt and Pour Dashboard for 2022.

<sup>23</sup> WHITE HOUSE FACT SHEET: The United States and European Union To Negotiate World’s First Carbon-Based Sectoral Arrangement on Steel and Aluminum Trade (Oct. 31, 2021).

lowering the GHG emissions intensity of these industries.<sup>24</sup> The Global Arrangement will also address global overcapacity and toughen enforcement mechanisms to prevent leakage of Chinese steel into the U.S. market.<sup>25</sup>

In order for the Global Arrangement to be successful in increasing the use of steel production methods with lower GHG emissions, it will be vital to prevent so-called “carbon leakage.” Carbon leakage occurs when companies based in the United States or EU move carbon-intensive production abroad to countries where less stringent climate policies are in place, or when U.S. or EU products are replaced by more carbon-intensive imports. Carbon leakage could also occur if the United States does not have a system in place to ensure the accurate reporting of the country of melt and pour for steel products. Thus, for example, a steel pipe producer in the UAE could falsely claim that its steel pipe is made with low-emission hot-rolled steel from the EU when in fact it is actually made from high-emission hot-rolled steel from China.

The U.S. steel industry is a leader in reducing carbon emissions and has invested billions of dollars in its push for its furnace operations (where the “melted” of “melted and poured” takes place) to be carbon neutral.<sup>26</sup> In January 2023, SDI proudly reported that its six scrap-fed mills emit 0.43 tons of carbon dioxide per ton of steel made, which is less than one-third the global average of 1.7 tons.<sup>27</sup> Together, the domestic steel industry will need to invest tens if not

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<sup>24</sup> *Id.*

<sup>25</sup> *Id.*

<sup>26</sup> *See, e.g.*, SDI says it’s ahead of the carbon curve, Recycling Today (May 27, 2022); PRESS RELEASE: Steel Dynamics Announces Strategic Partnership To Reduce Greenhouse Gas Emissions (June 28, 2022).

<sup>27</sup> *See, e.g.*, SSDI pegs its GHG emissions level at half of North American average, Recycling Today (Jan. 30, 2023).



hundreds of billions of dollars to reach its current carbon-reduction goals. However, these investments will be wasted if steel products made from substrate melted and poured by producers in countries with lax environmental standards can not only increase their GHG emissions but also undercut domestic steel prices using cheaper production facilities that have not made the necessary investments for the reduction of GHG emissions. Because of this, any agreement between the United States and the EU will likely include the imposition of tariffs on steel imports from countries with GHG intensive mills. To impose any such tariffs would require CBP to have accurate melted and poured information.

**V. THE PROPOSED COLLECTION OF INFORMATION PLACES NO BURDEN ON STEEL IMPORTERS**

Importantly, by requesting melted and poured information on Form 7501, CBP would be able to increase the utility and reliability of the information reported by importers without adding any additional burden on those importers. As acknowledged in the *Federal Register* notice, the proposed data fields for Entry Summary Form 7501 “will substantially align the Form 7501 reporting requirements with the Commerce Department’s existing reporting requirements for steel melt and pour and aluminum smelt and cast countries for steel and aluminum import license applications under 19 CFR 360.103(c)(1) and 19 CFR 361.103(c)(1).”<sup>28</sup> In other words, there would be no additional burden for importers as this is information that importers are already required to gather and provide.<sup>29</sup> CBP’s proposal thus merely frustrates the ability of bad actors to undermine CBP’s tracking of melted and poured information for steel products without affecting the burden on good actors.

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<sup>28</sup> 88 Fed. Reg. at 24,204.

<sup>29</sup> See, e.g., 85 Fed. Reg. at 56,162.

## VI. CONCLUSION

In short, CBP's proposed additions to Form 7501 enhance CBP's ability to collect accurate data on the country of melt and pour for imports of steel products without adding any additional burden to responding importers. As discussed above, collecting accurate melt and pour information is critical in a variety of contexts, including the tracking of international trade flows in steel products, administering sanctions, enforcing the quotas and TRQs under the Section 232 actions on steel products, and preventing carbon leakage under any future Global Arrangement between the United States and the EU. Therefore, SDI respectfully requests that the OMB approve CBP's proposed additions to Form 7501.

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Please contact the undersigned should you have any questions regarding this submission.

Respectfully submitted,

/s/ Luke A. Meisner  
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SCHAGRIN ASSOCIATES

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