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UNITED STATES INTERNATIONAL TRADE COMMISSION

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WASHINGTON, DC 20436

May 5, 2009

Mittal USA/Counsel for Mittal USA  
US Steel/Counsel for US Steel  
Nucor/Counsel for Nucor  
AK Steel/Counsel for AK Steel

To Whom It May Concern:

This request for additional information pertains to the United States International Trade Commission's remand investigations concerning hot-rolled steel products from Kazakhstan, Romania, and South Africa, inv. Nos. 701-TA-407 and 731-TA-902, 904, and 905 (Review) (Remand). In October 2007, the Commission majority exercised its discretion to cumulate subject imports from two groups and determined that subject imports from one of those groups – Kazakhstan, Romania, and South Africa – would not be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time. The Court of International Trade ("CIT") issued an opinion in the matter on March 9, 2009, Nucor Corp. v. United States, Slip Op. 09-16 (Ct. Int'l Trade March 9, 2009), affirming the Commission's cumulation decision, but remanding the matter to the Commission for further proceeding on six specified issues not inconsistent with its opinion. The Commission has reopened the record in this proceeding to obtain additional information pertinent to the issues on which the Court has directed a remand. The Commission seeks additional information regarding the operations of ArcelorMittal, its affiliates including Mittal USA, and its predecessor companies including Ispat and Ispat Inland (collectively "Mittal"). A copy of the Commission's notice of remand proceedings is enclosed and will be published in the *Federal Register*.

The Commission requests that you review the following passages from the Commission's original review determinations and the comments made by the Court in Slip Op. 09-16. Please provide information in the form of documents or affidavits with specific evidence (and not theories). No argument or commentary is permitted in these submissions. Please provide your response to the Commission by **May 14, 2009**. **Your information must pertain to the period on or before October 2, 2007, the date on which the record closed in the reviews at issue. Documents submitted must have been in existence as of that date. Affidavits may be provided only by individuals having specific knowledge of the above-described issue as of that date, and must set forth the basis of the individual's knowledge. Parties need not re-submit documents or affidavits that are already part of the record of these reviews.**

Business proprietary information included in your submission will be so treated by the Commission and will not be disclosed except as may be required by law.

Submissions containing additional information must be submitted to the Commission by no later than **May 14, 2009**. If you have any questions concerning this request or other matters related to the remand proceeding, please contact **Mary Messer** (202-205-3193 or [mary.messer@usitc.gov](mailto:mary.messer@usitc.gov)) of the Commission's staff. Correspondence may be sent to the above address or via FAX to 202-205-3205.

Sincerely,  
  
John M. Ascienzo  
Acting Director

Enclosures

1. Please review the following passage from the Commission's original review determination and the comment made by the Court in Slip Op. 09-16. Please provide information in the form of documents or affidavits with specific evidence (and not theories). The Views of the Commission in USITC Pub. 3956 at page 44 states (footnotes omitted):

*Mittal USA, as discussed in our cumulation analysis, informed the Commission that all commercial decisions regarding U.S. imports of hot-rolled steel products from Mittal subsidiaries must be approved by Mittal USA – “So the interest of the home country takes precedence.” Mittal USA acknowledged that it may allow imports from its sister facilities in these subject countries to enter the U.S. market, and that its import decisions “may affect competitors in this market who are in different geographies or serve different market segments, and so on. But, it is managed in such a way and controlled, if you will, by the domestic marketing organization, which obviously has the interest of protecting, let’s say, that production base in that domestic market.”*

The Court in *Nucor Corporation v. United States*, Slip Op. 09-16 at 38-40 (CIT March 9, 2009) states:

*The evidence upon which the Commission relies may support the theory that ArcelorMittal will seek to protect its own U.S. interest, but it does not logically result in the conclusion that Mittal USA will limit subject imports from the Mittal Countries. Indeed, evidence overwhelmingly supports the conclusion that: (1) ArcelorMittal affiliates will do what is good for the company as a whole; (2) ArcelorMittal’s overall operations would benefit from increased imports from the Mittal Countries; and therefore; (3) Mittal USA has no incentive to exercise its veto power over imports from the Mittal Countries.*

*First and foremost, ArcelorMittal’s affiliate companies evaluate their business decisions based on what is in the best interest of ArcelorMittal’s overall operations, not that of each affiliated entity. . . .*

*Secondly, the two scenarios described by USS provide a theoretical model by which ArcelorMittal could increase its overall profits in the United States even if doing so caused U.S. prices to fall. . . . ArcelorMittal would apparently benefit from maximizing production in its low-cost facilities in Kazakhstan. See Tr. at 222, 268-269 (PR 253).*

*In addition, by drawing upon their unused capacity, producers in the Mittal Countries are capable of shipping a volume of imports equal to [ ] percent of the total volume of subject imports during 2000. Even “Mittal USA acknowledged that it may allow imports from its sister facilities in these subject countries to enter the U.S. market.”<sup>22</sup> Views at 44 (PR 453). Thus, clearly, if*

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<sup>22</sup>The Commission responds that it considered this argument, but relied upon the testimony that such imports from Mittal USA’s sister facilities would be “‘managed in such a way and controlled. . . by the domestic marketing organization, which obviously has the interest of protecting . . . that production base in that domestic market.’” ITC’s Mem. at 33. This testimony merely states that Mittal USA would protect its own domestic production base. It, however, does not provide a reasoned basis for the Commission’s belief that Mittal USA would not disrupt the U.S. market or harm the other domestic producers.

*harm to Mittal USA by way of subject imports from its affiliates would be outweighed by the benefit to ArcelorMittal's overall operations, then Mittal USA would have no incentive to exercise its veto power over imports from the Mittal Countries. [footnote omitted].*

2. Please review the following passage from the Commission's original review determination and the comment made by the Court in Slip Op. 09-16. Please provide information in the form of documents or affidavits with specific evidence (and not theories). The Views of the Commission in USITC Pub. 3956 at pages 45046 states (footnotes omitted) :

*While it is possible that ArcelorMittal Group or Mittal USA would direct increases in imports from subject sister facilities if the orders were revoked, the evidence in these reviews indicates that Mittal USA's interests in maintaining a profitable U.S. market, which involves nationwide sales of this price sensitive product, would make it unlikely that significant volumes of subject imports from Kazakhstan, Romania, or South Africa would enter the U.S. market. In light of the prominence of Mittal USA in the U.S. market and the magnitude of ArcelorMittal's investment in the U.S. company, we conclude that ArcelorMittal is likely primarily to serve the U.S. hot-rolled steel market in the reasonably foreseeable future with U.S. production from Mittal USA. Moreover, Mittal USA's control over the products that enter the U.S. market makes it unlikely that any of the affiliated subject producers in Kazakhstan, Romania, or South Africa will move aggressively to capture U.S. market share or sell its products in a manner that would have a negative effect on prices that Mittal USA receives.*

....  
*However, as discussed above, Mittal USA now has no incentive to allow subject imports from these countries to be priced aggressively so as to move large volumes of hot-rolled steel at low prices into the U.S. market. Hot-rolled steel of the same characteristics and requirements for a specific application or end use is always or frequently interchangeable whether it is domestically produced or imported. Price plays an important role in purchasing decisions and hot-rolled steel is sold on a nationwide basis. Thus, given the nature of this market, low priced imports in any region of the country will have a disruptive effect on pricing of hot-rolled steel throughout the country.*

The Court in *Nucor Corporation v. United States*, Slip Op. 09-16 at 40-41 (CIT March 9, 2009) states:

*The Commission's volume finding is also flawed with respect to its finding that "significant imports in any region of the country [are] likely to have a disruptive impact on the overall U.S. market" suggesting that any pricing practice that would negatively impact Mittal USA's competitors is likely to also impact Mittal USA. Views at 45 (PR 453). The only data upon which the Commission cites to support its findings . . . do[es] not provide an adequate basis for the Commission's finding that regional surges in subject imports are likely to have a national effect or lead to the conclusion that any negative price impact on Mittal USA's competitors would also negatively impact Mittal USA. [footnote omitted] The Commission's finding even contradicts the admission of an executive of ArcelorMittal that its imports "may affect competitors in this*

*market who are in different geographies or serve different market segments, and so on.” Tr. at 219 (PR 253). Indeed, ArcelorMittal’s U.S. mills are located in the East and Midwest, which would enable ArcelorMittal to steer imports away from direct competition with Mittal USA. See Views at Table I-14 (PR 453).*

3. Please review the following passage from the Commission’s original review determination and the comment made by the Court in Slip Op. 09-16. Please provide information in the form of documents or affidavits with specific evidence (and not theories). The Views of the Commission in USITC Pub. 3956 at page 45 states (footnote omitted):

*Moreover, this relationship involves substantially more domestic and subject production than the single country relationships that were in place in the original investigations. For example, in the original investigations, Ispat Inland Inc., a predecessor company of Mittal USA, accounted for only about \*\*\* of domestic production and was related to a hot-rolled steel producer in only one country, Ispat Karmet (now JSC Mittal Temirtau) in Kazakhstan; by contrast, in these reviews the substantially larger Mittal USA not only is related to the Kazakh producer, but also is related to producers in Romania and South Africa.*

The Court in *Nucor Corporation v. United States*, Slip Op. 09-16 at 41-43 (CIT March 9, 2009) states:

*The Commission’s volume determination also cannot be sustained based on its inadequate explanation of the behavior of ArcelorMittal and its predecessor. Evidence reflects that U.S. imports from Kazakhstan increased from 130,329 short tons in 1998 to 192,470 short tons in 2000, an increase of 47.7 percent, while Ispat organization, the predecessor of ArcelorMittal, owned a U.S. producer in Kazakhstan, Ispat Karmet. [footnote omitted] See Views at I-8 (PR 453). As Plaintiffs point out, this fact supports the theory that upon revocation of the order, ArcelorMittal will similarly increase the volume of hot-rolled steel to the United States from its affiliates as Ispat did from Kazakhstan. Moreover, as of 2007, Mittal USA was exporting hot-rolled steel to Western Europe notwithstanding the fact that ArcelorMittal has many production facilities in Western Europe. See Posthearing Brief of USS at 12 (PR 328). The record further reflects that some of those exports went to Belgium where ArcelorMittal is the largest producer of flat-rolled products like hot-rolled steel.*

*The Commission responds that ArcelorMittal’s multinational operations involve substantially more domestic and subject production than those single country relationships that were in place in the original investigations. This explanation is woefully inadequate. Views at 45 (PR 453). The fact that ArcelorMittal is related to steel producers in more than one country and accounts for a larger portion of domestic production as compared to Ispat Inland does not sufficiently explain why ArcelorMittal would be compelled to restrain its volume of imports from the Mittal Countries especially in light of ArcelorMittal and its predecessor’s apparent business practices.*