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Senate Finance Committee
United States Senate
219 Dirksen Senate Office Building
Washington, D.C. 20510

Re: ***Comments in Opposition to S. 1890 - A Bill To Suspend Temporarily The Duty On Manganese Flake Containing At Least 99.5 Percent By Weight Of Manganese***

Dear Senate Finance Committee:

On behalf of Manganese Metal Company (Pty) Ltd. ("MMC"), we hereby submit the following comments regarding S. 1890, introduced on October 26, 2009, legislation which would suspend the duty on imports of manganese metal flake. MMC is a South African company headquartered in Nelspruit, South Africa and is in the business of producing and selling manganese metal products, including manganese metal flake, which are marketed on a world-wide basis. MMC is the only remaining producer of manganese metal flake in the western world and its financial viability depends on the benefits it receives from GSP duty-free treatment under the African Growth and Opportunity Act ("AGOA").

U.S. production of manganese metal flake ceased in 2001 and the only other producers of manganese metal flake are located in the People's Republic of China. The current duty on imports of manganese metal flake is 14%. South Africa already receives duty-free status from the GSP provisions under the AGOA. Therefore, this legislation will provide a valuable duty benefit that benefits only one major exporting country -- China. This legislation would almost wholly benefit imports of manganese metal flake from China at the expense of imports from the Republic of South Africa. We urge the Senate Finance Committee ("Committee") to deny its inclusion in any miscellaneous tariff bill as the legislation is both controversial and excessively expensive.

At the outset, this legislation will result in revenue losses that far exceed the $500,000 revenue loss limit imposed by the House Ways and Means Committee for miscellaneous tariff bills. In year-to-date (through September) 2009, China exported approximately $10.7 million of manganese metal flake to the United States. If Congress were to suspend the current 14% duty, the revenue loss to the United States would be approximately $1.5 million in 2009 alone. Even a reduction to 7% would cost the United States approximately $750,000 in revenue. On these grounds alone, the Committee should reject the inclusion of this bill in the final miscellaneous tariff bill.

Furthermore, unfettered access by China to the U.S. market is controversial for a number of reasons. First, Chinese producers use selenium in their manufacturing processes, a highly toxic material, similar in characteristics to arsenic, mercury, and lead. Selenium is used to reduce production costs in China, but at a very high societal price both in China and the United States. Selenium is a toxin that poisons the environment in China, as well as workers that use the Chinese product in downstream industries - including those in the United States. A 2007 study has reported that there is a detrimental impact of selenium-based products on workers in the aluminum industry due to the fumes and dusts that arise out of the production process.[1] Congress certainly does not want to intentionally increase the amount of Chinese toxin to which American workers would be exposed.[2]

Second, as recently evidenced by President Obama's visit to China, U.S.-China trade relations are currently strained because of a number of difficult issues -- the huge trade deficit with China, China's undervalued currency, lack of adequate food safety and intellectual property protections, and a variety of alleged unfair trade practices. Congress is focused on writing trade legislation to deal with these issues and to enhance enforcement of U.S. trade laws in response to these problems. Including the duty suspension for manganese metal flake imports from China in a miscellaneous tariff bill would reward China despite these substantial trade problems. In contrast, South Africa has been pursuing enhanced trade relations and resolution of trade issues with the United States, and has been a cooperating trade partner in the current Doha negotiations.

Third, China already controls over 95 percent of the world market for manganese metal flake. Enactment of S. 1890 could lead to China gaining control of virtually the entire global market, after which non-competitive pricing practices from such a monopolistic position would be sure to follow, to the detriment of all U.S. industries that must rely on imported manganese metal flake.

Finally, the United States has committed itself under AGOA to encourage the development of disadvantaged communities in South Africa and other African countries. The current rate of unemployment in South Africa is 24.9% and the average per capita income $5,819. Many South African industries and service providers depend on MMC for their business. MMC provides direct employment to 760 individuals and it is estimated that up to

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1 See Hagelstein, Karen, "Selenium Story: Management of Selenium Impacts in the Electrolytic Manganese Metal Manufacturing Industry and Manganese Metal User Industries" (Feb. 22, 2007), at 22-22.

2 In contrast, MMC produces a selenium-free (i.e., safer) product, as did previous U.S. producers.

6,000 people are supported by the employment provided by MMC. Granting duty suspension to Chinese manganese metal flake imports will reduce MMC's exports, cost valuable South African jobs, and undermine U.S. efforts to assist South Africa in developing its economy. This would worsen the already dire unemployment situation in South Africa and would also disrupt supply to key U.S. industries that rely on MMC as a consistent and safe supplier of manganese metal flake in their production operations. Currently, approximately 30% of the U.S. market for manganese metal flake relies on imports from South Africa.[3]

For all of the aforementioned reasons, S. 1890, duty suspension for imports of manganese metal flake, should be rejected and not included in a miscellaneous tariff bill because it results in large revenue losses, would expose U.S. workers to a dangerous toxin, and damages the environment - all to the benefit of China and at the expense of South Africa.

We hope this information is informative and helpful. If you have any questions, please do not hesitate to contact the undersigned.

Respectfully submitted,

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Cc: U.S. House Ways and Means Committee
Rep. Charles B. Rangel (Chairman)

Subcommittee on Trade
Rep. Sander M. Levin (Chairman)

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3 Source: U.S. International Trade Commission Dataweb (http://dataweb.usitc.gov).