United States Steel Corporation
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July 24, 2008

LETTER OF COMMENT NO. 14

Russell G. Golden
Technical Director
Financial Accounting Standards Board
401 Merritt 7
PO Box 5116
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File Reference No. 1600-100, Proposed Statement of Financial Accounting Standards – *Disclosure of Certain Loss Contingencies* ("the Exposure Draft")

Dear Mr. Golden:

United States Steel Corporation (U. S. Steel) appreciates the opportunity to provide comments to the above referenced Exposure Draft. We support the Board's objective of enhancing disclosures about certain loss contingencies in order to provide financial statement users with more detailed information. While the proposed changes may address some of the perceived deficiencies of the current rules, we believe that the proposed changes also create several concerns that outweigh the minimal benefits to financial statement users. As a result, we do not support the Exposure Draft in its current form. We see several issues with the additional requirements.

- The level of detail required would be unduly burdensome to financial statement preparers. We have concerns regarding the time and cost of implementing the changes suggested in the Exposure Draft.

- The assessment of potential outcomes will continue to be subjective and difficult to estimate with any precision. The inclusion of additional detail will not be useful to financial statement users, and the attempt to add certainty seems to us to misstate the wide range of possible future outcomes. For most contingencies, including litigation, a discussion of the general nature of the issues remains the best way to convey to the reader the risks and uncertainties inherent in the process.

- The additional disclosures, both qualitative and quantitative, may harm the company by requiring the disclosure of information that could be used to the company's detriment in pending and future litigation.

The new qualitative and quantitative disclosures suggested by the Exposure Draft, specifically with respect to loss contingencies arising from pending or anticipated litigation, are in direct conflict with the longstanding protections afforded to attorney work product, now codified at Fed.R.Civ.P., Rule 26(b)(3). Nearly every federal judicial

circuit has now ruled that the type of qualitative and quantitative information described in the Exposure Draft is "opinion work product" that is protected from discovery.

The proposed qualitative subjects of disclosure, including information regarding matters such as a "description of the factors that are likely to affect the ultimate outcome," or a "qualitative assessment of the most likely outcome," and/or the significant assumptions made in estimating the maximum exposure or in assessing the most likely outcome, inherently constitute or depend upon attorney opinion work product. Certainly, at U. S. Steel, that type of qualitative information is the work product of attorneys handling the specific loss contingency. Such opinion work product, which enjoys a nearly absolute immunity from disclosure in the courts, and which can be discovered only in rare and extraordinary circumstances, should not be the subject of disclosure requirements for financial reporting purposes.

The expanded quantitative disclosure requirements proposed in the Exposure Draft for loss contingencies arising from litigation would, likewise, run afoul of the work product protections. As with the establishment of specific case litigation reserves, an entity's best estimate of the maximum exposure to loss or a range of loss is a product of, and would otherwise reveal, the mental impressions, thoughts and conclusions of the attorney in evaluating the specific legal claim or loss contingency. Such analysis, by its very nature, is prepared in anticipation of, and because of, litigation and, consequently, is protected from discovery and disclosure as opinion work product. The Exposure Draft, in its present form, is directly at odds with this basic tenet of American jurisprudence.

The proposed exemption in the Exposure Draft, which would limit disclosure of information that could be prejudicial to the company's position with respect to the outcome of a contingency, does not eliminate or dissipate the material conflict with, and risk to, the work product protections. Moreover, the proposed exemption, as drafted, is vague and imprecise and the proposed requirement that a party disclose the reasons for invoking the exemption will, in many cases, be prejudicial itself and will almost always lead to reader confusion and uncertainty with respect to the loss contingency.

Under existing rules, companies are required to disclose the major contingencies and uncertainties facing them. For public companies the Securities and Exchange Commission's "Risk Factors" rules (Regulation S-K Item 503(c)) provide relevant and sufficient disclosure. To the extent the FASB feels additional disclosure within the financial statements themselves is warranted, we strongly urge adopting the approach used in Item 503(c), although this will create concerns from an audit perspective. The disclosure of numbers, even if stated as a range, often creates a false sense of certainty to what, in many cases, are very speculative and uncertain matters.

We have responded to several of the specific questions posed in the Exposure Draft which further amplify our concerns.

Question #3: Should an entity be required to provide disclosures about loss contingencies, regardless of the likelihood of loss, if the resolution of the

contingencies is expected to occur within one year of the date of the financial statements and the loss contingencies could have a severe impact upon the operations of the entity?

We do not believe that entities should be required to provide disclosures, as required by Paragraph 6, about loss contingencies regardless of the likelihood of the loss, if the contingency is expected to be resolved in the near term and could have a severe impact on the entity's operations. First, the meaning of "severe impact" is highly subjective in an already highly subjective Standard and would not likely lead to consistency of practice across companies. Furthermore, if it is not *at least reasonably possible* that a resolution will have an impact upon the operations of the entity, this requirement will be difficult to implement due to the increased qualitative information that is required under Paragraph 7. Additionally, the requirements of Paragraph 7 are, as discussed above, in direct contravention to the work product protections provided by federal and state rules of civil procedure. Moreover, complying with the requirements of Paragraph 7 may be prejudicial to our position. We will not be able to present all of the facts for a user to understand the contingency without hurting our position, which could leave financial statement users confused and worried about the outcome of these contingencies. Therefore, we would like to see language that states if the likelihood of loss is *remote*, a disclosure is unnecessary. This would reduce the burden on financial statement preparers by lessening the quantitative and qualitative information that they would need to gather for these disclosure requirements and would harmonize U.S. GAAP and IAS 37 disclosure requirements.

The current "remote" standard does not lead to the disclosure of all contingencies that could have a severe impact on a company, but it also does not lead to financial statement users being confused and worried unnecessarily. The disclosure of a long list of possibilities, no matter how likely, can be as misleading to a financial statement user as the failure to disclose relevant risks.

Question #4a: Do you believe that this change (to require entities to disclose the amount of the claim or assessment against the entity, or, if there is no claim or assessment amount, the entity's best estimate of the maximum possible exposure to loss) would result in an improvement in the reporting of quantitative information about loss contingencies?

We do not believe that this change would result in an improvement in the reporting of quantitative information about loss contingencies. In Paragraph 4, the Exposure Draft states that "an entity shall provide disclosures to assist users of financial statements in assessing the likelihood, timing, and amount of future cash flows associated with loss contingencies that are (or would be) recognized as liabilities in a statement of financial position." Not all of the quantitative information that will be reported will assist financial statement users as stated in Paragraph 4. For example, the amount of the claim is stated by most claimants to either satisfy jurisdictional or pleading requirements or to provide an exaggerated value to their claim. Moreover, if a loss contingency does not have a specific claim amount associated with it, entities may generally not be able to provide a

reliable estimate of the maximum exposure to loss that is meaningful to users. In such a circumstance, this information, if provided, would be a "guesstimate," and would not benefit users of financial statements since it is not the actual exposure to loss. More often, however, such estimates are the opinion work product of the attorney handling the specific contingency and, as such, disclosure should never be required as a matter of financial reporting. Finally, the disclosure of an entity's "best estimate" of a loss amount would not only compromise and prejudice its legal positions, but also jeopardize the ability to resolve claims by way of traditional settlement negotiations and agreements. We do not believe that the requirements of Paragraph 7 will result in a better ability to assess the likelihood, timing or amount of future cash flows.

Question #4b: Do you believe that disclosing the possible loss or range of loss should be required, rather than optional, if an entity believes the amount of the claim or assessment or its best estimate of the maximum possible exposure to loss is not representative of the entity's actual exposure?

We do not believe that disclosing the possible loss or range of loss should be required if an entity believes the amount of the claim or assessment or its best estimate of the maximum possible exposure to loss may not be representative of the entity's actual exposure. The ability to produce reliable, relevant, and decision-useful measurements may not be possible in a case such as this, and no disclosure should be made since the estimate may not be representative of the actual cash outflows that will occur in the future.

Question #5: If a loss contingency does not have a specific claim amount, will an entity be able to provide a reliable estimate of the maximum exposure to loss?

As stated in response to question #4a, it is often impossible to estimate an amount. Since the purpose of these additional disclosures is to help users assess the likelihood, timing and amount of future cash flows, we should not give them information that is not representative of such.

Question #6: Should disclosure of the amount of settlement offers made by either party be required?

We do not believe that it would be appropriate to mandate disclosure of the amount of settlement offers. While the accrual of such amounts is often warranted, and U. S. Steel's practice is to accrue settlement offers, there may be circumstances when this is not warranted. However, the specific disclosure of settlement offers or actual settlements could have a chilling effect on pending settlement negotiations and would be prejudicial to the prospect of settling other pending contingencies. Settlements generally include a confidentiality clause so as to protect the company against other or future claimants from using such settlement amounts to advance positions with respect to other contingencies. Settlement information should therefore not be made available to third parties and accounting disclosure rules should not interfere with an entity's ability to pursue settlements over litigation.

Question #8: This proposed Statement includes a limited exemption from disclosing prejudicial information. Do you agree that such an exemption should be provided?

We agree that an exemption from disclosing prejudicial information should be provided. However, we also believe that complying with the additional disclosure requirements of Paragraph 7 will be prejudicial to the company's position in most cases, so exemptions may not be "rare." As discussed above, the proposed exemption does not eliminate or dissipate the material conflict that the Exposure Draft creates with the long standing protection of attorney work product. The proposed exemption, as drafted, is vague and imprecise and the proposed requirement to disclose the reasons for invoking the exemption would, in many cases, be prejudicial itself and would almost always lead to reader confusion and uncertainty with respect to the loss contingency. As we stated in our opening comments, the users of financial statements are well served by having the confidentiality of these matters protected.

Question #9: If you agree with providing a prejudicial exemption, do you agree with the two-step approach in paragraph 11? If not, what approach would you recommend and why?

Since we believe the exemption must be far broader and will be far more frequently used than the drafters considered, we think the proposed two step approach is far too cumbersome and will itself generate reader confusion.

Question #12: Do you believe it is operational for entities to disclose all of the proposed requirements for interim and annual reporting periods? Should the tabular reconciliation be required only annually?

While we do not believe suggested tabular disclosure is cost justified and should not be required in the financial statements, we strongly oppose any periodic tabular disclosure other than on an annual basis. The time between the end of an interim period and the SEC filing deadline is not long enough to allow preparers to devote the time and effort that would be necessary to gather the information required to prepare the tabular reconciliation on a quarterly basis.

Question #14: Do you believe it is operational for entities to implement the proposed Statement in fiscal years ending after December 15, 2008?

We do not believe that the timeframe proposed is realistic for implementation. Since the Board will need to review the comments received on this proposal before issuing a final Statement, we do not believe there will be sufficient time remaining prior to the issuance of our year-end financial statements to gather the necessary information in order to comply with the proposed changes. We do not support the Exposure Draft in its current form and would not support implementation in any form until at least mid-2009.

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We appreciate the opportunity to express our views and concerns regarding the Exposure Draft. If you have any questions with respect to our comments, please call Colleen Darragh, Director – External Reporting and Financial Analysis, at 412-433-5606.

Sincerely,

/s/ Gretchen R. Haggerty
Gretchen R. Haggerty
Executive Vice President & Chief Financial Officer