January 15, 2019

Edward Gresser
Chair, Trade Policy Staff Committee
Office of the United States Trade Representative
1724 F Street, N.W.
Washington, DC 20508

Re: Request for Comments on Negotiating Objectives for a U.S.-United Kingdom Trade Agreement

Dear Mr. Gresser:

In response to a request for public comments from the Office of the United States Trade Representative (USTR), the American Iron and Steel Institute (AISI), on behalf of its U.S. producer member companies, submits the following comments regarding negotiating objectives for a U.S.-United Kingdom (UK) trade agreement.

I. Introduction

The United States and the United Kingdom share many common values and economic interests, including a commitment to open markets and full enforcement of the rules of international trade as outlined in the World Trade Organization (“WTO”) agreements. Similarly, the U.S. and UK steel industries both support fair and open international trade in steel, steelmaking raw materials and steel-containing goods. Accordingly, the U.S. producer member companies of the AISI see many opportunities in the context of the proposed trade agreement negotiations to strengthen U.S.-UK cooperation on external trade and to improve the rules that govern international trade. We therefore urge the USTR to develop negotiating objectives that reflect a high level of ambition and that can result in a high-standard trade agreement that will serve as a model and precedent for future trade negotiations.

With these goals in mind, and as further detailed below, AISI urges USTR to focus on the following objectives in the proposed negotiations:

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• Strengthening the effectiveness and enforcement of U.S. trade remedy laws;
• Addressing customs fraud, circumvention and evasion;
• Eliminating export duties and other restrictions on steelmaking raw materials exports;
• Securing market access provisions that encourage domestic manufacturing;
• Establishing significant disciplines on state-owned enterprises;
• Prohibiting currency manipulation;
• Maintaining the WTO Government Procurement Agreement as the appropriate agreement to address government procurement issues;
• Ensuring that the agreement contains firm and effective rules of origin; and
• Promoting regulatory convergence and mutual recognition of product standards.

Each of these negotiating principles will be discussed in more detail below.

II. **Specific Negotiating Objectives for the Proposed TTIP Agreement**

A. **Trade Remedy Laws**

For decades, Congress has recognized that unfair foreign pricing and government subsidies disrupt the efficient operations of markets both here and abroad. Accordingly, the United States has long maintained strong antidumping (“AD”) and countervailing duty (“CVD”) laws, which can be found in Title VII of the Tariff Act of 1930. These laws are designed to counter the injurious sale of foreign goods in the United States for less than fair value (i.e., dumping) through the imposition of AD duties and to address the grant of injurious subsidies by foreign governments through the imposition of CVDs. Such trade remedies are necessary to offset the benefit to foreign producers of unfair trade practices and to address any resulting or threatened injury to U.S. domestic producers. Effective and vigorous enforcement of the trade remedy laws is also critical to building and maintaining the political support for trade liberalization.
Given the importance of U.S. trade laws to ensuring true market competition between the United States and its trading partners, it is essential that the negotiations do nothing to weaken those laws. Accordingly, there should be absolutely no negotiations relating to (or that could require changes in) U.S. AD/CVD laws or practice. Rather, the focus of the negotiations should be on strengthening the effectiveness and enforcement of these laws. For example, the U.S. and UK steel industries share a common concern about the high level of government ownership and control of the Chinese steel industry, the continued non-market nature of the Chinese economy, and the need for continued strong and effective measures to respond to Chinese unfair trade practices. AISI therefore urges that a U.S.-UK trade agreement include provisions to promote increased cooperation to ensure that trade remedy measures continue to be effective in responding to the unique nature of Chinese competition in steel and other sectors.

B. Customs Fraud, Circumvention and Evasion

U.S. and other steel producers have been harmed by schemes used by foreign exporters to evade AD/CVD orders through such means as transshipment, misclassification, fraud and other illegal behavior. In fact, some foreign companies blatantly and boldly advertise services to assist importers in avoiding duty payment. As a result, many U.S. producers who have incurred the legal expense and injury associated with unfairly traded goods are denied the benefit of the remedy provided by law. In addition, the U.S. Treasury is not collecting revenue it is due.

AISI believes that the United States and the United Kingdom share common interests in combatting such practices, and urge that provisions be included in a trade agreement to promote increased UK-U.S. customs cooperation to respond to these fraudulent and often illegal schemes.

C. Elimination of Export Duties and Other Restrictions

USTR’s negotiating objectives should include not only the elimination of import duties, but also the elimination of export duties on steelmaking raw materials, as well as elimination of non-tariff restrictions on such exports (other than appropriate national security-based export licensing requirements). While we are not aware of any export duties imposed by the United Kingdom, including such commitments in a trade agreement will reinforce an important standard and precedent for all future trade agreements. Foreign export duties and other restrictions are clear barriers to trade, and the United States and the United Kingdom have worked closely together in recent years at the OECD to discourage the use of export restrictions on raw materials. Such measures prevent the free flow of goods between countries and create significant
distortions in the global marketplace. Indeed, true market competition is virtually impossible if one trading partner is permitted to impose export duties at the expense of another.

D. Market Access

The United States has a 25 percent tariff on imported light-duty trucks, which has greatly contributed to robust domestic production of these vehicles. This tariff has also benefited American steel producers, for whom the domestic automotive industry is a major customer. Indeed, in 2017, 27 percent of all U.S. steel shipments were to the automotive sector. Because of the importance of this tariff for domestic light-duty truck production as well as the manufacturing supply chains that support it, the recently renegotiated free trade agreement with Korea included a 30-year phase-out of this tariff. While the vast majority of the UK’s automotive production is cars, there are several automakers in the UK that currently make light-duty trucks in other parts of the EU. Given the uncertainty of the future of the European Union and European economic relationships, AISI believes that any trade agreement with the UK should include a 30-year phase-out of the U.S. light-duty truck tariff that is similar to the Korea free trade agreement, to allow domestic light-duty truck manufacturers and their domestic suppliers adequate time to adjust to any potential future changes and to ensure there are no harmful economic impacts.

E. Disciplines on State-Owned Enterprises (SOEs)

In order to produce a high-standard agreement, a key negotiating objective of the USTR should be the establishment of strong and enforceable disciplines on state-owned enterprises (SOEs) that will ensure competitive neutrality between SOEs operating in the commercial arena and competing private sector companies. SOEs should be required to act solely on the basis of commercial, rather than governmental or political, objectives, and should not be permitted to receive government subsidies or other benefits not generally available on commercial terms. SOEs also should not receive preferential legal or regulatory treatment that distorts commercial conditions, and should adhere to sound corporate governance standards.

These principles should be incorporated into enforceable obligations for UK countries, and should apply to SOEs at all levels of government, including central, state or provincial, and local government SOEs. In addition, any exceptions to these principles due to exigent circumstances should be limited, temporary, and narrowly tailored.
F. Currency Manipulation

Currency manipulation to gain an unfair competitive advantage is among the most trade-distorting practices, as it not only makes exports to the targeted country cheaper, but also makes imports from the targeted country more expensive, and it allows companies to use the profits stemming from the weaker currency to subsidize exports to third-markets. To this end, a trade agreement with the UK should include a strong and enforceable currency discipline as well as an acknowledgement that the United States can use its existing CVD laws to address currency manipulation as a form of export subsidy. Such provisions would set an important precedent for other potential free trade agreements.

G. Government Procurement

The WTO Government Procurement Agreement (“GPA”) sets forth a framework of rights and obligations among its Parties in terms of government procurement. The United States and the United Kingdom are Parties to the GPA, and have been leaders in promoting further negotiations to expand the scope of this important plurilateral agreement. Accordingly, there is no need to negotiate additional government procurement provisions in a U.S.-UK trade agreement and any negotiations on this subject should be reserved for the GPA process.

Furthermore, USTR should make clear from the outset of the negotiations that the existing U.S. GPA reservation for the Buy America restrictions attached to Federal funds for mass transit and highway projects will not be subject to negotiation.

H. Rules of Origin

U.S. negotiators need to make certain that any trade agreement with the UK is not used to improperly provide preferences for steel (or other manufactured goods) from outside of the UK to the United States. Accordingly, a free trade agreement with the UK should include the strongest possible rules of origin to ensure steel produced outside of the United States and the UK does not receive the benefits of the agreement. To achieve this, the agreement should set regional value content (RVC) levels for steel-intensive products that incentivize investment and encourages job growth only in the U.S. and UK. Additionally, past trade agreements that have relied to a significant degree on tariff-shift rules of origin have allowed imported steel from third countries to be stamped into automotive parts and other steel-intensive goods within the free trade area and thereby be deemed originating. AISI believes any trade agreement with the UK should address this issue as part of the rules of origin chapter.
I. Regulatory Convergence and Mutual Recognition

AISI urges USTR to pursue regulatory convergence and mutual recognition of product standards as key negotiating objectives in a trade agreement for those sectors where the UK and U.S. industries have identified specific areas for cooperation. AISI notes, in particular, that the U.S. automotive industry has made past proposals for mutual recognition of standards and regulations affecting automotive products, and the U.S. steel industry supports these proposals. At the same time, AISI opposes any efforts to use the negotiations to pursue harmonization of environmental or other regulations affecting production processes, including with respect to carbon emissions.

III. Conclusion

As discussed above, the proposed U.S.-UK trade agreement negotiations provide an opportunity to address a number of critical issues and to promote a new, higher standard for trade and investment agreements going forward. In order to make the most of this opportunity, USTR should pursue aggressively the aforementioned objectives in the negotiations with the United Kingdom. AISI appreciates the opportunity to provide comments on the negotiating objectives for a U.S.-UK trade agreement.

Sincerely,

Kevin M. Dempsey
Senior Vice President, Public Policy
and General Counsel