June 17, 2019

Joseph Barloon
General Counsel
Office of the United States Trade Representative
600 17th Street NW
Washington, DC 20508


Dear Mr. Barloon:

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 the proposed modification of action under Section 301 of the Trade Act of 1974 (Section 301) of the acts, policies, and practices of the government of China related to technology transfer, intellectual property, and innovation.

AISI serves as the voice of the North American steel industry in the public policy arena and advances the case for steel in the marketplace as the preferred material of choice. The domestic iron and steel industry plays a significant role in the economy, directly accounting for 387,000 American jobs and directly and indirectly supporting nearly two million American jobs. Additionally, the iron and steel industry is a large purchaser of domestic products and inputs for the steel-making process.

For many years, China has used unfair trade practices, including those related to technology transfer, intellectual property and innovation to develop and cultivate state-owned, controlled and subsidized enterprises that compete against a wide-range of U.S. industries, including the steel industry. In particular, and as detailed below, China’s unfair trade practices have severely harmed domestic steel producers. AISI therefore strongly supports the imposition of 25 percent duties on all the iron and steel products

---

on USTR’s Section 301 proposed list 4 classified under Harmonized Tariff Schedule subheadings 7206.10.00 through 7324.29.00.\(^2\) The United States imported nearly $13.9 billion worth of these products from China last year, up from $11.9 billion in 2017 and $9.5 billion in 2016. AISI believes that the proposed 25 percent Section 301 duties on these products, in conjunction with ongoing trade negotiations, has the potential to lead to meaningful, overdue structural reforms to end many of China’s unfair trade practices.

**CHINA’S UNFAIR TRADE PRACTICES**

The United States has historically used several tools to counter China’s unfair trade practices. For example, the United States currently maintains 21 antidumping (AD) orders and 17 countervailing duty (CVD) orders on imports of steel products from China. Each of these 38 orders rests upon findings by the Commerce Department that the Chinese mills engaged in unfair trade practices, as well as the findings by the International Trade Commission that these unfairly traded Chinese steel imports caused or threatened material injury. While the AD and CVD orders in place have helped U.S. mills, recent administrative reviews show that in numerous instances, Chinese mills continued to trade unfairly despite the existence of such relief.\(^3\)

The consequences of China’s unfair trade practices have been devastating for the U.S. economy. China’s intellectual property theft that can be accounted for has harmed the domestic steel industry\(^4\) and cost the United States more than two million jobs.\(^5\) Additionally, in 2017, the Commission on Intellectual Property Theft estimated that the

---

\(^2\) *Id.*

\(^3\) *See, e.g., Circular Welded Carbon Quality Steel Pipe from the People’s Republic of China, 78 Fed. Reg. 60849 (Dept. Commerce Oct. 2, 2013) (final results) (finding that Chinese firms were being subsidized at *ad valorem* rates of 29.83 percent to 620.08 percent); Certain Steel Threaded Rod from the People’s Republic of China, 78 Fed. Reg. 66330 (Dep’t Commerce Nov. 5, 2013) (final results) (finding that a Chinese firm had dumped steel threaded rod in the U.S. market at a rate of 19.54%); Certain Oil Country Tubular Goods from the People’s Republic of China, 79 Fed. Reg. 52301(Dep’t Commerce Sep. 3, 2014) (final results) (“OCTG from China”) (finding that a Chinese firm was being subsidized at the *ad valorem* rate of 59.29 percent).*

\(^4\) USTR’s Section 301 Report at 155, 157, 160-61, 175, Appendix C at 15 (In May 2014, the U.S. Department of Justice announced the indictment of five Chinese military officials from the intelligence component of China’s People’s Liberation Army for cyber intrusions and economic espionage directed against U.S. firms, including U. S. Steel. A separate incident resulted in the theft of highly sensitive commercial secrets regarding U. S. Steel’s development of advanced high-strength steels.).

annual costs of China’s abuses of IP rights to the U.S. economy “exceed $225 billion … and could be as high as $600 billion.”

The U.S. Government and business community have repeatedly raised these concerns. For example, in 2017, the International Trade Administration collaborated with 19 U.S. Government agencies in preparing a report that found:

Foreign investors, however, often temper their optimism regarding potential investment returns with uncertainty about China’s willingness to offer a level playing field vis-à-vis Chinese competitors. Foreign investors report a range of challenges related to China’s current investment climate, including: broad use of industrial policies to protect and promote state-owned and other domestic firms through employing subsidies, preferential financing, and selective enforcement of laws and regulations; restrictions on controlling ownership of foreign entities through equity caps, limited voting rights, limits to foreign participation on companies’ board of directors, etc.; weak protection and enforcement of IPR; corruption; discriminatory and non-transparent anti-monopoly enforcement; excessive national or cyber security requirements; and an unreliable legal system lacking transparency and rule of law.

Given that past, less aggressive efforts – such as dialogues, consultations and “name-and-shame” policies – have not succeeded in persuading China to reform its trade practices, AISI supports the Trump administration’s dual-track efforts of forceful actions and negotiations. As USTR states on its website:

Since China acceded to the WTO (World Trade Organization) in December 2001, the United States and China have pursued a series of high-level bilateral dialogues in the areas of trade and investment. These dialogues have included the U.S.-China Joint Commission on Commerce and Trade, the U.S.-China Strategic Economic Dialogue, the U.S.-China Strategic and Economic Dialogue and the U.S.-China Comprehensive Economic Dialogue. Through these dialogues, the United States has sought not only to resolve significant trade and investment irritants, but

---


also to encourage China to pursue market-oriented policies and become a more responsible member of the WTO. These bilateral efforts largely have been unsuccessful because Chinese policymakers have not been interested in moving toward a true market economy.  

**SUBSIDIES**

When China acceded to the WTO, it assumed the obligations of the WTO Agreement on Subsidies and Countervailing Measures (SCM Agreement). Specifically, China committed that by the time of its accession it would eliminate all subsidies prohibited under Article 3 of the SCM Agreement and that other WTO members could apply CVD measures against Chinese imports consistent with the SCM Agreement and could address prohibited and actionable subsidies through WTO litigation. These commitments did not stop China from continuing to subsidize its industries – the Chinese government continues to provide massive subsidies for its manufacturers, including its steel producers. Indeed, in the most recent Report to Congress on China’s WTO Compliance, USTR recognized that “China continues to provide substantial subsidies to its domestic industries, which have caused injury to U.S. industries. Some of these subsidies also appear to be prohibited under WTO rules.”

In June 2016, five steel trade associations in the United States, including AISI, released a public report detailing the continued subsidization of the Chinese steel industry by its government and the rapid growth in recent years of its production that has been fueled by government subsidies and other market-distorting practices. Each of the 25 largest Chinese steel companies were analyzed in this report and highlighted the specific types and levels of subsidies that the Chinese steel producers obtained from its government, including at the federal, provincial and local levels, over the past several years. “The Chinese Government maintains a majority share in the top-producing Chinese steel producers. Domestic steel producers are not competing with private enterprises but

---

8 Available at https://ustr.gov/countries-regions/china-mongolia-taiwan
11 China Protocol of Accession at ¶ 15.
with sovereign Governments that do not need to use free-market principles to operate,” the report found.13

Finally, China also has a long history of manipulating its currency, the renminbi (RMB), typically weakening the value of it to subsidize exports at the direct cost of U.S. manufacturers, including domestic steel producers. The most recent Treasury Department report on foreign exchange policies of major trading partners stated: “Treasury continues to have significant concerns about China’s currency practices, particularly in light of the misalignment and undervaluation of the RMB relative to the dollar. China should make a concerted effort to enhance transparency of its exchange rate and reserve management operations and goals.”14 China’s history of weakening the RMB to subsidize its exports has greatly harmed American companies and workers. In 2016, C. Fred Bergsten and Joe Gagnon, from the Peterson Institute for International Economics, published a study, Currency Conflict and Trade Policy, which found China’s currency manipulation accounted for approximately one third of American job displacement from the rapid growth in Chinese imports after 2001.15 Reportedly, China’s use of currency manipulation has been a subject for the ongoing trade negotiations with China,16 and AISI supports these efforts.

**CHINA’S STEEL EXCESS CAPACITY AND PRODUCTION**

Chinese steel subsidies have fueled an excess capacity crisis that has devastated the entire global steel industry. China now accounts for more than half of global steel production, and despite international pressures, it has repeatedly set new records for steel production. This year, once again, China is on pace to set another new record for steel production, well in excess of its domestic steel demand.

---


In 2017 and 2018, China once again produced record levels of raw steel at 870.9 and 928.3 million metric tons (MMT), respectively.\(^{17}\) Last year, Chinese steel production increased 6.6 percent and through April of 2019, it increased an additional 10.1 percent, and is on track to match or exceed last year’s record level. In the first four months of the year, China produced over half of the total amount of raw steel produced worldwide (53 percent).\(^{18}\)

In part due to this massive overproduction, Chinese steel producers continue to export steel at levels significantly above historic trends. According to the U.S. Department of Commerce’s Global Steel Trade Monitor, China exported 66.9 MMT of steel in 2018.\(^{19}\) In addition, Chinese steel exports in the first quarter of 2019 increased by 12.8 percent over the same period from 2018. Furthermore, while Chinese steel production continues to increase to new record levels, the spring 2019 World Steel Association Short Range Outlook forecast predicts that apparent steel use in China will increase by only one percent in 2019 to 843.3 MMT, and will decline by one percent in 2020 to 834.9 MMT,\(^{20}\) creating further risks that Chinese steel exports will continue to increase,

---


\(^{18}\) World Steel Association, April 2019 crude steel production, May 27, 2019 available at [https://www.worldsteel.org/en/dam/jcr:fe44e1fa-3d6a-4131-86a4-2a2d7d8edeb3/April%25202019%2520Crude%2520Steel%2520Production%2520Table.pdf](https://www.worldsteel.org/en/dam/jcr:fe44e1fa-3d6a-4131-86a4-2a2d7d8edeb3/April%25202019%2520Crude%2520Steel%2520Production%2520Table.pdf).


further disrupting world markets. Because China has ceased timely reporting its export data to international bodies like the United Nations for inclusion in the Comtrade database, the full extent of China’s diversionary tactics to avoid the application of U.S. tariffs on Chinese steel products is unknown. Indeed, recent news articles indicate that Chinese exporters of steel products are merely changing the country or origin labeling to “Made in Vietnam” to circumvent existing trade measures.\(^\text{21}\)

**CONCLUSION**

AISI appreciates the Trump administration’s efforts to push China to reform its harmful trade practices. As detailed above, these practices have come at a great cost to U.S. steel producers and our workers. Accordingly, AISI supports the imposition of 25 percent duties on the Chinese iron and steel products on USTR’s proposed Section 301 list 4.

Sincerely,

\[\text{Kevin M. Dempsey}\]

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

---