September 19, 2018

Edward Gresser
Chair, Trade Policy Staff Committee
Office of the U.S. Trade Representative
1724 F Street NW
Washington, DC 20508

RE: Request for Comments Concerning China’s Compliance with WTO Obligations
Docket Number USTR-2018-0030

Dear Mr. Gresser:

In response to a request 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, hereby submits comments to the interagency Trade Policy Staff Committee (TPSC) regarding China’s compliance with the commitments it made upon its accession to the World Trade Organization (WTO) in 2001. Of the categories listed in USTR’s request, these comments particularly relate to import regulation, export regulation, internal policies affecting trade, intellectual property rights, and other WTO commitments.

Executive Summary

Now more than 16 years after it acceded to the WTO, China continues to fail to comply with its WTO obligations. In fact, there is now a broad, international consensus, based on an overwhelming amount of evidence, that China has largely abandoned its policy of liberalizing its economy and instead continues to adhere to a policy of state capitalism that is antithetical to the principles of free and fair trade. This trend continues to be a major problem for steel producers in the United States, other U.S. manufacturers, and the broader U.S. economy. Once again, AISI strongly urges the U.S. government to recognize China’s compliance failures. Additionally, AISI agrees with the U.S. government that China is a non-market economy and that as a result of China not living up to its WTO commitments, strong actions, such as the use of Section 301 of the Trade Act of 1974 (Section 301), are

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necessary to help combat China’s unfair trade practices. The key points in support of AISI’s argument are summarized as follows:

-- The current U.S.-China trade relationship is taking a tremendous toll on U.S. manufacturers. Since 2000, the annual U.S. trade deficit in goods with China has soared 348 percent, the United States has lost millions of manufacturing jobs, more than 60 thousand U.S. factories have been shuttered, communities have been irrevocably damaged, and the American steel industry has been severely disrupted. The Trump administration is right to identify this and take bold steps to address this problem.

-- From 2000 through 2017, annual Chinese raw steel production increased by 703.2 million metric tons (MT) – a volume that is close to nine times total crude steel production in the United States in 2017. China’s increased production has been made possible, in large part, by massive government subsidies. The U.S. Department of Commerce (DOC) has specifically identified numerous subsidies benefiting Chinese steel producers. China not only maintains policies that will lead to further subsidization going forward, but also manipulates its value added tax (VAT) system to manage and promote exports of its steel products.

-- Although China pledged as part of its WTO accession that it would not “influence” commercial decisions of its state-owned enterprises (SOEs), the Chinese government maintains a heavy amount of control over SOEs.

-- China has taken numerous measures to inappropriately aid its producers in securing access to raw materials and to manipulate raw material prices in a manner that gives Chinese producers an unfair advantage over their U.S. competitors. AISI commends USTR for the victories it has won at the WTO challenging certain export restraints as violating China’s WTO commitments. However, given China’s pervasive use of export restraints and other measures to control raw material prices, winning these challenges will only be the first step to bring China’s policies into compliance with its WTO commitments.

-- Despite years of criticisms from several U.S. manufacturing industries and members of Congress, China has a long history of manipulating its currency to support its export-dependent economy.³

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² See U.S. Census Bureau at https://www.census.gov/ces/dataproducts/bds/data_estab.html

-- Effective enforcement of intellectual property rights (IPR) has still not been achieved in China, and IPR infringement remains a serious problem. Moreover, China’s “indigenous” innovation campaign – which has already caused U.S. firms to lose market share – appears to violate many of China’s WTO commitments to protect IPR and not raise technical and other non-tariff barriers to trade. Additionally, there is now evidence that China is using its anti-trust laws to curtail the IPR of foreign firms and protect its domestic firms from foreign competition. Years of China’s abuse of IPR led the Trump administration rightfully to impose tariffs on Chinese imports under Section 301.

-- The fact that China has not fully complied with its WTO obligations underscores the importance of effective enforcement of U.S. trade remedy laws. Among other things, the United States is right to treat China as a non-market economy for purposes of U.S. antidumping laws, should ensure that Chinese companies are not circumventing and evading U.S. antidumping and countervailing duties, and should continue to take strong action to address attempts by China to gain an advantage in unfair trade proceedings by hacking the computer systems of domestic producers in the United States.

Each of these points is discussed in more detail below.

I. Introduction: China’s Non-Compliance With Its WTO Obligations Remains a Severe and Growing Problem for American Steel Producers and Other U.S. Manufacturers

This submission identifies numerous specific examples of China’s failure to comply with its WTO obligations. Before turning to those examples, however, AISI emphasizes that China’s substantial, long-term breach of its WTO commitments continues to have serious consequences for American steel producers, other American manufacturers, and the U.S. and world economies.

China acceded to the WTO on December 11, 2001 – nearly 17 years ago. This submission marks the fifteenth time that AISI has supplied the TPSC with detailed comments regarding China’s failure to comply with its WTO commitments. AISI has

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4 See Letter from Barry D. Solarz, Vice President of AISI, to Gloria Blue, Executive Secretary of the TPSC Sep. 14, 2004); Letter from Barry D. Solarz, Vice President of AISI, to Gloria Blue, Executive Secretary of the TPSC (Sep. 6, 2005); Letter from Barry D. Solarz, Vice President of AISI, to Gloria Blue, Executive Secretary of the TPSC (Sep. 14, 2007); Letter from Barry D. Solarz, Senior Vice President of AISI, to Gloria Blue, Executive Secretary of the TPSC (Sep. 22, 2008); Letter from Barry D. Solarz, Senior Vice President of AISI, to Gloria Blue, Executive Secretary of the TPSC (Sep. 22, 2009); Letter from Barry D. Solarz, Senior Vice President of AISI, to Gloria Blue, Executive Secretary of the TPSC (Sep. 18, 2006);
documented over this period essentially the same facts – i.e., that China is using massive subsidies and other forms of government support to build and maintain an enormous steel industry in violation of market principles and China’s WTO commitments. As USTR acknowledged in its annual Report to Congress on China’s WTO Compliance, “the Chinese government increasingly emphasized the state’s role in the economy, diverging from the path of economic reform that had driven China’s accession to the WTO. With the state leading China’s economic development, the Chinese government pursued new and more expansive industrial policies, often designed to limit market access for imported goods, foreign manufacturers and foreign service suppliers, while offering substantial government guidance, resources and regulatory support to Chinese industries, particularly ones dominated by state-owned enterprises.”

These facts are particularly significant because China is not just any WTO member. In 2014, China surpassed the United States as the world’s largest economy. Last year, for the third year in a row, China was the largest economy with purchasing power parity (PPP) estimated at $23.2 trillion, compared to $19.4 trillion for the United States. The fact that such a major economic player is defying the rest of the WTO to pursue a market-distorting policy of mercantilism raises profound and troubling consequences for the U.S. and world economies. As Heriberto Araújo and Juan Pablo Cardenal, authors of “China’s Silent Army: The Pioneers, Traders, Fixers and Workers Who Are Remaking The World in Beijing’s Image,” wrote:

Europeans and Americans tend to fret over Beijing’s assertiveness in the South China Sea, its territorial disputes with Japan, and cyberattacks on Western firms, but all of this is much less important than a phenomenon that is less visible but more disturbing: the aggressive worldwide push of Chinese state capitalism. By buying companies, exploiting natural resources, building infrastructure and giving loans all over the world, China is...
pursuing a soft but unstoppable form of economic domination. Beijing’s essentially unlimited financial resources allow the country to be a game-changing force in both the developed and developing world, one that threatens to obliterate the competitive edge of Western firms, kill jobs in Europe and America and blunt criticism of human rights abuses in China.8

Past U.S. policies were clearly not sufficient to persuade China to comply with its WTO obligations, and as a result, the Trump administration took strong actions to address China’s recalcitrance.

A. China’s Unfair Trade Practices Are Hurting the U.S. and World Economies

In 2000, supporters of normalizing trade relations with China promised that China’s accession would lower our trade deficit, strengthen our manufacturing base, and create jobs.9 The facts have not borne out these assertions. Instead, as shown below, China’s entry into the WTO has contributed to numerous problems in the U.S. and world economies:

- **The U.S. Trade Deficit Has Soared.** The U.S. trade deficit in goods with China soared 348 percent, from $83.8 billion in 2000 to $375.6 billion in 2017.10 Furthermore, our trade deficit with China is on pace to exceed $380 billion in 2018.11

- **The U.S. Manufacturing Base Has Been Dramatically Weakened.** In 2000, U.S. exports of manufactured goods were triple the amount of Chinese exports of the same goods.12 By 2010, however, China’s manufacturing exports were 50 percent higher than U.S. manufacturing exports.13 Furthermore, the U.S. trade deficit in manufactured goods with China reached near record levels of over $375 billion in

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11 See id. Through July 2018, the U.S. trade deficit with China totaled $222.6 billion. ($222.6 / 7) x 12 = $381.6 billion.
13 Id.
2017, more than five times bigger than the second-largest deficit of manufactured goods.14

- **Millions of U.S. Jobs Have Been Lost and Wages Eroded.** Last year, David Autor, an economist at the Massachusetts Institute of Technology, led a study where he concluded that he would “conservatively estimate that more than a million manufacturing jobs in the U.S. were directly eliminated between 2000 and 2007 as a result of China’s accelerating trade penetration in the United States… We estimate that as much as 40 percent of the drop in U.S. manufacturing between 2000 and 2007 is attributable to the trade shock that occurred in that period, which is really following China’s ascension to the WTO in 2001.”15 Additionally, these job losses were not evenly dispersed across the country, but rather concentrated, having profoundly harmful, cascading effects on targeted communities. A separate study conducted by the National Bureau of Economic Research that was published in 2014 reached an even more severe conclusion – that the increase in U.S. imports from China between 1999 and 2011 resulted in net job losses of 2.0 to 2.4 million.16

- **Chinese Mercantilism Is Preventing a Necessary Rebalancing in Global Trade.** For many years, it has been broadly recognized that our relationship should be “rebalanced” so that the United States manufactures more goods and China consumes them.17 Yet there is little reason to believe that China will achieve such a rebalancing in the absence of pressure from its outside trading partners. As the U.S.-China Economic and Security Review Commission (USCC) concluded in 2013, “China has had little success transitioning toward a consumption-led growth model and reducing its reliance on massive infrastructure projects to

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14 These data are available at [http://tse.export.gov](http://tse.export.gov) (visited Sep. 6, 2018).
17 Former U.S. Secretary of Commerce Gary Locke – who recently served as the U.S. ambassador to China – has said that our trade deficit with China “simply can’t be sustained.” Doug Palmer, “U.S.-China trade imbalance not sustainable: Locke,” Reuters (Jul. 15, 2009). Former U.S. Secretary of the Treasury Timothy Geithner has stated that “previous global economic patterns were unsustainable. To establish a more global foundation for growth and avert future crises of this nature, we must rebalance global demand.” Secretary of the Treasury Timothy F. Geithner, Written Testimony before the Senate Foreign Relations Committee (Nov. 17, 2009) (emphasis added). C. Fred Bergsten, Director of the Peterson Institute for International Economics, has stated that a “resumption of substantial US growth . . . will require expansion of US exports to the rest of the world and a sizable reduction of our trade deficits.” C. Fred Bergsten, “The United States in the World Economy,” Peterson Institute for International Economics (Aug. 12, 2011) at 5.
boost economic growth.” Investment spending continues to account for nearly half of China’s GDP, accounting for approximately 45 percent in 2017. Some evidence, including recent declines in apparent steel use (ASU), suggests that China’s economy may be shifting away from investment and heavy industry, and this transition threatens to exacerbate trade imbalances as little to no progress has been made in reducing industrial overcapacity. With less demand for steel from construction and heavy industry, for example, Chinese producers have shipped greater volumes overseas in an attempt to use foreign markets as an outlet for excess supply.

B. China’s Unfair Practices Are Distorting Steel Markets

China’s restrictive trade regime has had a dramatic impact on its steel industry. Due in large part to trade-distorting practices, Chinese steel production has grown dramatically — even as the market plainly signals that Chinese mills are making too much steel, with many analysts suggesting that Chinese steel use may have peaked in 2013:

- Chinese raw steel production soared from 128.5 million MT in 2000 to a new record level of 831.7 million MT in 2017 — an increase of over 700 million MT and it is on track to set a new record again in 2018. To put this figure in context, consider that in 2017 the United States produced 81.6 million MT of raw steel. Over the last 17 years, therefore, China’s annual steel production increased by a volume of nearly nine times the total annual production of the U.S. industry.

- Last year, China alone accounted for 49 percent of global steel production — and it appears that again in 2018, China will once again produce far more steel than market conditions justify. Chinese steel production year-to-date through

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18 USCC, 2013 Annual Report to Congress (Nov. 20, 2013), at 78.
21 World Steel Association Steel Statistical Yearbook 2017, available at https://www.worldsteel.org/en/dam/jcr:3e275c73-6f11-4e7f-a5d8-23d9bc5c508f/Steel%2520Statistical%2520Yearbook%25202017_updated%2520version090518.pdf, 2017-2018 data from April 2018 World Steel Association Short Range Outlook
July 2018 has increased by 6.9 percent compared to the same period in 2017,\textsuperscript{24} and is on pace to set a new production record of 913.4 million MT this year,\textsuperscript{25} exceeding the record of 831 million MT that it set last year.

- In 2017, China exported nearly twice as much steel as the second-largest exporter, Japan, and more than twice as much as the third- and fourth-largest exporters, Russia and Korea.\textsuperscript{26} With increased production and demand not expected to increase significantly, Chinese steel exports remain at levels high enough to adversely impact global steel trade.

C. American Steel Producers Have Been Shut Out of the Chinese Steel Market

It should be recalled that China’s accession to the WTO was supposed to provide an opportunity for U.S. manufacturers to participate in and profit from China’s rapidly growing economy.\textsuperscript{27} These predictions have not proven true for U.S. steel producers.

In 2001, the year of China’s accession to the WTO, China consumed 168 million MT of finished steel products but produced only 152 million MT of steel.\textsuperscript{28} By last year, China’s demand for finished steel reached 737 million MT – an increase of 338 percent.\textsuperscript{29} If American steel mills had been able to participate in even just one percent of this increased demand for steel, then last year, our exports to China would have been approximately 5.69 MT of steel products annually.\textsuperscript{30} But this has not happened – last year, U.S. mills exported just 87,315 MT of steel to China, down substantially from the export volumes seen in the mid-2000s.\textsuperscript{31}

\textsuperscript{25} (532.8 / 7) x 12 = 913.4 MT.
\textsuperscript{27} See, e.g., Permanent Normal Trade Relations for China.
\textsuperscript{28} World Steel Dynamics; World Steel Association, “Annual Crude Steel Production, 2000-2009.”
\textsuperscript{29} World Steel Association, April 2018 Steel Demand Forecasts. (737 - 168) / 168 = 3.38 x 100 = 338%.
\textsuperscript{30} (737 - 168) x 1% = 5.69.
It is now clear that China never intended to permit non-Chinese steel producers to benefit from the country’s growing market. In October 2011, China’s Ministry of Industry and Information Technology heralded as a “major achievement” the fact that “the domestic steel market share increased from 92% to 97%” over the five previous years. At the same time, it lamented that “[a] few key steel products are still dependent on imports” and found it necessary to “further improve” China’s steel industry so that it can “provide a complete suite of material solutions for downstream industries.”

D. Chinese Steel Has Injured the American Steel Industry

There can be no question that unfairly-traded exports – another result of Chinese mercantilism – have also harmed American steel producers. The United States currently maintains antidumping (AD) orders on imports of 21 steel products from China, while also maintaining countervailing duty (CVD) orders on imports of 17 steel products from China (see Appendix 1 for list of AD/CVD orders on imports of steel products from China). Each of these 38 orders rests upon findings by the DOC that the Chinese mills engaged in unfair trade practices and findings by the U.S. International Trade Commission (USITC) that Chinese imports have caused or threatened material injury to the relevant domestic industry.

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33 Id. at Art. I.II.1.
Furthermore, while the AD and CVD orders in place have certainly helped U.S. mills, recent administrative reviews at the DOC show that in numerous instances, Chinese mills continued to trade unfairly despite the existence of such relief.  

E. China’s Actions Demanded an Aggressive Response

China now openly says that it never intended to reform its trade practices and open its markets to imports. As recently as July 30, 2018, China’s Ambassador to the WTO said: “we have never changed our position. As for those who speculated that China would change and move onto a different path upon its WTO accession, but that was just their wishful thinking.”

China has not complied - and apparently has no intention of complying in the future - with its WTO obligations, which created a crisis that the Trump administration was wise not to ignore. China not complying with WTO obligations has had profound consequences for U.S. trade policy, which rests on the assumption that our trading partners will generally abide by internationally-accepted rules. Unfortunately, that assumption is not correct, because the world’s largest economy by purchasing-power-parity (PPP) has effectively exempted itself from numerous WTO obligations. The results of this market-distorting behavior have been disastrous.

Additionally, China has been aggressively initiating WTO cases against other members – especially the United States. Remarkably, 15 of the 20 cases brought by China at the WTO alleged violations by the United States – a country suffering from an enormous trade deficit with China – with the remaining five cases against the European Union or its member states. In other words, while China apparently feels free to disregard its

34 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 (Dept. 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).
35 Brett Fortnam, China says U.S. analysis of its WTO practices is void of facts, half-baked, Inside Trade (July 30, 2018)
own WTO obligations, it sues other countries when it sees an advantage in doing so. These facts led the USCC to conclude several years ago that China was doing serious damage to the WTO system:

The United States and the European Union went to considerable lengths to design and negotiate a system of checks and balances that would permit China to accede to the WTO without jeopardizing the smooth functioning of the organization or endangering the position of existing members in the international trading system. From start to finish, that negotiation process took 15 years. In less than ten years, China has learned the nuances of WTO law and has begun to use it systematically to undo the finely wrought balance that U.S. and E.U. negotiators designed.\textsuperscript{38}

As experts are increasingly warning, with China now exporting its mercantilist policies beyond its own borders, the stakes could not be any higher:

It is important to remember what is really behind China’s global economic expansion: the state. . . . [W]hen Chinese state-owned companies go abroad and seek to play by rules that emanate from an authoritarian regime, there is grave danger that Western countries will, out of economic need, end up playing by Beijing’s rules. As China becomes a global player and a fierce competitor in American and European markets, its political system and state capitalist ideology pose a threat. It is therefore essential that Western governments stick to what has been the core of Western prosperity: the rule of law, political freedom and fair competition.\textsuperscript{39}

In response to China’s mercantilist policies, the Trump administration has pursued aggressive actions, such as use of Section 301, to push China to reform. AISI supports the administration’s efforts, as past, less aggressive efforts – such as dialogues, consultations and “name-and-shame” policies – have been ineffective. In fact, USTR notes on its website that “[s]ince China acceded to the WTO 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


\textsuperscript{39} China’s Economic Empire.
been interested in moving toward a true market economy.” As Robert Atkinson, President of the Information and Technology and Innovation Foundation, stated in 2014 about the traditionally-used, less aggressive actions to push China to reform, “the Washington trade establishment believes we are dealing with a nation that generally plays by the rules and where they don’t, they can be educated about the right path.” However, “[t]he reality is that since the Chinese joined the World Trade Organization in 2001, they have regressed, not progressed, on the path to a rules-based trading system.”

II. Issues of Particular Importance to American Steel Producers

This submission does not attempt to identify and discuss every outstanding issue with respect to China’s WTO compliance. Instead, it focuses on several issues of core concern that are imperative for the U.S. government to address. Many of these issues are directly relevant not only to the domestic steel industry, but to all U.S. manufacturers, many of whom are customers of AISI members.

A. Subsidies

Upon its accession to the WTO, China assumed the obligations of the WTO Agreement on Subsidies and Countervailing Measures (SCM Agreement). In particular, China committed that by the time of its accession it would eliminate all subsidies prohibited under Article 3 of the SCM Agreement. China also agreed 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. Notwithstanding these commitments, Chinese manufacturers – including Chinese steel producers – continue to benefit from massive government subsidies. The evidence on this point is overwhelming. Indeed, in its 2017 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

41 Id.
44 China Protocol of Accession at ¶ 15.
appear to be prohibited under WTO rules.”

It went on to further states that “since joining the WTO 16 years ago, China has not yet submitted to the WTO a complete notification of subsidies maintained by the central government, and it did not notify a single sub-central government subsidy until July 2016, when it provided information only on sub-central government subsidies that the United States had challenged as prohibited subsidies in a WTO case.”

In June 2016, five steel trade associations in the U.S., including AISI, released a public report detailing the continued subsidization of the Chinese steel industry by its government and that the rapid growth in recent years of its production 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 with sovereign governments that do not need to use free-market principles to operate,” the report found.

Last year, the U.S submitted another counter-notification under Article 25.10 of the Subsidies Agreement regarding China’s Internationally Well-Known Brand Program, a successor to the Famous Export Brand program, a Chinese subsidy program which the U.S. and China negotiated a settlement over in 2009. The U.S. has now submitted 54 counter notifications on approximately 500 subsidy measures by China.

1. **China Has Failed to Properly Notify WTO Members of its Subsidy Programs**

As an initial matter, it should be noted that China’s failure to comply with its WTO obligations makes it impossible to measure precisely the scope of its government subsidies. Pursuant to Article XVI of the General Agreement on Tariffs and Trade (“GATT”) and Article 25 of the SCM Agreement, China is required to notify members of its subsidy programs every year. However, China did not submit any such notification until April 2006, over four years after it acceded to the WTO and nearly five years after it promised to do so. Six years later, China submitted its new subsidies notification,

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46 *Id.*
48 2017 USTR Report to Congress on China’s WTO Compliance at 53.
49 2013 USTR Report to Congress on China’s WTO Compliance at 50.
but yet again, it was inadequate, covering only four years from 2005 to 2008 and failing to provide a detailed list of any subsidies given by local or provincial governments.\(^{50}\)

Following several additional requests by the U.S., in October 2015, China finally submitted a new subsidies notification which covered 2009 to 2014, but like previous reports, it was incomplete.\(^{51}\) China’s lack of transparency regarding its government subsidies severely constrains the ability of WTO Members to ensure that it is playing by the rules. In its July 2016 submission, the Chinese government for the first time since joining the WTO in 2001, included subsidy programs issued by sub-central governments, but as expected, this information was incomplete and represented a very small portion of non-central government subsidy programs.\(^{52}\) In December of 2017, Ambassador Lighthizer criticized China repeated failings to notify the WTO of subsidies, saying at a WTO ministerial conference “it is impossible to negotiate new rules when many of the current ones are not being followed … Some members are intentionally circumventing these obligations, and addressing these lapses will remain a top U.S. priority.”\(^{53}\)

This issue has specifically impacted the steel industry. For example, while China claims that it does not offer any specific subsidies for steel companies, in annual reports Chinese steel companies themselves say they receive “hundreds” of government subsidies – a point that the Trump administration raised in an April 20 filing at the WTO.\(^ {54}\)

2. *China Continues to Provide Massive Subsidies*

As discussed above, domestic steel producers have brought and won CVD cases against 17 different categories of Chinese steel imports, on a variety of flat, wire, long, pipe/tube and stainless products. Those cases show that China has engaged in sustained, massive, across-the-board efforts to subsidize steel production – efforts that affect the entire American steel industry, as well as other steel producers globally.

\(^{50}\) *Id.*

\(^{51}\) *Id.*

\(^{52}\) 2016 USTR Report to Congress on China’s WTO Compliance at 65.


\(^{54}\) Follow-up questions from the United States regarding the sub-central new and full notification of China, April 20, 2018, available at https://docs.wto.org/dol2fe/Pages/FE_Search/FE_S_S009-DP.aspx?language=E&CatalogueIdList=244762,244746,244744,244743,244748,244749,244750,244751,244752,244753&CurrentCatalogueIndex=1&FullTextHash=371857150&HasEnglishRecord=True&HasFrenchRecord=False&HasSpanishRecord=False
Moreover, China continues to provide massive subsidies to its manufacturers. In September 2014, for example, the DOC issued the final results of an administrative review of the CVD order on OCTG from China.\(^{55}\) As part of this review, the DOC specifically identified numerous subsidies benefiting Chinese companies, including the following:

- Preferential lending through state-owned commercial or policy banks;\(^{56}\)
- Provision of electricity for less than adequate remuneration;\(^{57}\)
- Provision of inputs for less than adequate remuneration;\(^{58}\)
- Export credit insurance reimbursements;\(^{59}\)
- Refunds of the real estate and land-use taxes paid by companies in certain industrial districts;\(^{60}\)
- Direct transfers of government funds to steel producers in the form of grants.\(^{61}\)

These findings are very similar to those made in recent years by the DOC in case after case brought by domestic steel producers against subsidized Chinese imports.


[U]nder true market conditions, China would probably have had a large and diverse steel industry, but not one that grew to account for about half of total world steel production within a decade of joining the WTO. \textit{The Chinese steel industry in its current form is the creation of the Chinese government}. It has benefited from massive direct and indirect subsidies, many of which violate the WTO’s Subsidies Agreement, China’s obligations under its WTO accession agreement, or both. (Moreover,) the Chinese government has also adopted an official policy that requires it to continue to provide the steel industry with massive subsidies.\(^{62}\)

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\(^{55}\) OCTG from China.
\(^{56}\) Decision Memorandum in OCTG from China at 27.
\(^{57}\) \textit{Id.} at 27-28.
\(^{58}\) \textit{Id.} at 28-30.
\(^{59}\) \textit{Id.} at 30.
\(^{60}\) \textit{Id.} at 30-31.
\(^{61}\) \textit{Id.} at 31.
3. **China’s Industrial Policies Encourage Continued Subsidization**

In recent years, while China has committed to move towards more market-driven policies, it has continued to issue policies that provide for steel subsidies. For example, the MIIT released a draft Steel Industry Adjustment Policy (2015 Revision) in March 2015 with the explicit goal of moving in the direction of market-driven policies for the allocation of resources, but the Adjustment Policy is no more than a continuation of government control and direction over the Chinese steel industry. China’s latest 13th Five-Year Plan, released late last year, continues to tout the importance of moving in the direction of market-driven policies, even though overwhelming evidence suggests that China will continue to provide significant subsidies to the steel industry.

4. **VAT Export Rebates to Manage and Promote Exports**

China also manipulates its VAT system in order to manage and promote the export of its steel products. As USTR recognized in its 2017 National Trade Estimate Report, China continues to manipulate its VAT rebate system in order to effectively manage exports of primary, intermediate and downstream products which “have caused tremendous distortion and uncertainty in the global markets for some products, particularly downstream products where China is a leading world producer or exporter, such as products made by the steel, aluminum and soda ash industries.” This report also notes that this manipulation, alongside other government interventions such as massive subsidies, have contributed to significant overcapacities in these industries.

The report goes on to highlight that in July 2014, at the U.S.-China Strategic & Economic Dialogue meeting, China “committed to improve its VAT rebate system, including by actively studying international best practices, and to deepen communication with the United States on this matter, including regarding its impact on trade. Once more, however, this promise remains unfulfilled. To date, China has not made any movement toward the adoption of international best practices.”

The Chinese government lowers VAT rebates on the export of primary or intermediate products, resulting in increased domestic supply and lower domestic prices. China’s

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64 USTR, 2017 National Trade Estimate Report at 83.
65 Id.
66 Id.
downstream producers, in turn, benefit from these lower input prices as well as full VAT rebates on export of their finished products.\textsuperscript{68}

It seems clear that China continues to treat VAT manipulation as a key element of industrial policy. The Office of the USTR recently noted this point, stating: “China has taken no steps to abandon its use of trade-distortive VAT export rebates and to adopt a trade-neutral VAT system.”\textsuperscript{69}

5. \textit{Export Finance Support}

China has made export financing a “focal point” of its export promotion strategy, launching what one expert has called “the most aggressive export credit financing campaign in history.”\textsuperscript{70} As part of this campaign, China has provided an enormous amount of export financing support to its companies.\textsuperscript{71} For example, China has provided one company, telecommunications equipment manufacturer Huawei, with a $30 billion line of credit for export financing.\textsuperscript{72}

Furthermore, China’s official government system of export financing is supplemented by lending from commercial banks that are owned or otherwise controlled by the government.\textsuperscript{73} The China Development Bank is directed to extend loans that are consistent with the goals of China’s economic plans, which include producing “national champions” that are able to compete on a global scale.\textsuperscript{74} In addition, the China Export and Credit Insurance Corporation (“SINOSURE”) was created in 2001 to “fulfill the Chinese government’s diplomatic, international trade, industrial, fiscal and financial policies.”\textsuperscript{75}

Significantly, China’s export financing practices appear to constitute prohibited export subsidies under the WTO rules because much of the financing is contingent on exports and granted at non-commercial terms.\textsuperscript{76} The practices are also inconsistent with certain aspects of the Organization for Economic Cooperation and Development (OECD)
Arrangement on Guidelines for Officially Supported Export Credits. As former U.S. Export-Import Bank Chairman Fred Hochberg stated in 2011, the “underlying premise” of international export finance rules is that “we ought to let products compete on their own merits, their own quality, their own value, and not let financing be a distorting factor,” but China “is winning deals in part because they’re not playing by the rules.”

There are also some signs that “China’s practices may be creating incentives for countries to engage in rate cutting and to offer exceptional terms that the (OECD) Arrangement seeks to limit.” For example, “the growth in export credit in a number of OECD nations has significantly outstripped export credit growth in the United States in the past decade.” The U.S. Export-Import Bank concluded in its 2014 report to Congress that while the $15 billion in medium- and long-term financing it provided was regulated by the OECD Arrangement, other OECD member countries offered more than $60 billion alone of unregulated export financing support (on top of $83 billion in export financing governed by the OECD Arrangement).

In 2013, as part of the U.S.-China Strategic and Economic Dialogue (S&ED) held in Washington, D.C., China affirmed its support for concluding negotiations by 2014 for a new comprehensive international agreement setting guidelines on export financing by the major providers of export credits that would be consistent with international best practices. Following the 2015 and 2016 S&ED meetings, the U.S. Treasury Department announced that it had received assurances from China that it would adhere to the international export financing norms that are consistent with global best practices.

But it does not appear that this has happened. As David Malpass, U.S. Treasury undersecretary for international affairs, said on Nov. 30, 2017: “China’s industrial policy has become more and more problematic for foreign firms. Huge exports credits are flowing in non-economic ways that distort markets.”

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77 Id.
79 Export Assistance and the China Challenge at 5.
80 Id.
82 CRS China-U.S. Trade Issues at 49.
must remain vigilant to ensure that China sticks to its commitment to end its mercantilist export financing practices to ensure a level playing field for export financing.

6. Conclusion

Given that China has subsidized its steel industry for years and that its government policy plainly provides for further subsidies going forward, this problem cannot be solved by dialogue alone. AISI commends the Trump administration for taking a new, stronger approach to push China to reform its trade practices.

B. State-Owned Enterprises

During the course of its accession to the WTO, the Government of China committed that it “would not influence, directly or indirectly, commercial decisions on the part of state-owned enterprises.”85 This commitment is particularly significant in the steel context. A report published several years ago by the European Confederation of Iron and Steel Industries (EUROFER) found that the Chinese steel industry is “firmly embedded in a powerful state-business nexus” and maintains “very close relations to government agencies on local, provincial as well as central levels.”86 In 2013, World Steel Dynamics reported that all but four of China’s large steel producers are at least partly owned by Chinese municipalities, three large steel producers are owned by the Chinese central government, and only one large steel producer is a private enterprise.87

There is every indication that the Chinese government will continue to maintain a significant amount of control over its steel industry. As the U.S.-China Economic and Security Review Commission stated in its most recent annual report, “[t]o date, the (Chinese Communist Party) CCP has not demonstrated a commitment to a free market economy as a matter of principle, and powerful practical considerations mitigate against reform efforts. SOEs in strategic sectors are the primary entities through which the CCP directs the economy towards the regime’s strategic ends; real reform in these sectors would mean giving up control and dramatically reducing the government’s ability to achieve the goals identified in the 13th Five-Year Plan (FYP). Reforms would also reduce the size of the state sector, creating significant job losses at a time when economic growth is already slowing. Finally, huge political obstacles in the form of entrenched interests resist any substantial changes in SOEs’ structure that might reduce

87 World Steel Dynamics, Truth & Consequences #70 (Aug. 6, 2013) at 18.
the CCP’s control. For all of these reasons, what passes for reforms of SOEs has taken the form of consolidating state control and pressuring firms to act in line with government interests. As a result, in response to CCP policies, the Chinese government continues to subsidize the state sector despite warnings from the International Monetary Fund (IMF) that effects from a large wave of SOE defaults could ripple through the global economy.

“The need for reform is particularly pressing in China’s heavy industries, where years of government subsidies have created overcapacity and market distortions. China’s industrial capacity, for instance, has suppressed global commodity prices and hindered global industrial activity. Rampant overcapacity also poses a national security risk to the United States, as cheap Chinese steel and finished aluminum product imports threaten to hollow out the domestic industries and weaken the national defense industrial base.”

As USTR recognized earlier this year, China’s national steel policy is striking because of the extent to which it attempts to dictate industry outcomes and involve the government in making decisions that should be made by the marketplace.” China has defended its control over the steel industry on the basis that one of its stated goals is to curb production and reduce overcapacity. As in prior years, the media features reports of Chinese government officials promising that this will be the year in which China finally begins to reduce its excess steelmaking capacity. However, earlier this year USTR refuted China’s claims, stating that “high degree of government direction regarding the allocation of resources into and out of China’s steel industry raises concerns not only because of the commitment that China made in its WTO accession agreement that the government would not influence, directly or indirectly, commercial decisions on the part of state-owned or state-invested enterprises, but also more generally because it represents another significant example of China reverting to a reliance on government management of market outcomes instead of moving toward a reliance on market mechanisms.”


89 2017 USTR Report at 90 (emphasis added).

90 For example, the 12th Five-Year Program for Steel states that “we will overcome difficulties and eliminate backward processes and products.” 12th Five-Year Steel Program at Art. IV[IV].

91 United States Trade Representative, 2016 Report to Congress on China’s WTO Compliance, (January 2017)
In 2016, the Chinese State Council set target guidance for reduction in steelmaking capacity for 2016-2020 of 100 to 150 million MT, approximately 20 to 30 million MT of cuts annually.\footnote{China Ministry of Industry and Information Technology, “Notice of the MIIT Regarding Capacity Replacement of Some Industries with Serious Excess Capacity” (Feb. 1, 2016)} From the beginning of 2017 through April 2018, China reportedly granted approvals for the installation of steelmaking facilities with a capacity of 149.8 million, predicated on the closure of 169.7 million.\footnote{Platt’s, China steel capacity replacements continue in 2017 with more electric arc furnaces, Platt’s (April 12, 2018)} However, in the past, China has announced new capacity with reductions and then not followed through on the reductions. As Kevin Bai, an analyst with CRU in Beijing, said: “[t]he surplus to be shut this year isn’t hard, but the main task is consolidating the results and prevent closed mills from resuming production. Also there is concern that the tough capacity swap rules may not be implemented strictly.”\footnote{Ruby Lian, Josephine Mason, China aims to meet 2020 target for steel capacity cuts this year, warns on resumption, Reuters (February 7, 2018) available at https://www.reuters.com/article/us-china-steel/china-aims-to-meet-2020-target-for-steel-capacity-cuts-this-year-warns-on-resumption-idUSKBN1FR10M} Historically, figures released by the Chinese government do not distinguish between net and gross capacity reductions. The Petersen Institute for International Economics (PIIE) notes that “only the MIIT plan emphasizes net figures, while all other official (Chinese government) documents only discuss gross numbers. Obviously, when some capacity is eliminated, total capacity will decrease. On the other hand, if new capacity is added at the same time, total capacity might increase.”\footnote{Lucy Lu, “China’s Excess Capacity in Steel: A Fresh Look,” Petersen Center for International Economics (Jun. 29, 2017).} The Chinese government has for many years claimed to reduce steelmaking capacity, only to revise capacity figures upwards in subsequent years. Additionally, China has taken credit for eliminating 140 million tons of illicit production of steel made with induction furnaces. This steel is not included in the steel capacity cut totals and affects both prices and smog-producing emissions. Last year, S&P Global Platts quoted market participants who questioned whether the illicit production really would be removed from the market: “[t]he more underground, home-brew operations play a cat-and-mouse game with the authorities. They simply dismantle facilities quickly before inspections, and assemble them again after.”\footnote{Will China’s induction furnace steel whac-a-mole finally come to an end?, S&P Global Platt’s (July 3, 2017)}
U.S. policymakers should also be extremely wary of China’s goal to “internationalize” its state-owned steel industry. The OECD has released a series of reports over the last several years detailing the numerous risks associated with the rise of SOEs’ investments and activities abroad. These risks include the following:

- SOEs often receive subsidies that provide them with a competitive advantage in their world-wide operations by lowering their costs and allowing them to set prices that are lower than their private-sector competitors.

- Because SOEs do not have the same pressure to make a consistent profit as their private competitors, they are more likely to engage in anti-competitive behavior such as exclusionary pricing strategies without the fear of their stock prices falling when losses are incurred.

- SOEs operating overseas can serve as conduits for illicit technology transfers as well as outright espionage.

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98 Competitive Neutrality in the Presence of SOEs at 5; SOEs and Competitive Neutrality at 37; SOEs Operating Abroad at 7.

99 Competitive Neutrality in the Presence of SOEs at 6-7; SOEs and Competitive Neutrality at 38-40.

100 SOEs Operating Abroad at 5.
When private companies acquire foreign rivals to appropriate their technologies, they put this technology to commercial use within the acquiring company. When SOEs acquire foreign rivals to appropriate their technologies, however, they often do so to make the acquired technologies available throughout the relevant sectors of the domestic economy of which they are a part. This fact leads to distortions in the mergers and acquisitions market.\textsuperscript{101}

China has made significant moves towards achieving its goal to “internationalize” its steel industry. Many of these moves are consistent with the concerns raised by the OECD. In April 2016, a joint statement was issued by the Chinese central bank and other government agencies noting that China planned to “strengthen financing support for enterprises ‘going out’” which would encourage the use of loans, export credits and other financing options in an effort to encourage steel and other business to build capacity in foreign countries.\textsuperscript{102} Steel firms in China continue to push for building new operations abroad, including in South Africa and Eastern Europe, including a deal in 2016 by Hebei Iron & Steel Group to purchase a loss-making Serbian steel plant.\textsuperscript{103}

In 2016, it was reported that the Chinese Development Bank would support the move of operations of a Chinese steel mill to Brazil, including the relocation of 10 million MT of capacity, while there have also been reports from a major Indian steel producer that the same could occur by moving Chinese steelmaking capacity to India.\textsuperscript{104} China will invest $8 billion in the Brazil relocation, in the process expanding Brazilian potential steel output during a time when it operates at less than 70 percent of capacity. “This is total nonsense, with all the idle capacity that we have,” says Alexandre Lyra, chairman of the Brazilian Steel Institute, which represents Brazilian producers.\textsuperscript{105}

Chinese manufacturers receive hundreds of billions of dollars of state support to build and purchase plants on foreign soil, through money provided by institutions such as China Development Bank, Bank of China and funds like China Investment Corp. These overseas plants are expected to be selected as suppliers for the “One Belt, One Road” initiative, Beijing’s trillion-dollar infrastructure plan to project economic influence across Eurasia and Africa. Said Tristan Kenderdine, research director at Future Risk, a

\textsuperscript{101} Id. at 6.
\textsuperscript{102} David Stanway and Ruby Lian, “China looks overseas in bid to slim down bloated steel sector,” \textit{Reuters} (Apr. 20, 2016).
\textsuperscript{103} Id.
\textsuperscript{104} Stratfor Enterprises, “Pushing Chinese Steel Abroad,” (May 18, 2016).
\textsuperscript{105} Matthew Dalton and Lingling Wei, How China Skirts America’s Antidumping Tariffs on Steel, \textit{Wall Street Journal} (June 4, 2018), available at https://www.wsj.com/articles/how-china-skirts-americas-antidumping-tariffs-on-steel-1528124339
consulting firm that tracks China’s overseas investments: “China is just moving whole industrial clusters to external geographies and then continuing to overproduce steel, aluminum, cement, plate glass, textiles, etc. None of this is economically viable under a supply-demand regime without state subsidies.”

As we have emphasized in the past, AISI has no objection to market-driven foreign investment in the United States or other countries. However, the prospect of investments in steel mills that are driven by Chinese government policies (including massive subsidization and other trade-distorting measures), rather than by commercial considerations, deserves serious scrutiny by U.S. policymakers. As Robert Atkinson has explained:

[T]here’s a fundamental difference between dislocation produced by economic restructuring by nations pursuing comparative/competitive advantage and dislocation produced by absolute loss of competitive advantage via foreign mercantilism. The former hurts some workers, companies and communities but generates economic growth. The latter hurts many more individuals, companies and communities and generates economy-wide loss.  

There can be no doubt that China’s steel-producing SOEs – which account for most of the production in the world’s largest steel industry – are operating in accord with government policies, not market principles. This outcome represents not only a clear violation of China’s WTO commitments, but a significant distorting force in steel markets around the world.

C. Raw Materials

As part of its efforts to assist its ever-growing steel industry, China has taken numerous improper measures to aid its producers in securing access to raw materials and to manipulate raw material prices in a manner that gives Chinese producers an unfair advantage over their U.S. competitors. As discussed below, these measures implicate WTO concerns.

1. Restraining Exports of Key Raw Materials

Article XI of the GATT 1994 generally prohibits WTO members from maintaining export restrictions (other than duties, taxes, or other charges), although certain limited exceptions are allowed. China also agreed as part of its WTO accession to eliminate all taxes and

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charges on exports other than those included in Annex 6 to its Protocol of Accession or those applied in conformity with Article VIII of the GATT 1994.\textsuperscript{108}

The evidence is overwhelming that China has not complied with these commitments. In June 2009, the United States, along with the European Union and Mexico, challenged China’s export restraints on numerous raw materials at the WTO.\textsuperscript{109} These raw materials – which are important to the production of steel, aluminum, and various chemicals – include bauxite, coke, fluorspar, magnesium, manganese, silicon metal, silicon carbide, yellow phosphorus, and zinc.\textsuperscript{110} USTR alleged that China imposes several different export restraints on these materials, including the following: export quotas (caps on the volume of the material that may be exported), which are generally prohibited by applicable WTO rules; export duties which China expressly agreed to eliminate when it joined the WTO; and other export-related administrative measures and costs, all of which are inconsistent with WTO rules.\textsuperscript{111} As USTR has recognized, these export restraints can seriously disadvantage downstream producers in the United States and other countries:

First, these restraints limit exporters’ access to these raw materials. Second, the restraints can significantly raise the world market prices for the materials, while lowering the prices that domestic Chinese producers have to pay. Lower-priced downstream Chinese products derived from the materials can then enjoy an anticompetitive price advantage vis-à-vis the same products produced outside China.\textsuperscript{112}

In 2012, the WTO sided with the U.S., the European Union and Mexico against China.

Importantly, the DOC has recognized that China’s export restraints constitute countervailable subsidies -- specifically, in the CVD investigation of seamless pipe from China, the DOC found that China’s export restraints on coke provide a financial benefit to Chinese steel producers that use coke in the production of seamless pipe.\textsuperscript{113}

\textsuperscript{108} Id. Article VIII only permits fees and charges limited to the approximate cost of services rendered and makes clear that any such fees and charges shall not represent an indirect protection to domestic products or a taxation of exports for fiscal purposes. Id. This article is not relevant for the present discussion.

\textsuperscript{109} USTR Press Release, “United States Files WTO Case Against China Over Export Restraints on Raw Materials” (June 23, 2009); see also Request for Consultations by the United States, China – Measures Related to the Exportation of Various Raw Materials, WT/DS394/1 (Jun. 23, 2009) at 1.

\textsuperscript{110} Id.

\textsuperscript{111} Id.

\textsuperscript{112} Id.

Additionally, consider China’s export restraints on certain rare earths. For years, China imposed quotas to limit exports of rare earths to about 30,000 MT per year and levied export taxes on rare earths of as much as 25 percent. Rare earth prices have soared outside of China as a result. Many corporate executives have reported that China is using its near-monopoly on rare earths not only to subsidize existing Chinese manufacturers, but also to encourage other manufacturers to relocate or expand capacity in China. Indeed, China itself had repeatedly stated that the purpose of the export restraints on rare earths was to encourage companies to move production to China. It was only when governments and business groups pointed out that the export restraints violated China’s WTO obligations that China began claiming that the export restraints were in place for environmental protection.

In June 2012, the United States requested the establishment of a WTO dispute settlement panel to decide claims regarding China’s unfair export restraints on rare earths, tungsten, and molybdenum. In bringing this request, Ambassador Kirk recognized that “[i]t is vital that U.S. workers and manufacturers obtain the fair and equal access to raw materials like rare earths that China specifically agreed to when it joined the WTO.” Significantly, China imposed essentially the same export quota on rare earths for 2013 that it imposed in 2012 before the United States requested the establishment of a WTO dispute settlement panel on this issue.

On March 26, 2014, a WTO panel issued a decision finding that China’s export duties, export quotas, and other restrictions on the export of rare earths, tungsten, and molybdenum were in violation of its WTO obligations. China appealed certain aspects of the panel’s decision, but on August 7, 2014, the WTO Appellate Body upheld the panel’s decision. China removed the quotas on January 1, 2015, and eliminated the export duties in May 2015, which in turn has caused significant increases in demand

115 Id.
116 Id.
117 Id.
118 USTR Press Release, “United States Seeks to Eliminate China’s Unfair Export Restraints on Rare Earths,” (Jun. 27, 2012).
119 Id.
and dramatic reduction in prices. However, notwithstanding this victory at the WTO, some analysts believe that “the rare-earth battle between China and the West will carry on” because “China will not cede its position in the market.”

In July 2016, the U.S. challenged China over its export duties on nine key raw materials at the WTO, highlighting that “[w]hen China joined the WTO, it agreed to eliminate its export duties on these products, but it has failed to follow through on this commitment.” The raw materials include copper, magnesia, tin, among others, are critical the competitiveness of American manufacturing and China’s export duties on these products range from five to 20 percent, which artificially raise the prices of these materials by American and other global manufacturers. In November 2016, the WTO Dispute Settlement Body (DSB) established a panel to examine these export restrictions, with several key U.S. allies, including Canada, the European Union, Korea and Mexico, reserving their third party rights in the dispute.

It should also be noted that China maintains a 40 percent export tax on steel scrap that creates additional distortion in the marketplace. In other words, China enjoys the benefit of open trade in steel scrap, and in fact is the largest importer of steel scrap from the United States, yet imposes a 40 percent tax on its own exports. The tax does not prohibit scrap exports, but it does make such shipments unprofitable in many cases. Additionally, while China reserved the right to impose such a tax in its WTO accession agreements, there is no reasonable justification for such disparate treatment of scrap imports and exports – and China’s actions on this point show its unwillingness to adopt policies based on the principles of free and fair trade. This unwillingness is why James McGregor, chairman of the greater China region for the consulting firm APCO Worldwide and former AmCham China chairman, said “[r]ather than accepting China’s assertions of openness, the United States must carefully assess China’s market-distorting policies that block foreign business.”

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129 U.S.-China Economic and Security Review Commission Annual Report, Chapter 1, Section 1, page 40, (Nov 2017)
Given its pervasive use of export restraints as part of its trade and industrial policy and given the evidence that China has no intention of voluntarily ending its use of such restraints, AISI supports the Trump administration’s efforts to counter China’s practices.

2. **Helping Chinese Mills in the Acquisition of Raw Materials**

In addition to imposing export restraints, China has an established policy of assisting its steel producers in their efforts to obtain raw materials across the world. Indeed, a study conducted by the American Scrap Coalition (ASC) in 2008 documents such assistance being provided in the form of “direct subsidies to Chinese enterprises investing overseas, funding of SOEs to obtain raw materials, backing from China’s sovereign wealth fund, support from state-owned policy banks, and intervening in negotiations relating to long-term contracts for iron ore and other raw materials.”

China has continued to provide assistance in the acquisition of iron ore deposits overseas. In 2017 alone, several potential investment projects, particularly in Africa, have been announced where China plans to invest in the procurement of steelmaking raw materials, which would enable their steel producers to benefit from cheap iron ore at the expense of U.S. steelmakers. In January 2017, it was announced that the Chinese state-owned Shandong Iron and Steel had invested $700 million in the Tonkolili mine in Sierra Leon. This mine currently has an annual capacity of 20 million MT of iron ore mining, but is expected to increase to 35 million MT following the investment, and according to Shandong Iron and Steel, “[a]ll of the iron-ore mined at Tonkolili will be shipped to China.” Later in 2017, it was announced that the China Investment Fund and the government of Angola are working to sign a deal for investment to mine deposits of iron ore in the Kwanza Norte province.

As Graeme Hosie, chief executive of London Mining, has explained, Chinese investment in such emerging deposits is only possible because of China’s policy of assisting its steel producers in the acquisition of raw materials: “You have Chinese banks that can fund these projects at a low cost of capital, because they are helping state-owned enterprises strategically ensure supply.” It should also be noted that, unlike their Chinese counterparts, American companies must comply with laws that

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130 “Raw Deal: How Governmental Trade Barriers and Subsidies are Distorting Global Trade in Raw Material,” *American Scrap Coalition* (Nov. 2008) at 15-16.
require them to disclose their payments to governments as part of efforts to improve transparency and accountability for revenues derived from natural resources. Indeed, many multi-national companies complain that their competitive position in bidding for natural resource contracts is undermined by their having to adhere to laws that do not apply to state-owned companies in China.

The Chinese government also helps Chinese steel firms develop iron ore mines. An analysis of China’s domestic iron ore industry by Bank of America in November 2012 found that Chinese iron ore producers received a number of “hidden subsidies.” In 2014, it was reported that China is drafting a plan to restructure China’s iron ore sector between 2016 and 2025 so that “it can play a bigger role in negotiating iron ore prices with more established rivals in the world.” As part of these plans, China intends to establish a large mining conglomerate focusing on iron ore extraction and smelting operations led by the state-owned Ansteel Group which will have an annual iron ore production capacity of 200 million MT.

China’s unfair assistance in the acquisition of raw materials distorts markets worldwide. The Trump Administration should continue to aggressively press China to cease this practice. It should also find that where China provides assistance to certain enterprises or industries in acquiring raw materials overseas, any benefit received by the enterprises or industries is a countervailable subsidy.

D. Currency Manipulation

AISI members, along with other U.S. manufacturers, have long expressed concern over China’s policy of controlling the exchange rate between its currency (known as the renminbi (RMB) or the yuan) and the U.S. dollar, and traditionally, China has intervened in the foreign exchange markets to weaken the yuan, to give its exporters a boost and make it more expensive for its trading partners to export. The effects of China’s currency manipulation have been profound. Last year, C. Fred Bergsten and

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135 Id.
138 Id.
139 In 2004, for example, AISI joined a coalition of U.S. industrial, service, agricultural, and labor associations seeking relief under Section 301[a] of the Trade Act of 1974, as amended, from China’s manipulation of the renminbi. Petition for Relief under Section 301[a] of the Trade Act of 1974 on behalf of the China Currency Coalition (Sept. 9, 2004), available at http://www.afcio.org. This petition demonstrated that China’s exchange-rate policy constitutes a prohibited export subsidy within the meaning of Articles 1, 2, and 3 of the SCM Agreement and Articles VI and XVI of the GATT 1994. Id. at 50.
Joe Gagnon of the Peterson Institute for International Economics published a study, Currency Conflict and Trade Policy, that estimates that currency manipulation by U.S. trading partners caused the United States to run about $200 billion in higher trade deficits annually, cost more than 1 million jobs during and after the Great Recession, and was a factor in causing the recession and in slowing the recovery from it. China was by far the world’s largest currency manipulator and its currency manipulation encouraged other export-dependent economies to manipulate their currencies to keep up. Bergsten and Gagnon write that China’s currency manipulation accounted for one-third of the U.S. job displacement from the rapid growth in Chinese imports that began when China joined the WTO. Other economists have made similar conclusions about the devastating economic effects of China’s currency manipulation.

The U.S. government and other countries have long sought to address concerns about currency manipulation through dialogue with the Chinese government. Unfortunately, those efforts have had only limited success. In 2005, in response to international pressure, China announced that it would allow more flexibility in its exchange rate. At the time, estimates placed the value of the yuan at up to 40 percent below what its value would have been absent government intervention. After China’s announcement, the yuan appreciated from 8.28 yuan per dollar to 6.81 yuan per dollar in July 2008, an adjustment of only 17.8 percent. Starting in July 2008, China all but halted the appreciation of the yuan “due to the Chinese government’s fear that a strong (yuan) will damage China’s exports.” In other words, China’s government allowed the yuan to rise in value only so long as this rise did not significantly limit Chinese exports.

On June 19, 2010, in response to mounting international pressure for China to stop manipulating its currency, China announced that it would allow the yuan to fluctuate against the currency of other countries. But by August of 2011, it was clear that China was only allowing minimal movements against the dollar. In fact, from January 1, 2012 to December 17, 2013, the yuan appreciated by only 3.6 percent against the U.S. dollar, leading analysts to conclude that the Chinese government was continuing to

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143 8.28 – 6.81 = 1.47; 1.47 / 8.28 = 0.178 = 17.8 percent.

144 USCC, 2008 Report to Congress (Nov. 2008) at 42.


146 Id.
heavily intervene in currency markets to hold down the value of the yuan in the face of weak global demand for Chinese exports. Consistent with this conclusion, as part of an announcement of measures intended to boost China’s slowing economy last year, Chinese Premier Li Keqiang pledged to keep the yuan’s exchange rate “basically stable at a reasonable and balanced level.”

Since 2015, to its credit, China has allowed the Renminbi to appreciate, although not as quickly as many argue it should. In 2016, former Treasury Secretary Jack Lew praised China for allowing the Renminbi to appreciate, but noted that “China still has work to do to achieve the goal of creating the conditions for an orderly transition to a market-determined exchange rate.” More recently, in the most-recent Treasury Department report on “Macroeconomic and Foreign Exchange Policies of Major Trading Partners of the United States,” the Treasury Department noted that “China does not publish its foreign exchange market intervention, but Treasury estimates that Chinese authorities significantly curtailed intervention in the second half of 2017 that they had been undertaking to support the value of the RMB.” While this is a positive, Treasury also notes that “[d]espite some recent appreciation, China’s real effective exchange rate remains over 6 percent below its peak level in mid-2015.”

Concerns remain that in the future China will revert to subsidizing its export-dependent economy with foreign exchange interventions to weaken the RMB. Countries like China manipulating their currency and undermining confidence in the international financial system has led Bergsten to identify currency manipulation as the greatest challenge to the current international financial system:

The single greatest flaw in the entire international financial architecture is its failure to effectively sanction surplus countries, especially to counter and deter competitive currency policies. Indeed, this systemic failure almost assures that the problem will continue because the manipulators get away with it and thus are presented a policy option, especially attractive in tough

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economic times, through which they can subsidize exports, import substitutes and jobs without budget costs domestically or effective restraint internationally.\textsuperscript{151}

Currency manipulation is actionable under U.S. trade remedy laws and since currency manipulation acts as an unwarranted subsidy for foreign exporters, AISI supports applying countervailing duties on imports that benefit from it.

E. Intellectual Property Rights

USTR has properly recognized that when China accepted the WTO Trade Related Aspects of Intellectual Property Rights (“TRIPS”) Agreement, it “took on obligations to adhere to generally accepted international norms to protect and enforce the intellectual property rights held by U.S. and other foreign companies and individuals.”\textsuperscript{152} Despite this agreement, however, USTR reports that “[e]ffective IPR enforcement has not been achieved, and IPR infringement remains a serious problem throughout China.”\textsuperscript{153}

In June 2017, the OECD and EU Intellectual Property Office (EUIPO) published a joint study titled “Mapping the Real Routes of Trade in Fake Goods” that determined that “China is the top producer of counterfeit goods in nine out of ten analyzed product categories.” This is not a unique conclusion. Last year, USTR initiated a Section 301 investigation into China’s abuse of intellectual property rights and determined that “numerous acts, policies, and practices of the government of China related to technology transfer, intellectual property and innovation are unreasonable or discriminatory, and burden or restrict U.S. commerce.” USTR also stated that “[a]fter years of unsuccessful U.S.-China dialogues, the United States is taking action to confront China over its state-led, market-distorting policies and practices, forced technology transfers, intellectual property practices, and cyber intrusions of U.S. commercial networks.”\textsuperscript{154}

This comes after several years of China promising to reform its practices but then not following through. As the USCC found, “China has a history of making promises and delivering little, particularly when doing as little as possible benefits the Chinese economy, as has been the case with China’s promises to bring its intellectual property protections up to international standards and to cease requiring technology transfers from foreign firms.”\textsuperscript{155} Indeed, in 2012, the European Chamber of Commerce in China

\begin{footnotesize}
\begin{enumerate}
\item Currency Wars at 11.
\item 2013 USTR Report at 98.
\item Id. at 109.
\item USTR, Section 301 Investigation Fact Sheet (June 2018)
\item 2011 USCC Report at 5.
\end{enumerate}
\end{footnotesize}
published a study finding that “the essence of the (indigenous innovation) system . . . appears very much still in force.” Given the breadth of China’s indigenous innovation policy and its enormous potential to harm U.S. companies, USTR must take a very aggressive approach to ensure that the policy does not seriously distort world markets.

More recently, as the U.S. Chamber of Commerce recognized in a report published in September 2014, there has been growing evidence that China has begun using its anti-trust laws to promote its industrial policies and curtail IPR in China. In 2013, there were suspicions that China was targeting multinational companies as a means of protecting its domestic high-tech industry after actions that included pressuring 30 foreign firms to confess anti-trust violations and advising them not to hire outside legal counsel to defend themselves in anti-trust investigations. These suspicions were further confirmed in August 2014, when China raided Microsoft’s facilities in four Chinese cities, claiming it was investigating whether Microsoft violated China’s anti-monopoly laws. Many analysts are now concluding:

These trumped up charges are part of a broader effort by the Chinese government to hobble U.S. technology companies in China, promote China’s domestic IT industry, and ultimately replace the U.S. as the world’s IT leader. This high-tech harassment will in all likelihood continue until China finally gets what it wants: the complete replacement in China of foreign technology companies with Chinese ones.

In addition, the U.S. Chamber of Commerce’s 2014 report on China’s abuse of its anti-trust laws describes how China is implementing its anti-trust laws to allow mergers only if foreign companies agree to cap their intellectual property license fees and license their technology on terms that are “exceptionally favorable” to Chinese companies.

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158 2013 USCC Report at 74.
160 Id.
161 Competing Interests in China’s Competition Law Enforcement at 2.
Known intellectual property theft by China has cost the United States more than two million jobs. Additionally, an investigation by the Office of the United States Trade Representative earlier this year found that “Chinese theft of American IP currently costs between $225 billion and $600 billion annually.” As a result of its destructive impact on American businesses, the Chamber of Commerce said: “The U.S. Chamber of Commerce has been forthright in expressing our serious concerns regarding a range of Chinese government policies and practices that restrict access to its market, condition participation in the market on technology transfer, and broadly seek to undermine the value of intellectual property held by American companies. These are global concerns that have also been voiced by stakeholders from around the world over many years.

“If the U.S.-China relationship is to deliver mutually beneficial growth, U.S. firms must enjoy the same broad, secure access to the Chinese market that Chinese firms already enjoy to the United States. Equally important, China must end forced technology transfer and protect foreign-owned intellectual property rights within China.”

Both U.S. businesses and the government have repeatedly raised this problem, but it continues. For example, a 2015 U.S. State Department report stated: “foreign investors often temper their optimism regarding potential investment returns with uncertainty about China's willingness to offer a level playing field vis-à-vis domestic competitors. In addition, foreign investors report a range of challenges related to China's current investment climate. These include industrial policies that protect and promote state-owned and other domestic firms, equity caps and other restrictions on foreign ownership in many industries, weak IPR rights protection, a lack of transparency, corruption, and an unreliable legal system.”

In sum, China is not just failing to adhere to generally accepted international norms to protect and enforce IPR held by foreign companies. It is affirmatively using its indigenous innovation policy to acquire the intellectual property of foreign firms and implementing its anti-trust laws in a way that curtails the IPR of foreign firms and protects its domestic firms from foreign competition.

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F. Effective Enforcement of U.S. Trade Laws

As demonstrated throughout this submission, China has not fully complied with its WTO obligations. Under these circumstances, the United States must effectively enforce its trade remedy laws. While this is not strictly a WTO “compliance” issue, trade law enforcement is essential for the United States to protect its rights and receive the benefits due under the WTO agreements.

1. Treatment of China as a Non-Market Economy Country in AD Investigations

Under the terms of its WTO accession, China agreed that other Members could treat it as an NME for purposes of the trade remedy laws. Nevertheless, China urged the United States in several meetings of the former U.S.-China Strategic and Economic Dialogue to treat China as a “market economy” for purposes of U.S. AD laws. As explained below, such treatment is improper and contrary to U.S. law, and AISI is relieved that the Trump administration reached the same conclusion.

Congress has provided that in determining whether a country is an NME, the DOC must take six factors into account: [1] whether the country’s currency is convertible; [2] whether wage rates are determined by free bargaining between labor and management; [3] whether foreign investment is permitted in the foreign country; [4] whether the government owns or controls the means of production; [5] whether the government controls the allocation of resources and the price and output decisions of enterprises; and [6] such other factors as the DOC considers appropriate.

On December 12, 2016 – the day after the 15th anniversary of China’s accession to the WTO – the government of China filed request for consultations with the United States government on its continued treatment of China as an NME. During China’s accession to the WTO, there was concern that “in the case of imports of Chinese origin into a

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165 See China Protocol of Accession at pp. 8-10. When the United States treats a country as an NME in AD proceedings, it disregards the prices and costs of merchandise sold in the NME country and instead uses an alternative methodology to calculate normal value. See 19 C.F.R. § 351.408 (2012).


WTO Member, special difficulties could exist in determining cost and price comparability in the context of anti-dumping investigations and countervailing duty investigations.” In response to this concern, China specifically agreed in its Protocol of Accession to a provision that, among other things, states that WTO members could treat China as an NME “if the producers under investigation cannot clearly show that market economy conditions prevail in the industry producing the like product with regard to manufacture, production and sale of that product.” While a portion of this Protocol expired on December 11, 2016, there is nothing in the Protocol or elsewhere to suggest that China should or must be treated as a market economy – particularly where its economic development would not justify such treatment.

Legal scholars that have analyzed this issue have concluded that “[t]he idea that there is a deadline (at which point China must be treated as a market economy) is an urban myth that seems to have gone global.” Indeed, the notion that China must be treated as a market economy after a certain deadline would make no sense under the WTO regime (or under China’s accession protocol) and would give China preferential treatment (i.e., an entitlement to automatic market-economy treatment) vis-à-vis all other WTO members. In this regard, it should be noted that:

- The portion of China’s Protocol of Accession that did not expire after 2016 states that Chinese prices or costs are to be used in AD proceedings only “[i]f the producers under investigation can clearly show that market economy conditions prevail in the industry producing the like product with regard to the manufacture, production and sale of that product.”

- Article 2.2 of the AD Agreement specifically allows WTO members to use alternative methodologies in calculating normal value in AD proceedings whenever it is warranted by “the particular market situation” of the exporting country.

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170 China’s Protocol of Accession at ¶ 15[d].
172 China’s Protocol of Accession at ¶ 15[a][i].
Article 2.7 of the AD Agreement states that “this Article is without prejudice to the (Second Ad Note to Article VI) to GATT 1994.”\textsuperscript{174} The Second Ad Note, in turn, states that for AD proceedings involving NMEs, “difficulties may exist in determining price comparability…, and in such cases importing contracting parties may find it necessary to take into account the possibility that a strict comparison with domestic prices in such a country may not always be appropriate.”\textsuperscript{175}

On October 26, 2017, the Department of Commerce correctly affirmed that China is a non-market economy (NME) for purposes of calculating antidumping margins in trade cases, stating “China is a non-market economy (NME) country because it does not operate sufficiently on market principles … The basis for the Department’s conclusion is that the state’s role in the economy and its relationship with markets and the private sector results in fundamental distortions in China’s economy. At its core, the framework of China’s economy is set by the Chinese government and the Chinese Communist Party (CCP), which exercise control directly and indirectly over the allocation of resources through instruments such as government ownership and control of key economic actors and government directives. The stated fundamental objective of the government and the CCP is to uphold the “socialist market economy” in which the Chinese government and the CCP direct and channel economic actors to meet the targets of state planning. The Chinese government does not seek economic outcomes that reflect predominantly market forces outside of a larger institutional framework of government and CCP control. In China’s economic framework, state planning through industrial policies conveys instructions regarding sector specific economic objectives, particularly for those sectors deemed strategic and fundamental.”\textsuperscript{176}

A few weeks later, in a November 21, 2017 third-party submission at the WTO in opposition to China being treated as a market economy, the Trump administration stated that “China’s economy today continues to operate as one in which market economy conditions do not prevail.” The submission went on to say that “[t]he evidence is overwhelming that WTO members have not surrendered their longstanding

\textsuperscript{174} Id. at Art. 2.7.
\textsuperscript{175} WTO, General Agreement on Tariffs and Trade (GATT 1947), at Second Interpretative Note to Article VI, ¶ 1 (emphasis added).
\textsuperscript{176} Department of Commerce Memorandum, Subject: “China’s Status as a Non-Market Economy”, October 27, 2017
rights...to reject prices or costs that are not determined under market economy conditions.”

AISI strongly supports the administration’s conclusion.

2. **Chinese Circumvention and Evasion of AD and CVD Orders**

AISI and its members remain highly concerned about widespread evidence of Chinese circumvention and evasion of AD and CVD orders. For example, Chinese companies provide services to evade AD and CVD duties on steel and other products exported to the United States. Additional evidence has become available over the past several years showing that circumvention and evasion of AD and CVD orders by Chinese companies continues to be a growing problem. For example, in January 2014, the DOC determined that innersprings units completed and assembled in Malaysia using Chinese components and exported from Malaysia to the United States were circumventing the AD order on innerspring units from China.

Steel producers as well as companies in other industries have repeatedly brought evidence of China’s circumvention and evasion of U.S. trade laws to the attention of U.S. Customs and Border Protection (“CBP”). This evidence of circumvention and evasion includes illegal transshipment of goods through third countries, falsified country of origin markings, undervalued invoices that result in the underpayment of AD/CVD duties, and the misclassification of goods.

Unfortunately, this problem continues. Just this May, the Commerce Department announced final affirmative rulings that corrosion-resistant steel (CORE) and certain cold-rolled steel flat products imported from Vietnam were originally produced in China and were circumventing the AD/CVD orders.

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178 See, e.g., Staff Report Regarding Duty Evasion: Harming U.S. Industry and American Workers, Prepared for Senator Ron Wyden (Nov. 8, 2010) (“Staff Report Regarding Duty Evasion”) at 5 (describing how staff received written confirmation from numerous Chinese companies that were willing to evade AD/CVD duties).


180 See, e.g., Statement of Karl G. Glassman, Chief Operating Officer of Leggett & Platt, Before the U.S. Senate Subcommittee on International Trade, Customs, and Global Competitiveness (May 5, 2011) at 3 (stating that since 2008, Leggett & Platt had met with or sent CBP information regarding specific evidence of duty evasion on 21 separate occasions).

181 Staff Report Regarding Duty Evasion at 5.

AISI is pleased that the Trade Facilitation and Trade Enforcement Act of 2015 has been signed into law, which under section 421 provides improved regulations for CBP to investigate allegations of evasion of antidumping and countervailing duty orders. We urge the Trump Administration to continue to take an aggressive approach during the final implementation stages of these regulations and use all the tools at its disposal to prevent Chinese companies from circumventing and evading U.S. trade laws. In addition, the Administration should work with Congress to develop any additional tools to address this problem.

3. **China’s Application of Its Own AD and CVD Laws**

In contrast to the United States – where the application of U.S. trade laws is fully transparent, consistent with our WTO obligations, and administered in a manner that provides ample due process for all parties – foreign producers targeted in Chinese trade remedy proceedings are denied any semblance of due process, denied access to key information needed to defend their interests, and subjected to WTO-inconsistent methodologies.

For example, USTR has reported that China has engaged in “manipulating trade remedy investigations to unfairly restrict exports of American steel” and, in so doing, violated the WTO requirements that govern the legitimate use of AD and CVD laws. In September 2010, following the Chinese government’s AD and CVD investigations of U.S. producers of grain oriented electrical steel (“GOES”), the U.S. government filed a WTO case against China. As identified by USTR, China’s Ministry of Commerce (“MOFCOM”) initiated the investigations without sufficient evidence, failed to objectively examine the evidence, failed to disclose “essential facts” underlying its conclusions, failed to provide an adequate explanation of its calculations and legal conclusions, improperly used investigative procedures, failed to provide confidential summaries of Chinese submissions, and included U.S. federal and state programs in its investigation that were not identified in the notice of initiation of the investigation.

In December 2012, the WTO adopted dispute settlement panel and Appellate Body reports that agreed with the United States, finding that China had conducted an investigation and applied duties in a manner inconsistent with numerous obligations under the SCM Agreement and the AD Agreement. On July 31, 2015, the WTO ruled

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184 Id.
that China failed to comply with the original ruling.\textsuperscript{186} Even the Chinese government knew it would ultimately lose at the WTO, since it revoked the AD and CVD duties on imports for GOES from the U.S. in April 2015, three months before the WTO decision.\textsuperscript{187}

In December 2011, USTR was forced to bring another WTO case against China after the Chinese government imposed AD and CVD duties on imports of chicken “broiler products” from the United States.\textsuperscript{188} According to USTR, in imposing these duties, Chinese authorities failed to abide by applicable procedures and legal standards, including by finding injury to China’s domestic industry without objectively examining the evidence, by improperly calculating dumping margins and subsidy rates, and by failing to adhere to various transparency and due process requirements.\textsuperscript{189} The imposition of these duties was followed by an 80-percent drop in American exports of broiler products to China.\textsuperscript{190} In 2013, a WTO dispute panel issued a report finding that China’s imposition of AD and CVD duties on broiler products from the United States was unjustified under WTO rules.\textsuperscript{191}

Finally, USTR has filed a WTO challenge against China’s imposition of AD and CVD duties on more than $3 billion in U.S. exports of automobiles and automobile parts.\textsuperscript{192} The basis for its challenge is that China initiated the AD and CVD investigations in question without sufficient evidence, failed to objectively examine the evidence, and made unsupported findings of injury to China’s domestic industry.\textsuperscript{193} In addition, China failed to disclose “essential facts” underlying its conclusions, failed to provide an adequate explanation of its conclusions, improperly used investigative procedures, and failed to require non-confidential summaries of Chinese company submissions.\textsuperscript{194} In 2014, a WTO panel found in favor of the United States on most claims.\textsuperscript{195}

These cases show a pattern of China misusing its trade laws and violating its WTO commitments to block exports of U.S.-manufactured products. AISI lauds USTR for

\textsuperscript{187} U.S. Trade Representative, “U.S. Wins Trade Enforcement Challenge to China’s Duties on Steel,” (Jul. 31, 2015)
\textsuperscript{188} USTR Press Release, “To Protect American Jobs, United States Announces Next Step in Dispute Against China,” (Dec. 8, 2011).
\textsuperscript{189} \textit{Id.}
\textsuperscript{191} \textit{Id.}
\textsuperscript{193} \textit{Id.}
\textsuperscript{194} \textit{Id.}
bringing these WTO challenges and urges it to continue to challenge China whenever it misuses its trade laws in this manner.

### III. Conclusion

This is the fifteenth submission that AISI has made documenting China’s failure to comply with its obligations under the World Trade Organization. When AISI made its first submission to USTR in 2004, China produced 280 million MT of crude steel and held a global market share of 26.2 percent.\(^\text{196}\) This year, China may set a new record of steel produced in a single year, breaking the record that it set last year, while continuing to capture nearly half of the global steel market.\(^\text{197}\)

As detailed throughout this submission, China has used massive subsidies and other trade distorting measures that are in violation of its WTO obligations to provide an unfair advantage to its steel industry. Ongoing dialogues between the United States and China regarding these problems have not been successful in bringing China into compliance. Unfortunately, China sees its own economic success over the past decade as an affirmation that “China holds the philosophical high ground.”\(^\text{198}\) We support the Trump administration’s approach to pushing China to end its trade-distorting policies and practices and comply with all of its WTO obligations.

Sincerely,

\[ \text{Kevin M. Dempsey} \]
\[ \text{Senior Vice President, Public Policy and General Counsel} \]

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\(^\text{197}\) World Steel Association, “July 2017 Crude Steel Production” (Aug. 24, 2017) and \( (491.6 / 7) \times 12 = 842.7 \text{ MT} \).

\(^\text{198}\) USCC, 2009 Report to Congress (Nov. 2009) at 78.
## Appendix 1

Antidumping (“AD”) and Countervailing Duty (“CVD”) Orders on Chinese Steel Products

<table>
<thead>
<tr>
<th>Product</th>
<th>DOC Case Number</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>AD Orders</strong></td>
<td></td>
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<tr>
<td>1. Cut-to-Length Carbon Steel Plate</td>
<td>A-570-849</td>
</tr>
<tr>
<td>2. Steel Concrete Reinforcing Bars</td>
<td>A-570-860</td>
</tr>
<tr>
<td>3. Certain Hot-Rolled Carbon Steel Flat Products</td>
<td>A-570-865</td>
</tr>
<tr>
<td>5. Light-Walled Rectangular Pipe and Tube</td>
<td>A-570-914</td>
</tr>
<tr>
<td>6. Circular Welded Austenitic Stainless Pressure Pipe</td>
<td>A-570-930</td>
</tr>
<tr>
<td>7. Certain Steel Threaded Rod</td>
<td>A-570-932</td>
</tr>
<tr>
<td>8. Certain Circular Welded Carbon Quality Steel Line Pipe</td>
<td>A-570-935</td>
</tr>
<tr>
<td>9. Oil Country Tubular Goods</td>
<td>A-570-943</td>
</tr>
<tr>
<td>10. Prestressed Concrete Steel Wire Strand</td>
<td>A-570-945</td>
</tr>
<tr>
<td>11. Certain Steel Grating</td>
<td>A-570-947</td>
</tr>
<tr>
<td>12. Certain Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe</td>
<td>A-570-956</td>
</tr>
<tr>
<td>13. High Pressure Steel Cylinders</td>
<td>A-570-977</td>
</tr>
<tr>
<td>14. Prestressed Concrete Steel Rail Tie Wire</td>
<td>A-570-990</td>
</tr>
<tr>
<td>15. Non-Oriented Electrical Steel (NOES)</td>
<td>A-570-996</td>
</tr>
<tr>
<td>16. Wire Rod</td>
<td>A-570-012</td>
</tr>
<tr>
<td>17. Cold-Rolled Steel</td>
<td>A-570-029</td>
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<tr>
<td>18. Corrosion-Resistant Steel</td>
<td>A-570-026</td>
</tr>
<tr>
<td>19. Carbon and Alloy Steel Cut-to-Length Plate</td>
<td>A-570-047</td>
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<tr>
<td>20. Stainless Steel Sheet and Strip</td>
<td>A-570-042</td>
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<tr>
<td>21. Cold-Drawn Mechanical Tubing</td>
<td>A-570-058</td>
</tr>
<tr>
<td><strong>CVD Orders</strong></td>
<td></td>
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<tr>
<td>22. Certain Circular Welded Carbon-Quality Steel Pipe</td>
<td>C-570-911</td>
</tr>
<tr>
<td>23. Light-Walled Rectangular Pipe and Tube</td>
<td>C-570-915</td>
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<tr>
<td>24. Circular Welded Austenitic Stainless Pressure Pipe</td>
<td>C-570-931</td>
</tr>
<tr>
<td>25. Certain Circular Welded Carbon Quality Steel Line Pipe</td>
<td>C-570-936</td>
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<tr>
<td>26. Oil Country Tubular Goods</td>
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<td>27. Prestressed Concrete Steel Wire Strand</td>
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<td>28. Certain Steel Grating</td>
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<td>29. Certain Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe</td>
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<td>30. High Pressure Steel Cylinders</td>
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<td>31. Non-Oriented Electrical Steel (NOES)</td>
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<tr>
<td>36. Stainless Steel Sheet and Strip</td>
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<tr>
<td>37. Cold-Drawn Mechanical Tubing</td>
<td>C-570-058</td>
</tr>
<tr>
<td>38. Stainless Steel Flanges</td>
<td>C-570-065</td>
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