October 31, 2019

Edward Gresser  
Chair, Trade Policy Staff Committee  
Office of the U.S. Trade Representative  
600 17th Street NW  
Washington, DC 20508

RE: Request for Comments to Compile the National Trade Estimate Report on Foreign Trade Barriers [Docket Number USTR-2019-0012]

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 USTR's 2020 National Trade Estimate Report on Foreign Trade Barriers (NTE Report). The foreign government laws, policies, and practices identified below severely distort global trade and are of particular concern to AISI and its members.

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

I. INTRODUCTION

Foreign trade barriers distort international trade and are extremely harmful to U.S. companies. Such restrictions act as barriers to U.S. exports and investment, restrict U.S. producers’ access to raw materials, and create an unlevel playing field in international competition by unfairly advantaging certain countries’ manufacturers to the detriment of U.S. producers. In its annual NTE Report, USTR identifies a variety of foreign trade barriers, including export restrictions, import barriers, investment barriers, subsidies,

anticompetitive conduct of state-enterprises (SEs),\(^2\) and barriers in government procurement policies. The discussion below identifies trade restrictions in these categories for USTR's inclusion in its 2020 NTE Report, including those that are among the most concerning to AISI's member companies.

Many of these barriers have been very harmful to domestic steelmakers. Around the world, governments regularly intervene in steel markets to bestow unfair competitive advantages on their domestic industries. Such market distorting intervention has created a serious global overcapacity crisis, which, as USTR said following a 2018 meeting of the Global Forum on Steel Excess Capacity, “imperil our companies and workers and threaten to impair our essential security interests.”\(^3\) According to the OECD Steel Committee, global excess capacity in 2018 reached 413 million metric tons in 2018 and increased to 440 million metric tons in the first half of 2019.\(^4\) The Trump administration continues to recognize the challenges the domestic steel industry faces with the global steel excess capacity crisis, which has encouraged unfair trade practices and subsidized imports that harmed U.S. steelmakers, by keeping the remedy put in place under Section 232 of the Trade Expansion Act of 1962 (Section 232) on foreign steel to help defend national security. The domestic steel industry strongly supports the Trump administration’s swift actions to defend vital domestic industries from unfair trade policies and practices by foreign governments.

II. IMPORT BARRIERS

Import-restricting policies, such as tariffs and other import charges, quantitative restrictions, import licensing, and customs barriers, can distort trade by protecting a country’s domestic producers from import competition, to the detriment of foreign producers. Import tariffs accomplish this by giving a price advantage to locally-produced goods over similar imported goods (while raising revenue for the foreign government). Restrictive and opaque or unpredictable import licensing systems can also be used as an obstacle to trade. Some of the most trade-distortive global import barriers are discussed below.


\(^3\) USTR Statement on Meeting of the Global Forum on Steel Excess Capacity (Sep. 20, 2018).

A. Algeria

In January 2016, the Algerian government began to impose import quotas on certain steel products, including rebar and steel wire rod. According to government sources, “The government is trying to save time to allow local producers to meet domestic demand . . . In the best-case scenario, the quotas will be very low.” In 2016, the quota had the effect of reducing rebar imports by approximately 700,000 metric tons from 2015 volumes. In October 2017, the Algerian Central Bank issued a new regulation requiring importers of finished goods for resale to provide a financial guarantee worth 120 percent of the value of the imported products, to be done at least 30 days prior to the shipment of goods.

Algeria is an important market for European rebar producers, especially Italian producers. The import quotas forced these producers to shift exports to alternative markets, further distorting global steel trade.

B. China

The Chinese market continues to be effectively closed to steel imports. China’s closed steel market is primarily a result of the Chinese government’s creation of subsidized overcapacity and its support for developing domestic sources for the few steel products that China does import. Indeed, 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.” Significant overcapacity 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.

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

---

6 Id.
7 Id.
8 Vlada Novokreshchenova, Steelmaking boom in Algeria likely to end billet imports, Metal Bulletin (Jul. 19, 2018).
10 Id. at Art. I.I.I.1.
be made by the marketplace.\textsuperscript{12} Using these policies, China has implemented a long-standing, \textit{de facto} import substitution scheme that denies foreign producers access to the world’s largest steel market.

Similar policies have been carried forward into the 13\textsuperscript{th} Five-Year Plan period. In 2015, for example, China introduced a new industrial policy plan called “Made in China 2025,” the goal of which is to “achieve technological catch-up and import substitution.”\textsuperscript{13} While this plan is typically associated with high-tech industries like information and communications technology, it applies to traditional industries like steel as well. In October 2016, the Ministry of Industry and Information Technology also issued a “Steel Industry Adjustment and Upgrading Plan” to “thoroughly implement the [13\textsuperscript{th} Five-Year Plan], Made in China 2025, and the Several Opinions of the State Council Regarding Resolving Excess Capacity in the Steel Industry and Developing Through Difficulties.”\textsuperscript{14} The Plan identifies “low indigenous innovation levels” as one of the Chinese steel industry’s “primary problems” and bases this conclusion in part on the fact that China “still needs to rely on imports for certain high-end steel products.”\textsuperscript{15} The Chinese government thus states explicitly, in steel and in other sectors, that imports are a “problem” to be resolved through state support of domestic production, \textit{i.e.}, import substitution.

\textbf{C. Argentina}

Many U.S. exporters remain concerned about Argentina’s overly broad use of non-automatic import licensing\textsuperscript{16} and trade balancing requirements. USTR has recognized that “Argentina has imposed a number of customs and licensing procedures and requirements, which make importing U.S. products difficult.”\textsuperscript{17} This continues to be a problem. In December 2015, the National Tax Agency (AFIP) in Argentina established Comprehensive Import Monitoring System (SIMI) to manage automatic or non-automatic licenses and in July 2017, it reorganized the licensing system.\textsuperscript{18} Under SIMI, imports are subject to automatic or non-automatic licenses and importers must submit detailed electronic information about their imports for approval prior to importation.

\begin{itemize}
  \item \textsuperscript{12} 2017 USTR Report to Congress on China’s WTO Compliance AT 90.
  \item \textsuperscript{13} Jost Wubbeke et al., Mercator Institute for China Studies, \textit{Made in China 2025}, MERICS Papers on China No. 2 (Dec. 2016) at 20.
  \item \textsuperscript{15} \textit{Id}.
  \item \textsuperscript{17} USTR 2016 NTE Report at 26.
  \item \textsuperscript{18} USTR 2019 NTE Report at 23.
\end{itemize}
following by review of the application by the appropriate Argentine government agencies.\textsuperscript{19} As of December 2018, Argentina “maintain[s] non-automatic import licensing requirements on 10,571 12-digit tariff lines, including on products the government deems import sensitive, such as automobiles… iron and steel.”\textsuperscript{20}

Additionally, Argentina often requires importers of goods to undertake certain commitments, prohibits the import of many used capital goods, provides tax credits to automotive manufacturers for the purchase of locally-produced automotive parts and accessories incorporated into specific types of vehicle, maintains conformity assessment requirements that obligate foreign manufacturers and importers to obtain safety certifications from Argentine certification bodies, and arbitrarily enforces certificate of origin rules and requirements.\textsuperscript{21}

\section*{D. Brazil}

Brazil imposes barriers on imports of steel and other products. Its manufacturing sector continues to benefit from the highest tariff protection of all of Brazil’s sectors.\textsuperscript{22} Due in part to these protectionist barriers, Brazil was the sixth biggest net exporter of steel in 2018, with 11.6 million MT in net exports.\textsuperscript{23}

\subsection*{1. Increased Tariffs on Steel Products}

In September 2012, the Brazilian government significantly increased import duties on steel products in order to protect its local manufacturing sector, despite U.S. concerns.\textsuperscript{24} The Brazilian government later reduced but did not eliminate the import tariffs on certain steel products, due to domestic supply shortages in Brazil.\textsuperscript{25} As a member of the MERCOSUR customs union between Argentina, Brazil, Paraguay, and Uruguay, a Common External Tariff (CET) schedule is maintained between member states with both bound and applied tariff rates. Given the large disparities between these rates, which the Brazilian government frequently increases and decreases to protect its manufacturing sector, U.S. exporters face great uncertainty in the Brazilian market, making it difficult for U.S. exporters to forecast the costs of doing business in Brazil.\textsuperscript{26} On July 16, 2015, the MERCOSUR Common Market Council permitted Brazil to

\begin{itemize}
  \item[\textsuperscript{19}] Id.
  \item[\textsuperscript{20}] Id
  \item[\textsuperscript{21}] USTR 2019 NTE Report at 25.
  \item[\textsuperscript{23}] World Steel Association, World Steel in Figures 2019 at 27.
  \item[\textsuperscript{24}] Brazil’s foreign trade body, Câmara de Comércio Exterior (“Camex”), approved the tariff hike on 100 products, including many steel items, from 12 percent to 25 percent. Brazil seeks higher import duties on steel, CRU Steel News Weekly (Sept. 7, 2012).
  \item[\textsuperscript{25}] See, e.g., Brazil cuts heavy plate import tariff on supply scarcity, SteelFirst (Oct. 17, 2014); Raul Lee, Brazil to reduce import tax on thick hot rolled carbon steel plate, yieh.com (Oct. 17, 2014).
  \item[\textsuperscript{26}] USTR 2019 NTE Report at 55-56.
\end{itemize}
maintain 100 exceptions to the CET until December 31, 2021, one of which permits
Brazil to impose higher tariffs on steel than its MERCOSUR partners.\textsuperscript{27}

While these measures appear to be WTO consistent (Brazil has “bound” tariff rates of 35
percent on most steel products), they nonetheless distort trade by further impeding
imports into Brazil.

2. Local Content Requirements

Brazil imposes stringent local content requirements applicable to various industry
sectors, which further hinder imports (including imports of steel products) into Brazil.
The \textit{Buy Brazil Act} (Law 12.349/10 of December 15, 2010) imposes domestic preference
requirements at the federal, state and municipal levels.\textsuperscript{28} For example, Brazil’s national
development bank, Banco Nacional de Desenvolvimento Econômico e Social (BNDES),
will not give Brazilian producers full access to its funding unless at least 50 percent of a
project’s equipment, by weight, is produced in Brazil.\textsuperscript{29}

In 2016, BNDES’ local content requirements for wind tower manufacturers, which were
already strict, further intensified, as producers are now required to source all wind
turbine components locally in order to qualify for funding.\textsuperscript{30} As the U.S. Commercial
Service explained to exporters, “[b]y 2016, BNDES aims to complete an entire Brazilian
wind manufacturing value chain in-country – severely limiting the potential for wind
product exports from the United States.”\textsuperscript{31} While wind turbine suppliers of any
nationality are eligible to receive preferential BNDES financing, it is contingent on the
wind towers using at least 70 percent Brazilian steel, and photovoltaic suppliers must
use 60 percent Brazilian-made components by 2020.\textsuperscript{32}

\textsuperscript{27} Id.
\textsuperscript{28} Business Software Alliance, \textit{Country Report: Brazil} at 4. \textit{See also} Clinton Carter, \textit{Brazil: Why Executives
Should Care Who Wins}, Latin Business Chronicle (Oct. 25, 2010) (“With recent legislation such as the ‘Buy
Brazil Act’ (Provisional Measure (PM) Nr. 495), the government is mandating preference for Brazilian
firms or goods produced in Brazil in government procurement”).
\textsuperscript{29} BRIEF-Brazil BNDES cuts local content requirements on financing, Reuters (Sept. 30, 2016); Department
in Brazil} (Sept. 9, 2014). \textit{See also} U.S. Department of State, Bureau of Economic and Business Affairs, 2014
\textit{Investment Climate Statement – Brazil} (June 24, 2014) (“2014 Investment Climate Report: Brazil”) (“To promote
Brazilian industry, the Special Agency for Industrial Financing (FINAME) of BNDES provides financing
for Brazilian firms to purchase Brazilian-made machinery and equipment and capital goods with a high
level of domestic content”).
at 24. \textit{See also} Alexandre Spatuzza, \textit{IN DEPTH: Brazil’s local discontent}, Recharge (Aug. 4, 2014);
Department of Commerce, International Trade Administration, 2015 \textit{Top Markets Report Renewable Energy:
Companies: Doing Business in Brazil} (Sept. 9, 2014).
\textsuperscript{32} USTR 2018 NTE Report at 57.
There are also strict rules in Brazil imposing local content restrictions in activities related to offshore oil and gas exploration activities. In 2018, the Brazilian National Petroleum Agency (ANP) implemented revised requirements for the use of local content for oilfield developments. This revision from a previous rule lowers certain requirements, but mandates that companies must use 50 percent local content for oil and natural gas exploration and production for onshore projects, 18 percent for offshore exploration, and ranging from 25 to 40 percent for offshore oil and natural gas production. The imposition of these requirements is harmful to U.S. steel producers, as they will undoubtedly further hinder U.S. steel exports to Brazil.

In addition, Brazil’s Senate Resolution 13/2012, which took effect on January 1, 2013, imposes a four percent interstate VAT tax on all products, including steel products, imported from abroad or containing more than 40 percent foreign content.

E. Russia

As part of its WTO accession agreement, Russia agreed to reduce or eliminate tariffs on many products. However, while the United States generally imposes zero tariffs on steel, Russia has retained its tariffs on steel products. Russia only agreed to reduce its tariff rates for products categorized under Chapters 72 and 73 of the Harmonized Tariff Schedule to 5.7 percent and 11.8 percent, respectively. Russia agreed to decrease its tariffs on industrial goods very modestly from 9.5 percent to 7.3 percent, and on capital goods and equipment to about 5 percent. Although Russia has reduced its tariffs on certain steel products, AISI is concerned that the relatively minor reductions in steel product tariffs will not provide greater levels of market access for the U.S. steel industry. USTR should continue to closely monitor Russia’s tariffs to ensure that Russia keeps its commitment to reduce its steel import tariffs. Additionally, while Russia simplified its licensing regimes when it became a WTO Member, the processes to obtain an import license remains burdensome.

In July 2018, the Russian government instituted tariffs ranging from 25 to 40 percent on a wide-range of industrial products imported from the United States, including

---

34 KPMG, Taxation of Cross-Border Mergers and Acquisitions: Brazil (Apr. 2016) at 4; Ernst & Young, TradeWatch (Mar. 2014) at 9.
36 See id. See also Louis Chan, Russia: Market Profile, HKTDC Research (Apr. 30, 2016); Lyudmila Alexandrova, Russia Finally Joins World Trade Organization, ITAR-TASS News Agency (Nov. 11, 2011).
37 USTR, United States, Russia Sign Bilateral WTO Market Access Agreement: Negotiations on WTO Membership Now Move to the Multilateral Phase (Nov. 19, 2006).
construction machinery and other steel-containing goods, in retaliation of the Section 232 steel and aluminum remedy adopted by the U.S. government in March 2018.\footnote{USTR 2019 NTE Report at 412.} AISI agrees with the Trump administration that Russia should “work with the United States to address the common problem of excess capacity in the global steel and aluminum sectors, rather than engage in unjustified retaliation designed to punish American workers and companies.”\footnote{USTR, “2018 Report on the Implementation and Enforcement of Russia’s WTO Commitments,” (Feb. 2019) at 10.}

Russia also imposes local content requirements for wind energy projects.\footnote{See Stefan Gsanger and Roman Denisov, Perspectives of the wind energy market in Russia, Freidrich Ebert Stiftung Russische Foderation and World Wind Energy Association (Mar. 2017) at 9; see also Eugene Gerden, Russia eases local content rules, Wind Power Monthly (July 20, 2015).} The level of local content required of wind turbine equipment is currently 40 percent.\footnote{See Perspectives of the wind energy market in Russia, Freidrich Ebert Stiftung Russische Foderation and World Wind Energy Association at 9.} Draft regulations released in September 2019 show the Russian government plans to tighten these requirements even more by limiting the maximum foreign share of components in wind turbines to 30 percent, beginning in 2021, with the maximum allowable foreign content share for generators of geared wind turbines set at 10 percent after 2024. It has been reported that the 10 percent foreign component limit will also apply to blades and towers.\footnote{Eugene Gerdan, “Russia plans to increase local content requirement,” Wind Power Monthly (Sep. 4, 2019).}

In January 2017, the Russian government expanded its list of goods for national defense and services that must be locally sourced.\footnote{See Global Trade Alert, Russian Federation: Public procurement legal amendments that affect a wider group of goods (Jan. 24, 2017) available at http://www.globaltradealert.org/intervention/56403 (Oct. 1, 2017).} The government’s list grew from 11 items to 132, and includes stainless steel pipes and tubes, as well as certain fabricated metal products.\footnote{Id.} Russia also recently expanded its Russian-origin government procurement requirements beyond branches of the Russian government itself.\footnote{See 2016 Report on the Implementation and Enforcement of Russia’s WTO Commitments at 4.} It now prohibits even some state enterprises from purchasing certain imported products, many of which are steel-containing goods like automobiles, metal products and heavy machinery.\footnote{See, e.g., id.; Import substitution in Russia - Mechanical and electrical engineering and metal industries, CMS (June 16, 2016); World Trade Organization, Report on G20 Trade Measures (Mid-October 2015 to Mid-May 2016) (June 21, 2016) at 80.} These “import substitution” policies were expanded through the June 2015 Law on Russian Industrial Policy.\footnote{See, e.g., 2016 Report on the Implementation and Enforcement of Russia’s WTO Commitments at 30; Import substitution in Russia, Swedish Chamber of Commerce for Russia & CIS (Apr. 14, 2016) at 5-7.}
Agreement on Government Procurement ("GPA") of its intent to initiate negotiations to join the GPA.\textsuperscript{50}

In its 2019 Report on Congress on Russia’s commitments to its WTO obligations, USTR noted that since Russia joined the WTO in 2012, “Russia has introduced a number of measures that establish preferential treatment for domestically or [Eurasian Economic Union] produced goods in public procurement such as a 15 percent prince preference for goods of EAEU origin in purchases for government use.”\textsuperscript{51} The USTR report goes on to report that Russia has outright banned certain import products – such as construction and building materials – from consideration in government procurement processes if it is produced in the EAEU.\textsuperscript{52} AISI supports efforts by the Trump administration and other WTO members to address the adoption of discriminatory government procurement practices against imports by the Russian government.

F. Japan

In its 2019 NTE Report, USTR expressed concern about a variety of non-tariff barriers that have traditionally impeded access to Japan’s automotive market by U.S. automakers and auto parts suppliers.\textsuperscript{53} These barriers include: “issues relating to unique standards and testing protocols; an insufficient level of transparency, including the lack of sufficient opportunities for input by interested persons throughout the process of developing regulations; and hindrances to the development of distribution and service networks.” Given that domestic steel producers are major suppliers to the U.S. auto industry, barriers that limit U.S. auto shipments to Japan hurt American steel producers as well. AISI therefore urges the U.S. government to continue pressing Japan to address the full range of barriers currently facing the U.S. auto industry.

As in the automotive sector, the Japanese steel market has long been distorted by non-tariff barriers that have significantly limited Japanese consumers from importing steel and many steel-containing goods, thus leading to gross disparities in Japan’s steel trade. In 2018, Japan exported 35.8 million metric tons of iron and steel products to the world, ranking second worldwide behind China. Japan’s export volume was approximately half that of China’s, despite China’s steel production being almost nine times larger than Japan’s. In 2018, Japanese steel exports as a share of production was 35.7 percent, one of the highest in the world.\textsuperscript{54}


\textsuperscript{52} Id.

\textsuperscript{53} USTR 2019 NTE Report at 291.

\textsuperscript{54} Id.
According to the Global Steel Trade Monitor at the U.S. Department of Commerce, imports of Japanese steel products to the U.S. market totaled 1.4 million metric tons in 2018, while U.S. steelmakers only exported 20,900 metric tons of steel products to Japan.\(^{55}\) For decades, Japan’s market barriers have contributed to numerous instances of dumping by Japanese steel producers into other countries – a direct result of the fact that high prices at home make it easier for Japanese mills to dump their remaining production elsewhere.\(^{56}\)

G. Indonesia

Indonesia has implemented various import policies that serve to protect its domestic steel industry. In its 2019 NTE Report, USTR explained that “Indonesian importers must comply with numerous and overlapping import licensing requirements that impede access to Indonesia’s market.”\(^{57}\) Additionally, over the last five years, Indonesia has periodically increased its applied tariff rates for a range of goods that compete with locally-manufactured products,\(^{58}\) including “on foreign steel products to protect local steel producers from cheaper imports.”\(^{59}\) The duties, previously ranging from 0 to 5 percent, were increased to 15 percent.\(^{60}\)

Like Japan, Indonesia has enacted barriers to shield its auto industry from foreign competition,\(^{61}\) thereby limiting the export of U.S. vehicles and automobile parts to the country. The Indonesian Industry Ministry implemented local content requirements for

---


\(^{56}\) See, e.g., Certain Carbon and Alloy Steel Cut-To Length Plate From Austria, Belgium, France, the Federal Republic of Germany, Italy, Japan, the Republic of Korea, and Taiwan, 82 Fed. Reg. 24,096 (Dep’t Commerce May 25, 2017) (amended final affirmative antidumping determinations for France, the Federal Republic of Germany, the Republic of Korea and Taiwan, and Antidumping Duty Orders); Certain Hot-Rolled Steel Flat Products From Australia, Brazil, Japan, the Republic of Korea, the Netherlands, the Republic of Turkey, and the United Kingdom, 81 Fed. Reg. 67,962 (Dep’t Commerce Oct. 3, 2016) (amended final affirmative antidumping deter. for Australia, the Republic of Korea, and the Republic of Turkey and antidumping duty orders); Certain Cold-Rolled Steel Flat Products From Japan and the People’s Republic of China, 81 Fed. Reg. 45,956 (Dep’t Commerce July 14, 2016) (antidumping duty orders); Certain Large Diameter Carbon and Alloy Seamless Standard, Line, and Pressure Pipe (Over 4\(1/2\) Inches) From Japan, 79 Fed. Reg. 42,762 (Dep’t Commerce July 23, 2014) (prelim. results of the antidumping duty admin. review; 2012-2013) (calculating an antidumping duty assessment rate of 107.8 percent for Sumitomo Metal Industries, Ltd.).

\(^{57}\) USTR 2019 NTE Report at 258.

\(^{58}\) USTR 2018 NTE Report at 240.

\(^{59}\) Linda Yulisman, Govt ups import duties to protect struggling domestic industry, The Jakarta Post (May 5, 2015).

\(^{60}\) Id.

\(^{61}\) Matthew DeBord, Ford is shutting down operations in Japan and Indonesia, Reuters, Business Insider U.S. (Jan. 25, 2016).
vehicles of 90 percent that went into effect this year, up from 60 percent previously.\textsuperscript{62} This measure supports the Indonesian steel industry at the expense of U.S. steelmakers.

In 2017, state-owned electric company PLN began construction on several power plants that will generate 10,000 MW of electricity using 40 percent local content.\textsuperscript{63} PLN announced that it “will team up with several state-owned enterprises to develop the plants, including ... steel maker Krakatau Steel.”\textsuperscript{64} Krakatau Steel’s $460 million hot strip mill in Banten province will add another 1.5 million tons to its current annual production of 3.15 million tons, furthering the government’s “ambition to push local content higher.”\textsuperscript{65}

H. Other Recently Imposed Import Barriers

- In 2017, South Africa modified its government procurement rules to require 100 percent local content for steel products, including fabricated structural steel, frames, wire products, steel pipe, and flat and long products.\textsuperscript{66} In 2017, South Africa raised the duty on imports of primary steel products to 10 percent, while instituting safeguard measures on hot-rolled coil and plate products at a 12 percent duty for three years through 2020.\textsuperscript{67}

- The Dominican Republic applies a number of non-tariff trade barriers that have significantly hindered U.S. exports of rebar.\textsuperscript{68} These barriers include those set forth in Dominican Quality Norm RTD 458,\textsuperscript{69} which includes (1) product requirements that are more stringent than similar U.S.- and internationally-recognized standards; (2) discriminatory quality testing assessment measures in favor of domestic suppliers; and (3) an overly onerous import licensing scheme.

\textsuperscript{62} Stefani Ribka, Local content requirement for cars to hit 90% by 2019; Industry Ministry, Jakarta Post (Feb. 10, 2017).
\textsuperscript{63} See PLN seeks to boost local content to 40 percent, The Jakarta Post (June 20, 2017).
\textsuperscript{64} Id.
\textsuperscript{65} See Astra Daihatsu to produce local cars by 2019, The Jakarta Post (Aug. 25, 2016); Stephani Ribka, Krakatau Steel to finally start construction of hot strip mill (July 26, 2016).
\textsuperscript{68} See USTR 2017 NTE Report at 111-112 (“Multiple U.S. exporters of steel rebar used for construction have complained that a Dominican technical regulation (RTD) 458 administered by the Ministry of Industry and Commerce’s (MIC) Dominican Institute for Quality (INDOCAL) constitutes a barrier to trade”).
\textsuperscript{69} USTR 2019 NTE Report at 137.
As a result of these barriers, AISI understands that Dominican authorities have unreasonably detained U.S. rebar shipments at the port on several different occasions. AISI applauds the Trump administration for repeated engagements with the Dominican government in 2017 and 2018 and encourages the U.S. government to continue to pursue negotiations to eliminate these trade-impinging obstacles.

- In April 2019, the government of Egypt temporarily imposed a 15 percent import duty on iron billets and 25 percent on steel rebar for 180 days in an effort to protect its domestic steel industry from unfair competition. This is in addition to five-year tariffs put in place in 2017 on imports of steel rebar from China, Turkey and Ukraine.

- In June, the government of India imposed retaliatory measures on the United States covering $1.4 billion of goods of 28 products, including finished metals, with tariffs as high as 70 percent. Before this announcement, India maintained import tariffs of 12.5 percent across base metals, articles of base metals, and iron and steel products listed under Chapters 72 and 73 of the harmonized tariff schedule.

- Malaysia currently institutes non-automatic import licensing requirements on nearly a dozen tariff lines of alloy steel and pipe products, as well as several steel-containing goods, such as certain types of motor vehicles. The Malaysian government has also consistently sought to boost its economy through policies that discourage imports. In January 2015, Malaysia’s Prime Minister announced

---

70 Id.
policy measures to strengthen the economy by intensifying the promotion of Buy Malaysia products. In April 2017, the Malaysian government imposed “definitive and final safeguard duties on steel, wired rods and deformed bar in coils (steel wire rods) imported into Malaysia,” beginning with a safeguard duty of 13.9 percent and reducing to 12.9 and 11.9 percent in the following two years. The Malaysian High Court eventually upheld this decision.

- Qatar imposes a 20 percent import tariff on steel products, including on iron bars and rods, non-alloy hot-rolled steel, and 12-millimeter steel bars. According to the WTO, Qatar’s “steel tariffs currently exceed the WTO bindings.”

- Since mid-2014, Turkey has increased tariffs by an average of 26 percent across on products across 50 different Harmonized System chapters, including steel. Turkey imposes tariffs of up to 40 percent on steel products, including on flat-rolled steel coils, cold-rolled products of stainless steel, and certain bar and wire rod. Turkey also imposes “additional customs duties” on several steel products. For instance, in January 2017, Turkey issued additional customs duties of 30 percent on certain steel pipe and tube. In June 2018, in response to the imposition of Section 232 tariffs on steel and aluminum, Turkey raised tariffs on $266.5 million worth of U.S. goods.

III. EXPORT RESTRICTIONS

Many countries have enacted substantial barriers to raw material exports in order to ensure an abundant domestic supply, at low prices, for their steelmakers and other manufacturers. These export barriers include, but are not limited to, export quotas,
taxes, and licensing requirements. Foreign governments use such restrictions to discourage exports of raw materials, promote the development of domestic industries, and subsidize domestic downstream industries.

Many of these trade barriers violate WTO agreements, and all of them adversely impact U.S. manufacturers and the entire global economy. Manufacturing industries in the countries that engage in this market manipulation are granted an unfair competitive advantage, while manufacturers in other countries, like the United States, face limited supplies and higher prices for strategic raw materials. The result is an increase in costs throughout the production chain, from intermediate to finished goods, as well as other distortions throughout the global economy. Some of the most restrictive global export barriers, which negatively affect the U.S. and global steel industries, are described below.

A. China

For many years, the Government of China has imposed export quotas, export taxes, and other measures to limit the export of raw materials, for the benefit of its domestic industries. These restraints have caused a global scarcity of certain raw materials and have driven up prices of raw materials in global markets.

China has moved to strengthen state control over the rare earths industry in a manner that may result in de facto restraints on exports of these raw materials. At the beginning of 2015, the Ministry of Industry and Information Technology (MIIT) convened a meeting of major rare earths producing provinces and enterprises and set a goal for the rare earths industry to be consolidated under six major state enterprises by the end of 2015. The six SEs are (i) Northern Rare Earths Group, organized under Baosteel, (ii) China Minmetals Group, (iii) Aluminum Corp. of China, (iv) Guangdong Rare Earth Industry Group, (v) China Southern Rare Earths Group, and (vi) Xiamen Tungsten. To support these efforts, extraction and production quotas have been granted exclusively to these six enterprises and their subsidiaries.

---

86 Yang Meng, Six Major Rare Earths Groups Already Making Moves, Reorganization Must Show Concrete Progress by Year’s End (六大稀土集团已有动作 年底前重组须有实质进展), Securities Daily (Jan. 28, 2015).
87 Important Arrangements of the Path to Consolidation of Six Major Rare Earths Groups (6大稀土集团整合之路大梳理), China Mining (August 12, 2016).
88 Notice of the Ministry of Industry and Information Technology Regarding Promulgation of the First 2017 Rare Earths Production Control Plan (工业和信息化部关于下达2017年第一批稀土生产总量控制计划的通知), Gong Xin Bu Yuan [2017] No. 55;
In 2016, MIIT also issued a *Rare Earths Industry Development Plan (2016-2020)*, which calls for continuing development of downstream application industries pursuant to Made in China 2025, and for reducing exports of primary rare earth materials 27 percent by 2020.\textsuperscript{89} While the plan does identify formal measures to achieve this, it also seeks to “establish a social responsibility report system and credit blacklist system for rare earth exporting enterprises,”\textsuperscript{90} which could be used to exert political pressure or otherwise coerce potential exporters to reduce exports and channel rare earth resources to domestic strategic industries. It is thus likely that the six state enterprise rare earth groups will not operate on a purely commercial basis and will channel rare earth supplies to favored domestic industries or enterprises to further industrial policy objectives.

In July 2016, the U.S. challenged China over its export duties on nine key raw materials at the WTO, stating that “[w]hen China joined the WTO, [i]t agreed to eliminate its export duties on these products, but it has failed to follow through on this commitment.”\textsuperscript{91} The raw materials, including copper, magnesia, tin, among others, are critical for the competitiveness of American manufacturing. 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.\textsuperscript{92} 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,\textsuperscript{93} but it appears there has been very little movement in this case in recent years.

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 unfair trade practices.

\textsuperscript{90} Id. at 27.
\textsuperscript{91} USTR, “United States Challenges China’s Export Duties on Nine Key Raw Materials to Level Playing Field For American Manufacturers” (Jul. 13, 2016).
\textsuperscript{92} “U.S. Challenges China Over Raw Materials Duties at the WTO” Yahoo News (Jul. 13, 2016).
\textsuperscript{93} World Trade Organization, “DS508: China – Export Duties on Certain Raw Materials” (last updated Nov. 8, 2016).
B. India

India ranks among the world’s leading producers of many critical raw materials, including coal, iron ore, manganese ore, chromite, zinc, bauxite, and aluminum.\(^94\) Despite substantial reserves of such materials,\(^95\) India restricts their export to manage the price of certain raw materials and other economic inputs and benefit its own consuming industries. Such measures include export tariffs, export quotas, and an opaque and confusing export licensing scheme, each of which significantly reduces India’s contribution to the world’s supply of raw materials used in steel production.\(^96\)

1. Export Taxes and Other Restrictions

Since 2008, India has imposed restrictions on certain critical raw materials, including iron ore, in the form of \textit{ad valorem} export taxes.\(^97\) Indian iron ore exports peaked at 127 million metric tons (MT) in 2011, causing the government to increase its export duty on iron ore lumps and fines to 30 percent\(^98\) to “conserv[e] iron ore for domestic steel units.”\(^99\) In March 2016, the government of India streamlined the export duty rate for all types of iron ore (besides pellets) to 20 percent in an effort to improve availability for its domestic steel industry.\(^100\) In 2017, the Indian government increased the export duty on zinc from 5 percent to 7.5 percent,\(^101\) as Indian galvanized steel producers are “planning to make additions to their existing [8 million tons] of capac[y].”\(^102\)

The Indian government continues to signal that export restraints are critical for the development of the Indian steel industry. The government is implementing plans set forth in its National Steel Policy 2017 to develop additional steel capacity to reach 300 million MT and produce 250 million MT by 2030.\(^103\) To achieve this goal, the


\(^{96}\) USTR 2019 NTE Report at 245-6.

\(^{97}\) See Unmesh Wagh, Department of Revenue, Government of India Ministry of Finance, \textit{Notification No. 79/2008 and No. 66/2008 – Customs} (June 13, 2008).


\(^{102}\) \textit{Galvanized Steel Products Catching Pace in India}, Steel360 (Dec. 17, 2016).

\(^{103}\) India National Steel Policy 2017 at 8. \textit{See also Platts, Steel Raw Materials Monthly}, Issue 23 (Jan. 2015) at 2 (stating its goal “that India will treble its steelmaking capacity to 300 million mt/year by 2025 have been revived. State-owned companies, such as Steel Authority of India and iron ore miner NMDC are making the right noises about growing their respective production capacities in line with the ramp-up to 300 million mt/year”). India Says New Steel Policy Has Added 24M Tons of Steel Capacity, MetalMiner (June 18, 2018).
government will “ensure availability of raw materials like iron ore, coking coal and non-coking coal, natural gas[,] etc. at competitive rates.” According to the OECD, “[s]teelmaking capacity in India has been expanding at a fast rate in recent years… As a result of investment projects that are underway, steelmaking capacity in India could reach 137.6 [million metric tons] by 2021, in the absence of closures. If this materialises India could become the world’s second largest steel economy in terms of steelmaking capacity.” If these estimates hold true, India’s steelmaking capacity will have increased by almost 13 percent in five years.

These restrictions have a significant and troubling effect on exports. India, the fourth-largest global producer of iron ore, and previously the world’s third-largest iron ore exporter, is now a net importer of iron ore. “Having shipped just 4 million MT in 2015, India’s 2016 iron ore exports [sky]rocketed to 22 million [MT]” when export duties were removed on low grade ore. This confirms that India’s trade distortive policies are limiting its supply of raw materials to world markets. The continuation of the 30 percent export duty for high-grade iron ore has limited export growth for all iron ore and FIMI cites it as a primary reason total iron ore exports are expected to decline this year.

India also maintains an export tax on bauxite to benefit Indian manufacturers. India has the fifth largest bauxite reserves in the world. While reports indicate that the export duty on bauxite was reduced from 20 percent to 15 percent, a recent report by Indian government think tank NITI Aayog (the National Institution for Transforming India) recommended increasing the export duty to 30 percent.

---

104 See New Steel Policy to boost domestic products use, invest Rs 10 lakh cr to up capacity to 300 mn t by 2030, First Post (May 4, 2017).
110 India: Iron ore production projected to fall 15% after two years of growth, Southeast Asia Iron and Steel Institute (Jan. 24, 2018).
111 See Dilip Kumar Jha, Bauxite miners seek to abolish export duty, Business Standard (Apr. 2, 2016).
2. Export Licensing Regime

The Indian government retains additional control over trade in raw materials like iron ore by requiring that most exports pass through State Trading Enterprises (STEs). India’s current policy gives STEs the exclusive right to import and export certain minerals, such as iron ore, manganese ore, and chrome ore. For example, iron ore exports containing more than 64 percent iron, along with some manganese ores, must be channeled through the Minerals and Metals Trading Corporation (“MMTC”), an STE and the largest Indian trading company. MMTC is annually responsible for a significant percentage of India’s total iron ore exports.

Ensuring that exports are channeled through STEs allows the Indian government to control the price and supply of raw materials in domestic and global markets. The close relationship between MMTC and state-owned NMDC demonstrates the magnitude of state involvement in the mining sector. NMDC is India’s largest iron ore miner, and state-owned MMTC is its single largest exporter of minerals. MMTC collects ore from other SEs, such as NMDC, as well as from smaller, private miners and offers it to world markets.

C. Indonesia

Indonesia imposes significant export taxes of up to 10 percent on metals and raw materials, including nickel ore, iron ore, lead and bauxite, as well as on concentrates of lead, iron, zinc, ilmenite, titanium and manganese. In 2014, Indonesia imposed a complete ban on the export of unprocessed mineral ore exports. Indonesia was

---

118 See, e.g., Swansy Afonso, Iron Ore Has Surged Yet Top Miner in India Is Cutting Prices, Bloomberg (Sept. 5, 2016); NMDC slashes iron ore prices, The Economic Times (Dec. 4, 2014).
119 See, e.g., Indonesia sets new tax rates for mineral exports (Feb. 13, 2017); PwC, Mining in Indonesia: Investment and Taxation Guide (May 2017) at 45.
120 USTR 2018 NTE Report at 247.
expected to completely ban mineral ore concentrates in 2017; however, instead of doing so, the government issued a set of rules allowing companies that meet certain stringent requirements to export mineral concentrates, and certain amounts of low-grade nickel ore and washed bauxite.

Specifically, in order to export these mineral concentrates, Indonesia requires that exporters satisfy the following requirements: convert their permit status from a “contract of work” (CoW) to a “special mining license” (IUPK); build a smelter within five years; and divest up to 51 percent of their company to local investors. The Indonesian Minister of Energy and Mineral Resources has indicated that permits will be reviewed every six months and companies with “insufficient” progress in smelter construction will have their permits revoked. Indonesia also has an export licensing requirement for coking coal, implemented in part to “ensure the fulfillment of [the] domestic need for coal.” However, licenses are difficult to obtain, with “various Indonesian mining companies [having] said that they had difficulty to secure the new export permits.”

Indonesia also implemented a full ban on the export of nickel ore in 2014 to ensure ample supply of raw materials at below cost for a newly-established stainless steel producer. One Chinese company, Tsingshan, built a 3.0 to 3.5 million metric ton production stainless steel facility in Indonesia, almost exclusively for export markets to the United States and Europe, as Indonesian consumption of stainless steel products is well below the annual production capabilities at this facility. According to the U.S. Geological Survey, last year Indonesia was the world’s biggest mine producer of nickel, while also holding the largest reserves worldwide.

---

121 See, e.g., Why Indonesia Keeps Putting off Its Export Ban, Stratfor Worldview (Oct. 12, 2016).
122 See USTR 2017 NTE Report at 227; PwC, Mining in Indonesia: Investment and Taxation Guide at 9; Dave Forest, Indonesia Just Rocked The Mining World With This Unexpected Move (Jan. 16, 2017); Fedina S. Sundaryani, Govt issues eagerly awaited rules on mineral export ban relaxation, The Jakarta Post (Jan. 12, 2017).
123 See Sundaryani, Govt issues eagerly awaited rules on mineral export ban relaxation; Forest, Indonesia Just Rocked The Mining World With This Unexpected Move.
124 See Sundaryani, Govt issues eagerly awaited rules on mineral export ban relaxation; Forest, Indonesia Just Rocked The Mining World With This Unexpected Move.
125 See Indonesia ushers in 2017 with changes to Mining Law, Ashurst (Feb. 8, 2017).
128 See Coal Mining in Indonesia: Coal Production & Export Update, Indonesia-Investments (Nov. 27, 2014).
In January 2017, the government of Indonesia announced a partial lifting of the export ban, but tight restrictions on nickel exports remain in place. Then in November 2017, a 50-50 joint venture was announced between U.S.-based Allegheny Technologies (ATI) and an affiliate of the Tsingshan Group to produce stainless steel sheet in North America using Indonesian redi-to-roll slabs, which are then hot rolled into coils in the United States.131

Just last month, fears increased once again that Indonesia might re-implement a complete ban on nickel exports, resulting in significant increases in stainless steel surcharges in September 2019.132 AISI encourages the Trump administration to work with its counterparts, particularly in Europe, to address these illegal export restrictions at the WTO at the expense of U.S. steelmakers.

D. Other Global Export Restrictions133

The OECD has identified a significant number of export restrictions on raw materials used in steelmaking by various countries.134 For example:

- Argentina imposes a 5 percent export duty on iron and steel scrap.135
- China, Vietnam, and Indonesia all impose taxes on exports of coking coal, at the rate of 10 percent, 15 percent, and 5 percent, respectively.136 China has an export quota on coking coal.137
- Malaysia imposes a non-automatic export licensing requirement on exports of minerals and ores.138 In addition, Malaysia frequently imposes

---


133 This section identifies certain raw material export restrictions of particular concern to AISI. A more complete list of such restrictions can be found in Annexes 1 and 2 of OECD, Steelmaking Raw Materials.


136 MoF refuses to cut tax rates for coal industry, Viet Nam News (July 31, 2017); OECD, Steelmaking Raw Materials 2012 at 65. See also WTO Trade Policy Review Body, Trade Policy Review Report by the Secretariat: Viet Nam, WT/TPR/S/287 (Aug. 13, 2013) (“2013 WTO Trade Policy Review Report: Vietnam”) at 60, 173. Reports from late 2014 indicated that China was planning to reduce its coking coal export tax to three percent; it is unclear whether or not this reduction has occurred. See China likely to cut coal export duty from 10% to 3% from Jan 1, Platts (Nov. 13, 2014).


periodic bans on bauxite mining, most recently doing so in January 2016\textsuperscript{139} and only lifting this ban in September 2018.\textsuperscript{140} During these periods, no new export permits are granted.

- Vietnam continues to impose a 40 percent export tax on iron ore, and a 22 percent export tax on nickel, cobalt, aluminum, lead, and zinc ores and concentrates.\textsuperscript{141} Further, Vietnam imposes a 10 to 15 percent export tariff on coal, which the government has refused to lower.\textsuperscript{142}

- Russia imposes a 30 percent export tax on natural gas.\textsuperscript{143}

E. Global Export Restrictions on Steel Scrap

Steel scrap, a raw material in which few countries are self-sufficient despite worldwide production, is subject to more export restrictions than any other raw material.\textsuperscript{144} The global steel industry depends on trade in scrap and other key raw materials such as iron ore, coke, coal, and ferroalloys. Approximately 30 countries restrict scrap exports, which has resulted in market distortions, severe shortages and increased prices.

1. Effects of Scrap Export Restrictions

Export restrictions on steel scrap have a drastic effect on the world market. Reduced international supply can lead to higher global prices. Limits on scrap availability impact all consumers of scrap and negatively impact important manufacturing sectors in the U.S. economy. Because the vast majority of steel scrap is used to make new steel, government restrictions on global scrap supply have adverse effects on U.S. steelmakers that use electric arc furnaces (EAFs) for production as scrap is the primary input. Other key U.S. industries affected include foundries, construction, automotive manufacturing, and appliances. The problem impacts companies of all sizes, from national

\begin{itemize}
\item See Malaysia extends bauxite mining ban until mid-2017, Reuters (Mar. 27, 2017); Cecilia Jamasmie, Malaysia imposes three-month ban on bauxite exports to fight pollution, Mining.com (Jan. 6, 2016).
\item See Finance Ministry refuses to cut tax rates for coal industry, Vietnamnet (July 31, 2017).
\item See USTR 2018 NTE Report at 396.
\item OECD, Steelmaking Raw Materials 2012 at 56; Presentation of Eric Harris, OECD/South Africa Workshop on Steelmaking Raw Materials (Dec. 11, 2014) at 9.
\end{itemize}
manufacturers to small family-owned businesses, and jeopardizes tens of thousands of jobs in manufacturing and consuming industries.

While export restrictions depress global steel scrap availability, often causing prices to increase, countries imposing the restrictions can maintain higher stocks of the material at lower prices within their countries, thus subsidizing their downstream industries and giving local producers an unfair competitive advantage. Furthermore, frequent changes to these restrictions, coupled with a general lack of transparency, create significant uncertainty over scrap supply and availability, rendering scrap prices highly volatile.

2. Scrap Export Restrictions Imposed Globally

As noted above, approximately 30 countries impose restrictions on exports of steel scrap. The following countries impose a complete ban on scrap exports: Angola; Argentina; Azerbaijan; Burundi; Ghana; Guyana; Indonesia; Kenya; Mauritius; Nigeria; Rwanda; Sri Lanka; Tanzania; Uganda; Uruguay; Zambia; and Zimbabwe. Many other countries currently impose trade-restrictive export tariffs on scrap, including: Armenia; Belarus; Egypt; Guinea; India; Iran; Jordan; Pakistan; Russia; and Ukraine. Notably, China imposes a 40 percent export tax on scrap, severely restricting its exports of the raw material and benefiting its domestic

---

146 Angola extends restrictions on scrap exports, Kallanish, Commodities (March 20, 2018).
148 In February 2017, the Guyana government temporarily resumed scrap trade for “for a limited period of three months.” See Scrap metal trade opens for 3 months, Guyana Times Inc. (Feb. 6, 2017).
149 USTR 2019 NTE Report at 293.
151 Trade obstacle report, Trade Obstacles Alert (Aug. 16, 2016) (“The Cabinet of ministers of Mauritius has brought about a ban on the export of all scrap metals from Mauritius”).
152 See CRSI Scrap Market Presentation at Appendix; OECD, Steelmaking Raw Materials 2012 at 68, 69; Scrap metal industry exports 32,000 tons in 2012, Kaieteur News (Mar. 3, 2013); UPDATE 1-Ghana bans export of scrap ferrous metal to support local industry, Reuters (Apr. 15, 2014); James Kunda, Scrap metal export ban stays – Chenda, The Zambia Times (Feb. 2, 2014); Patrick Jaramogi, Scrap dealers want ban on exports lifted, New Vision (May 28, 2012); Zimbabwe maintains ban on scrap metal exports, New Zimbabwe (May 25, 2015), and USTR 2018 NTE Report at 424.
154 In addition, in June 2015, Russia added scrap metal to the list of “commodities essential for the domestic market . . . for which temporary export restrictions or prohibitions may be set in exceptional cases.” Russia threatens scrap export ban, Argus (June 8, 2015). See also Russia: Primorye to limit scrap exports, The Ukrainian Metal (Apr. 10, 2017).
manufacturers. Depending on global scrap prices, this export tax is at times high enough to amount to a de facto export ban. China now produces more steel scrap than any other country, and its scrap reservoir is projected to continue growing rapidly for at least another decade. Restrictions on access to this reservoir of scrap are a major competitive disadvantage for U.S. steel producers and an unfair competitive advantage for Chinese steel producers. Other countries, such as South Africa,\textsuperscript{157} enforce licensing requirements on scrap exports, which have the effect of restricting trade.

IV. INVESTMENT BARRIERS

Restrictions on foreign investment and ownership often unfairly distort global trade and prevent U.S. businesses from taking advantage of potentially lucrative investment opportunities. While the United States maintains an open environment for foreign investors, many other countries continue to impose restrictions on foreign investment within their borders, to the disadvantage of U.S. companies.

A. China

Both the U.S. government and business community have raised concerns regarding China’s barriers for foreign investment. Indeed, 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.”\textsuperscript{158}

The Chinese government strictly regulates investment by foreign firms within China. Foreign investment must comply with the Foreign Investment Industries Guiding Catalogue (the “Catalogue”) and other relevant laws related to foreign investment.\textsuperscript{159}

1. Restrictions on Foreign Investment in China’s Steel Sector

A foreign investment project in China’s steel industry must be approved by the Ministry of Commerce (MOC), the National Development and Reform Commission (NDRC), the State-Owned Assets Supervision and Administration Commission (SASAC) (if it involves state-owned assets), and/or the China Securities Regulatory Commission (CSRC) (if it involves a PRC-listed company), and must be registered with other relevant authorities.

\textsuperscript{157} See International Trade Administration Commission of South Africa, Export Control, available at http://www.itac.org.za/pages/services/import--export-control/export-control (last visited Sept. 27, 2018) (“The exportation of ferrous and non-ferrous waste and scrap, for example, inter alia, is controlled to assist the local foundries in acquiring ferrous and non-ferrous waste and scrap prior to its exportation.”).

\textsuperscript{158} State Department 2015 China Investment Climate Statement at 3.

In a March 2015 revision to the Catalogue, China removed the steel industry from its list of “restricted” foreign investment industries, thereby opening the door to majority foreign ownership of Chinese steel enterprises. The 2016 Adjustment and Upgrading Policy also calls for “fully utilizing both domestic and foreign markets and capital . . . actively attracting foreign investment and capital, and comprehensively promoting international steel capacity cooperation.” Despite this apparent willingness to attract foreign investment in the steel industry, as a practical matter it has not occurred. Foreign investments in the steel industry will also continue to be subject to administrative approvals, including national security reviews, despite any revisions to the Catalogue. This approval process could be used to coerce foreign steel firms to transfer industrial know-how or other trade secrets into Chinese control, as in other sectors of the Chinese economy where foreign investment is more common.

To date, AISI is unaware of any foreign attempts to acquire a controlling stake in a Chinese steel enterprise since the March 2015 revision to the Catalogue. While the revision is a welcome step towards liberalizing the Chinese steel market, barriers to such investments appear to remain in place as a practical matter. USTR should continue to monitor this situation to ensure that the removal of the steel industry from the list of industries restricted to foreign investment in fact results in foreign investors being permitted to own controlling stakes in Chinese steel enterprises.

2. Indigenous Innovation and Technology Transfer Policies

China imposes restrictions on foreign investment in China through indirect means. Upon accession to the WTO, China committed to eliminate all subsidies prohibited under Article 3 of the Agreement on Subsidies and Countervailing Measures (SCM Agreement), which include “subsidies contingent… upon the use of domestic over imported goods.” China further agreed not to condition importation rights on “whether competing domestic suppliers of such products exist; or performance requirements of any kind, such as local content, offsets, the transfer of technology, export performance or the conduct of [R&D] in China.” China has not lived up to these commitments and continues to impose policies that act as barriers to foreign investment.

---

161 2015 Draft Adjustment Policy.
163 See China’s Protocol of Accession at 10.3.
164 Agreement on Subsidies and Countervailing Measures, WTO (Apr. 15, 1994) (“SCM Agreement”) at Art. 3.1(b).
165 China’s Protocol of Accession at 7.3.
While China has largely eliminated explicit requirements related to technology transfer and local content, “foreign enterprises report that Chinese government officials may condition investment approval on a requirement that a foreign enterprise transfer technology, conduct research and development in China, satisfy performance requirements relating to exportation or the use of local content or make valuable, deal-specific commercial concessions. The United States has repeatedly raised concerns with China about its restrictive investment regime.”\textsuperscript{166} An analysis of China’s policies under the Made in China 2025 plan expresses similar concerns that “responsible ministries and state-owned policy institutes use internal or semi-official documents to communicate local content targets to Chinese enterprises…”\textsuperscript{167} It thus appears that foreign investments will continue to be utilized as a means of enhancing the competitive strength of Chinese enterprises, rather than being permitted to compete autonomously in the Chinese market. It is unlikely that the revision to the Catalogue will alleviate these concerns.

Given that past dialogues have been unsuccessful in leading to meaningful reforms, AISI supports the Trump administration’s use of Section 301 of the Trade Act of 1974 to push China to reform its practices related to forced technology transfers.\textsuperscript{168} Additionally, the 301 remedy also addresses known intellectual property theft by China, which has cost the United States more than two million jobs.\textsuperscript{169} A recent investigation by the Office of the United States Trade Representative earlier found that “Chinese theft of American IP currently costs between $225 billion and $600 billion annually.”\textsuperscript{170} China is affirmatively using its indigenous innovation policy to acquire property of foreign firms and implementing its antitrust laws in a way that curtails the intellectual property of foreign firms and protects its domestic firms from foreign competition.

B. Russia

The U.S. Department of State describes Russia’s investment climate as having “fundamental structural problems in governance of the economy… continue to stifle foreign direct investment throughout the country.”\textsuperscript{171} The State Department explains

\textsuperscript{166} USTR 2017 Report on China’s WTO Compliance at 11.
\textsuperscript{167} Jost Wubbeke et al., Mercator Institute for China Studies, Made in China 2025, MERICS Papers on China No. 2 (Dec. 2016) at 20.
\textsuperscript{168} USTR 2017 Report on China’s WTO Compliance at 11.
that the Russian judicial system “remains heavily biased in favor of the state,” and suffers from “[h]igh levels of corruption among government officials,” which compounds the risk that investors face in Russia. Among other foreign investment restrictions, the Russian government restricts trade in raw materials by exercising control over investments in mining. Russia’s management of its mining system and onerous licensing requirements allow the government to control the availability of strategic natural resources for use in Russia and for export. The licensing regime is non-transparent and unpredictable.

1. Mining Investment Restrictions

Russia implements a number of barriers to foreign investment in its mining sector. While amendments to Russia’s Strategic Sectors Law went into effect in December 2011, easing some legislative restrictions on foreign investment in strategic sectors of the Russian economy, Russia continues to limit foreign investment in domestic mining companies to less than 25 percent ownership.

Moreover, the government may deem significant discoveries by foreign mining groups as “strategic” and require the foreign mining group to sell 50 percent of its ownership interest in the project to a Russian partner. In addition, mining in areas located or partially located on the Russian continental shelf must be done by Russian companies with more than 50 percent of their voting shares owned or otherwise controlled by the Russian Federation.

Such barriers to foreign investment effectively reserve much of Russia’s mineral resources for domestic companies that intend to mine these resources for their own domestic processes. Such policies may also serve to restrict exports, as the raw materials are mined and used by the same domestic enterprises.

---

172 See id.
173 See id.
174 See 2017 USTR NTE Report at 375, 381; Alan Kartashkin, Recent Developments in Russian Mining Regulation: Opportunities and Challenges (Dec. 2, 2013); Stephane Godin, An Opportunity Lost in Russia Mining, (July 9, 2013); Anna Putsykin and Julia Zasukhina, Russia: Calling for Change, Mining Journal Online (June 7, 2013).
175 See Steffen Kaufmann, Russia amends foreign investments regulations, DLA Piper (Aug. 3, 2017); Eugene Gerden, Russian government to ease resource investment access for foreign investors (Nov. 12, 2015) (explaining that foreign investors may “acquire a 25% stake in the country’s strategic mineral deposits without special permits and up to 49% - after the approval of the governmental commission”). Prior to December 2011, foreign investment was limited to 10 percent. Alan Kartashkin, Recent Developments in Russian Mining Regulation: Opportunities and Challenges (Dec. 2, 2013) at 7, 11. See also Natalya Morozova and Rob Patterson, Russia, The Oil and Gas Law Review (Nov. 2013) at 210.
176 Id. See also Baker McKenzie, Doing Business in Russia (2017) at 352, 354-355.
177 Natalya Morozova and Rob Patterson, Russia, The Oil and Gas Law Review (Nov. 2013) at 211.
2. **Mineral Extraction Licensing Requirements**

Russia operates a burdensome and opaque licensing system,\(^1\) which allows its government to control access to the country’s mineral resources, among other economic sectors. In fact, under Russia’s Subsoil Law,\(^2\) mineral resources in Russian territory are defined as state property.\(^3\) Subsoil use rights may only be sold or transferred when expressly permitted by Russian law, and such transfers are strictly limited under the law.\(^4\) The government is charged with designing and implementing policies governing subsoil rights, creating a federal subsoil reserve, and imposing restrictions for “national security and environmental protection.”\(^5\) Local governments may administer the use of the subsoil for purposes unrelated to mineral production and for the production of “common types of minerals.”\(^6\)

Russia generally awards licenses to mining companies following auctions, based on certain criteria,\(^7\) including, among other things, contribution to social and economic development and national security interests.\(^8\) The government reserves the right to invalidate bids for a number of reasons.\(^9\) Licenses may be terminated by expiry, relinquishment, material violation of terms, repeated violations, emergency situations, immediate danger to the health of people working or living nearby, failure to commence operations in the term provided by the license, liquidation of the enterprise

---

\(^1\) See 2019 USTR NTE Report at 414.
\(^4\) Natalya Morozova and Rob Patterson, *Russia*, The Oil and Gas Law Review (Nov. 2013) at 206 (“The Subsoil Law imposes very harsh limitations on any transfers of the rights to use subsoil”).
\(^5\) 2395-1-LRF, Feb. 21, 1992, (Garant 10004313) [On Subsoil] at section 1, art. 3.
\(^6\) Id., section 1, art. 5.
\(^7\) Alexei Druzhinin/TASS, *The Kremlin found an investor for the last major oil field* (Jun. 6, 2016); Legislative Overview at a Glance: Russian Mining Regulations at 3 (“Production and combined licenses are awarded by tender or auction conducted by the Federal Agency for Subsoil Use (‘Rosnedra’)”; Alan Kartashkin, Recent Developments in Russian Mining Regulation: Opportunities and Challenges (Dec. 2, 2013) at 6.
\(^8\) 2395-1-LRF, Feb. 21, 1992, (Garant 10004313) [On Subsoil], section 1, art. 13.1.
\(^9\) Id., section 1, art. 14.
holding the license, and/or failure to file required reports. According to reports, Russia’s licensing system suffers from corruption, as well as a lack of stability and transparency.

V. SUBSIDIES

Many foreign governments provide their domestic industries with various forms of subsidies, including prohibited export subsidies, giving those industries an unfair advantage in international competition and creating a significant trade barrier for U.S. companies operating globally. Indeed, many subsidies have the consequence of protecting domestic products from foreign competition or artificially stimulating exports of a particular domestic product, thereby displacing U.S. exports in global markets. In addition, heavily subsidized producers introduce market-distorting behavior and other trade and investment imbalances to the global economy. For example, subsidized producers can more easily retain and grow market share in their home markets, making it more difficult for U.S. exporters to compete in those markets. Subsidies also allow producers to sell at below-market prices, allowing these producers to gain market share in the United States and third-country markets at the expense of U.S. producers. The government subsidies identified below advantage foreign producers to the detriment of U.S. steelmakers.

A. China

The Chinese government at all levels (central, provincial, and local) provides massive government subsidies to Chinese manufacturers, including steel producers. Subsidies have historically accounted for as much as four-fifths of the profits reported by the Chinese steel industry. These subsidies include billions of dollars through preferential loans and directed credit, equity infusions, debt-to-equity swaps, land-use discounts, government-mandated mergers, tax exemptions and rebates, and direct cash grants. A number of these subsidies are explicitly prohibited by the WTO.

---

187 See id., section 1, art. 21; See also Maria Pettersson, Anniina Oksanen, Tatiana Mingaleva, Victor Petrov, and Vladimir Masloboev, License to Mine: A Comparison of the Scope of the Environmental Assessment in Sweden, Finland and Russia, Natural Resources (Apr. 13, 2015) at 249; Legislative Overview at a Glance: Russian Mining Regulations at 4.


189 Fayen Wong, Steel industry on subsidy life-support as China economy slows, Reuters (Sept. 18, 2014) (“For the first half of 2013, subsidies accounted for 22 percent of total profits posted by China’s listed steel mills, and reached 47 percent in the full year. In the first six months of 2014, the figure jumped to 80 percent”).

190 See, e.g., Alan H. Price, Timothy C. Brightbill, Christopher B. Weld, and D. Scott Nance, Money for Metal: A Detailed Examination of Chinese Government Subsidies to its Steel Industry (July 2007); Fayen Wong, Steel industry on subsidy life-support as China economy slows, Reuters (Sept. 18, 2014) (“A total of 2,235 firms,
result of such subsidies, China’s steel industry has increased production far beyond domestic demand and now accounts for nearly half of world production. Subsidies that the Department of Commerce has recently deemed to be countervailable include the provision of inputs for less than adequate remuneration, preferential lending through state-owned commercial and policy banks, and preferential tax treatment for export-oriented and foreign-invested enterprises.

In 2015, China also introduced a new strategic plan to enhance China’s manufacturing strength. The plan, called “Made in China 2025,” aims to “transform China from a manufacturing giant into a world manufacturing power.” Some analysts described the plan as an updated version of the Medium- and Long-Term Plan on the Development of Science and Technology, which provided massive state support for “strategic and emerging industries” during the previous Hu Jintao administration. While Made in China 2025 singles out ten specific industries for state support, it is intended to upgrade the entire manufacturing sector, including the steel industry.

Moreover, several of the enumerated industries (machine tools, aerospace, maritime transport, rail transport, new-energy vehicles, power equipment, and agricultural equipment) are large consumers of steel products. Moreover, the latest Steel Industry Adjustment and Upgrading Plan is drafted explicitly to implement the Made in China 2025 plan’s objectives. AISI remains concerned that state subsidization of upgraded manufacturing facilities could bestow further unfair competitive advantages on Chinese steel producers vis-à-vis global competitors.

1. Subsidized Financing & Debt Restructuring

The most important channel for Chinese subsidization is the state-controlled financial system. It is the lynchpin of the Chinese government’s efforts to sustain, expand, and

or 88 percent of Chinese listed companies, received government subsidies totaling 32.2 billion yuan ($5.24 billion) in the first half of 2014. Most of the subsidies - largely from local governments - were channeled to the steel, cement and property sector in the form of cash, tax rebates or support for loan repayments”.

See China Working Party Report at ¶¶ 166-68, 171, 174; China Protocol of Accession at ¶ 10.3; SCM Agreement.

See, e.g., World Steel Association, World Steel in Figures 2017 (May 29, 2017) at 9, 16.


Made in China 2025 Plan Unveiled to Boost Manufacturing, Xinhua (May 19, 2015).

Scott Kennedy, Made in China 2025, Center for Strategic and Int’l Studies (June 1, 2015).

Id.

Id.
upgrade industrial enterprises and is the primary driver of industrial overcapacity in an array of sectors, including steel. The government uses state banks, the bond markets, and other channels in lieu of official budgetary measures to disguise an unprecedented level of government financial support for Chinese industry. For example, 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. 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.”

Additionally, the build-up in Chinese corporate debt “extend[s] beyond just traditional bank loans,” as authorities have supported enterprises in the issuance of stocks and bonds and have intervened on a massive scale to support the value of financial assets. China’s corporate bond market has gone from “[e]ssentially nonexistent fifteen years ago” to the world’s third largest. Recent scholarship characterizes China’s bond market as one of “state-centricity,” formed by a “complex web of relationships . . . that overwhelmingly revolve around the state.”

The Chinese government, in other words, uses the country’s financial system as a proxy for state spending to support industrial policy goals. As a result, China has seen an unprecedented explosion in debt nation-wide, much of it concentrated in the corporate sector, especially in labor-intensive industries plagued by overcapacity and uncompetitive enterprises that would go bankrupt in any reasonably competitive commercial environment. In fact, the IMF recently found that China’s financial system is creating a threat to global financial stability, writing that the “system’s increasing complexity has sown financial stability risks. Credit growth has outpaced GDP growth, leading to a large credit overhang. Earlier this year, China’s debt continues to soar, now at 303 percent of GDP in the first quarter of 2019, up from 297 percent in the same period in 2018, as the Chinese government increases its support as its economy softens.

The surge in lending to support industrial policy objectives is a primary driver of the Chinese overcapacity problem. According to a 2017 analysis of the Chinese banking sector by the U.S. Department of Commerce, “Credit allocation [in China] has also been driven in large part by continued financing to non-viable companies in industries with

---

199 Gregor Stuart Hunter and Narae Kim, China’s $11 Trillion Bond Market Tested by Rising Defaults, Bloomberg (June 7, 2018).
over-capacity.” Liberally inefficient state-owned enterprises receive a disproportionate share of state-directed financing in China. According to the IMF, Chinese state enterprises account for only 16 percent of value added but receive about half of total bank credit. It is believed that enterprises in the overcapacity sectors of steel, non-ferrous metals, coal, and cement alone owed a total of $1.56 trillion as of 2016. Approximately 40 percent of new debt economy-wide is now used to service existing obligations by firms that lack the independent financial capability to repay their existing loans. This rampant misallocation of capital results from the persistent dominance of government ownership and control, which is “the fundamental distinguishing feature of China’s financial sector.” This “fundamental distinguishing feature” creates “banks that are not solely motivated by profit and commercial considerations and big borrowers that enjoy implicit guarantees and soft budget constraints.”

With the debt burdens of strategically important enterprises becoming unmanageable, in 2016, the Chinese government has initiated multiple bailout programs using state-directed “creditors’ committees,” as well as debt-to-equity swaps and mergers akin to the restructurings of the late 1990s. In April 2016, China’s central financial regulators issued the Opinion Regarding Supporting the Steel and Coal Industries in Resolving Overcapacity and Realizing Development Out of Difficulties, which explained that “banking industry financial institutions should fully recognize the pillar and strategic status of the steel and coal industries” and instructed them to “continue providing credit support” to enterprises in these sectors. The measure also called on banks to support favored steel and coal enterprises in issuing bond products and other direct financing tools, while using other “marketized methods” to increase enterprises’ creditworthiness and direct financing capabilities. Finally, the measure explained that, with regard to existing liabilities, banks should “implement debt restructuring measures such as adjusted loan repayment periods and repayment methods to assist enterprises in weathering the crisis.” In September 2016, the China Banking Regulatory

205 Id. China Financial System Memo at 9.
206 Id. at 5.
207 Id. at 8.
208 Opinion Regarding Supporting the Steel and Coal Industries in Resolving Overcapacity and Realizing Development Out of Difficulties (关于支持钢铁煤炭行业化解产能实现脱困发展的意见), Yin Fa [2016] No. 118 (Apr. 18, 2016).
209 Id.
210 Id.
Commission (CBRC) issued instructions to Chinese banks to form creditors’ committees to restructure corporate debt with the explicit objective of keeping heavily indebted industrial enterprises in business.\textsuperscript{211} CBRC’s notice instructs the creditors’ committees to “support the development of the real economy” and “guarantee the normal operations of enterprises.”\textsuperscript{212} Also in September 2016, the State Council issued the \textit{Opinions of the State Council Regarding Actively Stabilizing and Reducing the Enterprise Leverage Rate}, which was accompanied by the \textit{Guiding Opinion Regarding Marketized Bank Debt-to-Equity Swaps}.	extsuperscript{213} Among other debt-relief measures, the State Council \textit{Opinions} called on banks to implement debt-to-equity swaps with enterprises “in accordance with national policy direction.”

These measures triggered a wave of debt-to-equity bailouts, sometimes in combination with state-directed mergers, to rescue heavily indebted industrial enterprises that would otherwise be forced to sell off assets or go bankrupt entirely. By the end of 2016, there were nearly 13,000 creditors’ committees nationwide examining more than \$2 trillion worth of borrowings.\textsuperscript{214} In Henan province alone, authorities had set up creditors’ committees for more than 1,300 companies accounting for more than half of total provincial debt.\textsuperscript{215} In Shandong province, a creditors’ committee directed by provincial authorities extended a mining company’s loans by eight years at an interest rate below the central bank’s benchmark interest rate.\textsuperscript{216}

As the policy documents noted above suggest, these are not market transactions among purely commercial enterprises. One banker involved in the bailout process recently explained that “there would be no deal if this were left to market forces to decide.” A typical transaction in the steel industry was the late-2016 merger of two state-owned enterprises, Wuhan Iron & Steel Company (WISCO) and Baoshan Iron & Steel Company (Baoshan), to form the world’s second largest steelmaker by capacity.\textsuperscript{217} After Baoshan Iron & Steel announced its intention to acquire WISCO’s shares, state-owned China Construction Bank formed a subsidiary fund to absorb RMB 24 billion of

\textsuperscript{211} Han Yi et al., \textit{Debt Defaults Prompt Call for Creditor Committees}, Caixin (Sept. 12, 2016).
\textsuperscript{212} \textit{CBRC Promulgates the Notice Regarding Carrying Out Banking Industry Financial Institution Creditors’ Committees Work} (中国银监会印发《关于做好银行业金融机构债权人委员会有关工作的通知》), CBRC Website (Sept. 9, 2016).
\textsuperscript{213} \textit{Opinions of the State Council Regarding Actively Stabilizing and Reducing the Enterprise Leverage Rate} (国务院关于积极稳妥降低企业杠杆率的意见), Guo Fa [2016] No. 54 (Sept. 22, 2016).
\textsuperscript{215} \textit{Id}.
\textsuperscript{216} \textit{Id}.
\textsuperscript{217} Christian Shepherd, \textit{China Deal to Create World’s Second-Largest Steelmaker}, Financial Times (Sept. 21, 2016) (describing the deal as the “poster child” of the Chinese government’s industry restructuring plans).
WISCO’s debts in a debt-to-equity swap. The deal was then completed in December 2016 after the debt-to-equity swaps cleaned up WISCO’s balance sheet.

AISI is concerned about the Chinese government’s continued direction of Chinese financial institutions to support industrial enterprises in overcapacity sectors, especially steel. These interventions frequently take the form of opaque “marketized methods,” characterized by broad policy guidance and behind-the-scenes interference in the operations of allegedly commercial firms, to create the appearance of compliance with subsidy rules. Even though these transactions do not show up directly on the government’s balance sheet, they support uncompetitive production capacity and bestow unfair competitive advantages on an enormous scale at the behest of the state. USTR should urge China to reveal the nature and extent of state intervention in Chinese financial markets and should impress upon Chinese authorities that such conduct is a clear violation of WTO subsidy rules.

2. 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.” As part of this campaign, China has provided an enormous amount of export financing support to its companies. For example, China has provided one company, telecommunications equipment manufacturer Huawei, with a $30 billion line of credit for export financing.

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. 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. 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.”

---

219 Wu Yiyao and Yang Ziman, Big Merger forms No. 2 Steel Giant, China Daily (Dec. 2, 2016).
221 Id. at 7-8.
222 Id. at 8.
224 Id.
225 Id.
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{226} 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.\textsuperscript{227} 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.”\textsuperscript{228} 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.”\textsuperscript{229}

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.\textsuperscript{230} 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.\textsuperscript{231}

But it does not appear that this has happened. Prior to his tenure as the President of the World Bank Group, David Malpass, then-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.”\textsuperscript{232} AISI encourages the Trump administration to 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.

3. 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. Traditionally, China has intervened in

\begin{itemize}
  \item \textsuperscript{226} See “The EU may initiate a WTO dispute settlement over Chinese export credits,” \textit{Trade Perspectives} (May 6, 2011).
  \item \textsuperscript{227} Id.
  \item \textsuperscript{228} Export Assistance and the China Challenge at 5.
  \item \textsuperscript{229} Id.
  \item \textsuperscript{230} CRS China-U.S. Trade Issues at 49.
  \item \textsuperscript{232} Tom Miles, “U.S. says China is still failing to notify WTO of state-backed firms,” \textit{Reuters} (Dec 13, 2017).
\end{itemize}
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.\textsuperscript{233} The effects of China’s currency manipulation have been profound. In 2017, C. Fred Bergsten and 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.\textsuperscript{234} Other economists have made similar conclusions about the devastating economic effects of China’s currency manipulation.

More recently, China has allowed the value of the yuan to once again drop significantly against the dollar. As a result, the Trump administration officially designated China as a currency manipulator on August 5, 2019,\textsuperscript{235} just one day after China’s central bank, the People’s Bank of China (PBOC), allowed the yuan to fall to a new low yuan-to-dollar ratio of 7-to-1. The Treasury Department noted in its press release that the PBOC openly acknowledges “that it has extensive experience manipulating its currency and remains prepared to do so on an ongoing basis.”\textsuperscript{236} As a result of Treasury’s decision in August, the U.S. government will begin engagement with the International Monetary Fund (IMF) on efforts to “eliminate the unfair competitive advantage by China’s latest actions.”\textsuperscript{237}

In addition, earlier this year, the Trump administration announced a rulemaking process for amending the application of countervailing duty practices to include countries that undervalue their currencies as a subsidy since “U.S. law defines a countervailable subsidy as a financial contribution from a government or public entity

\textsuperscript{233} 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.aflcio.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.

\textsuperscript{234} C. Fred Bergsten and Joe Gagnon, Currency Conflict and Trade Policy, Peterson Institute (June 2017).


\textsuperscript{236} Id.

that is specific and that provides a benefit to a foreign producer or exporter.” 238 AISI has for many years advocated for treating currency manipulation as a countervailable subsidy and applauds the administration for initiating this important action, which could, particularly on imports of Chinese steel products, allow for U.S. steelmakers to petition for relief.

**B. Japan**

Like China, Japan has a history of manipulating its currency, the Yen, 239 in a manner that encourages exports and discourages imports. 240 As demonstrated by the American Automotive Policy Council and others, Japanese companies have used this manipulation to gain a competitive advantage. 241 This policy aids Japanese automakers and encourages increased exports of Japanese steel. 242

**C. India**

The Indian government also heavily subsidizes its domestic industries, including its steel industry. 243 The Indian steel industry was developed in a highly protected and controlled environment characterized by high tariffs on steel imports, substantial subsidies, government control over prices, and state allocation of resources, 244 and the government continues to play a large role in the industry. The Ministry of Steel, a branch of the Indian government, “deals with coordination and planning of the growth

---


239 See, e.g., Mari Yamaguchi, Trump comments on Japan, China currencies rattle markets, U.S. News (Feb. 1, 2017) (“The yen’s value fell steadily after Japan’s central bank implemented massive monetary easing four years ago, hoping to counter deflation and get people and businesses to spend more money. Injecting massive amounts of cash into the economy through the same sorts of asset purchases used by the Federal Reserve for ‘quantitative easing’ caused the yen’s value to fall from about 80 yen to the dollar to a low of about 125 yen to the dollar in mid-2015.”); Chikako Mogi and Hiroko Komiya, Japan’s Three Biggest Banks Declare Yen’s Depreciation Is Over, Bloomberg (Mar. 1, 2016) (“the yen is the second-most undervalued major currency by a purchasing-power measure”); Bryan Rich, Why Japan Should Crush The Yen, Forbes (June 30, 2016).

240 See Silvia Amaro, Trump does have a point on the Japanese yen Being undervalued: Strategist (Feb. 8, 2017).

241 American Automotive Policy Council, U.S. Trade Agreements & Currency Manipulation, at 7 (“Japan has used direct intervention in currency markets – and the threat of intervention – to gain a competitive export advantage”).


244 See Import Administration, U.S. Dep’t of Commerce, Report to the President, Global Steel Trade, Structural Problems and Future Solutions (2000).
and development of Iron and Steel Industry in the country.” 245 Reflecting the ambitious goals of its National Steel Policies, India’s support for its steel industry is direct and massive. AISI applauds the Trump administration for initiating discussions at the WTO in March 2018 on India’s export subsidy schemes.

In 2018, India surpassed Japan as the second largest steel producer in the world246 and imports nearly as much steel as it exports.247 However, the Indian government provides benefits to Indian steel producers through a number of subsidy programs, including export incentives, debt forgiveness, preferential loans, captive mining rights and controls over raw material prices, all of which adversely impact the ability of U.S. steelmakers to export to India. Among the more significant of these export subsidies are:

- **The Advance Authorization Program (AAP).** The AAP provides exemptions from import duties for various input products used in the production of goods for export from India.248 The AAP provides benefits well beyond a normal duty drawback system as it lacks a reliable system to determine the type of inputs (and amount) that are consumed in the production of the exported product.249 While the Indian government recently imposed an 18 percent integrated goods and services tax (GST) on the domestic consumption of raw materials, the GST Council is considering eliminating the tax “to soften the blow to exporters.”250

- **Duty Drawback Rebate Program (DDB).** In 2018, the Indian government increased the duty drawback on 102 products, including several traditional exports.251 The DDB offsets customs duties on inputs used for exported products

245 See india.gov.in Ministry of Steel.
246 World Steel Association, World Steel in Figures 2019 at 9
247 Id. at 27.
248 See OCTG from India I&D Memo at 18-19; Issues and Decisions Memorandum accompanying Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel 82 Fed. Reg. 44,558 (Dep’t Commerce Sep. 25, 2017) (preliminary affirmative countervailing duty deter.) See also Report of the Comptroller and Auditor General of India for the year ended March 2015, Union Government (Department of Revenue – Customs) (2016) at 79 (“The Government may exempt wholly or part of customs duties for import of inputs and capital goods under an export promotion scheme through a notification. Importers of such exempted goods undertake to fulfill prescribed export obligations (EO) as well as comply with specified conditions, failing which the full rate of duty becomes leviable”).
249 See, e.g., OCTG from India I&D Memo at 18-19; Issues and Decision Memorandum accompanying Welded Stainless Pressure Pipe from India, 81 Fed. Reg. 66,925 (Dep’t Commerce Sept. 29, 2016) (final affirmative deter. countervailing duty investigation) at 14-17.
250 See Banikinkar Pattanayak, Foreign trade policy: Exporters may be allowed use scrip to pay GST, Financial Express (Oct. 2, 2017).
251 Kirtika Suneja, Duty drawback rates increased for 102 products in bid to boost exports, The Economic Times (Jan 25, 2018).
and is offered at fixed rates independent of tax levied on inputs. The Indian government uses the program as a tool to boost exports.252

- **Duty Free Import Authorization Scheme (DFIA Scheme).** In effect since May 1, 2006, the DFIA Scheme likewise exempts companies from paying import duties for inputs used in steel production, such as inputs, fuel, and energy sources.253 Like the AAP, the DFIA Scheme lacks a reliable system to determine the type of inputs (and amount) that are consumed in the production of the exported product.254

- **Export Oriented Unit Scheme (EOU Scheme).** The Indian government provides a number of separate subsidies that are contingent upon export under the umbrella of the EOU Scheme. These include (i) the duty-free importation of capital goods and raw materials; (ii) reimbursement of Central Sales Tax paid on goods manufactured in India; (iii) duty drawback on imported fuel procured through Indian oil companies; and (iv) exceptions from the payment of Central Excise Duty on goods manufactured in India.255

- **Export Promotion of Capital Goods Scheme (EPCGS).** The EPCGS provides reductions or exemptions of customs duties and excise taxes for imports of capital goods to companies that agree to meet certain export targets.256 In April 2015, the export obligation under the EPCGS was reduced for capital goods procured from indigenous manufacturers.257 Steel firms in India have benefited from the EPCGS and have recently sought an extension in the export obligations under the program.258

- **Merchandise Exports from India Scheme (MEIS).** The MEIS was introduced in India’s 2015-2020 Trade Policy (FTP) as a “reward to exporters to

---

252 Id. (“ ‘The revised rates of duty drawback will help address the concerns of these export sectors and make India’s exports more competitive in global economy,’ the finance ministry said in a statement.”)


255 Government of India, Ministry of Commerce and Industry, Foreign Trade Policy 27th August 2009 – 31st March 2014 (June 5, 2012) at 81. See also Pravakar Sahoo, The failure of India’s EOUs, East Asia Forum (June 18, 2016).

256 Export Promotion Capital Goods, National Informatics Center, Government of India.


258 Suresh P. Iyengar, Steel companies set to miss export obligations under EPCG scheme, seek relaxation in norms, The Hindu Business Line (July 24, 2016).
offset infrastructural inefficiencies and associated costs involved and to provide exporters a level playing field.” Under the MEIS, duty credits are granted for use to pay duties on imports of inputs or goods, excise duties on domestic procurement of inputs or goods, or service taxes on the procurement of services. Export items with a higher level of domestic content can receive a higher reward, and entities that have “excelled in international trade and have successfully contributed to country’s foreign trade” can receive special treatment and privileges to facilitate their trade.

In April 2015, India’s Commerce Ministry announced the country’s latest FTP (2015-2020), which continues to include subsidies for Indian manufacturers, including those specifically targeted at boosting exports and will go through March 31, 2020. The FTP seeks to increase India’s exports to $900 billion by 2019-2020, and to increase India’s share of world exports from 2 percent to 3.5 percent. However, in fiscal year 2018-19, India’s total merchandise exports hit a record high of $330 billion.

Indian steel producers also receive significant subsidies at the subnational level. Individual Indian states, including Maharashtra, Gujarat, Haryana, Karnataka, Jharkhand, Orissa, Andhra Pradesh, and Chhattisgarh, have ambitious plans to leverage government support into an enormously expanded steel industry. These include state-level “industrial policies” that provide packages of incentives, including tax reductions and rebates, grants, preferential loans and goods and services for less than adequate remuneration. Many of these policies explicitly call for Indian state governments to provide customized subsidies to certain sectors or large companies (including in the steel industry) at the discretion of state officials. With the

---

259 Government of India, Ministry of Commerce and Industry, Department of Commerce, Foreign Trade Policy [1st April, 2014-31st March, 2020] at §§ 3.00 & 3.03. Previously, there were five schemes that provided exporters with duty scrips; these programs have been merged into the MEIS as a single scheme.


263 See, e.g., OCTG from India I&D Memo at 21 (“Programs by State Government of Maharashtra”).


implementation of the GST, local governments are quickly revising their incentive plans to ensure that “beneficiaries from various sectors, including automobile, steel, [and] cement” continue to receive “interest and power tariff subsidies apart from the exemption in stamp duty, octroi duty and electricity duty.”

D. Turkey

In recent years, the steel industry in Turkey has grown exponentially with the aid of government subsidies, jumping from the 17th largest crude steel-producing country in the world in 2000 to the 8th largest steel producer in 2018. Turkey exported 19.9 million MT of steel products in 2018 more than half of its total crude steel production. This massive increase in Turkish steel production and exports is largely a result of significant government subsidies.

Government-sponsored growth in Turkish steel production has led to an explosion in U.S. steel imports from Turkey, injuring U.S. steelmakers. Over the last five years, Commerce has put in place seven countervailing duty orders following investigations on steel products from Turkey. Some of the major Turkish government subsidies that contributed to its steel industry’s growth are described below.

- Development and Investment Bank of Turkey Loans: The recently-renamed Development and Investment Bank of Turkey (DIBT), a direct extension of the Government of Turkey, provides strategic and preferential loans based on state policies and national interests, which are used by Turkish steel producers to expand production and capacity. For example, the CEO of Kardemir, a Turkish long and flat-rolled steel products producer, has stated in the past that the TDB “supported Kardemir in its effort to overcome desperate straits” and “still today continues to provide the financing for the Company’s planned investments and hence contribute to its healthy growth.”

---

270 World Steel Association, World Steel in Figures 2019 at 9.
271 Id. at 27.
272 See Certain Oil Country Tubular Goods from Turkey (79 FR 53,688 on Sep. 10, 2014); Steel Concrete Reinforcing Bar from Republic of Turkey (79 FR 68,926 on Nov. 6, 2014); Welded Line Pipe from Turkey (80 FR 75,054 on Dec. 1, 2015); Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes from the Republic of Turkey (81 FR 62,874 on Sep. 13, 2016); Steel Concrete Reinforcing Bar from Turkey (82 FR 32,531 on Jul. 14, 2017); Carbon and Alloy Steel Wire Rod from Turkey (83 FR 23,420 on Jul. 14, 2018); and Large Diameter Welded Pipe from Turkey (84 FR 18,771 on May 2, 2019).
274 TDB 2010 Annual Report at 40.
was renamed in 2018 and its funding support to the Turkish economy nearly doubled in 2018 to TL 13.6 billion, up from a loan volume of TL 7.0 billion in 2017 and TL 5.4 billion in 2016.  

- **Turk Eximbank Subsidies:** The Export Credit Bank of Turkey (“Turk Eximbank”) is a “fully state-owned bank acting as the Turkish government’s major export incentive instrument in Turkey’s sustainable export strategy.” In late 2018, the CEO of the Turk Eximbank pledged to finance 27 percent of Turkey’s total exports in 2019, up from 25 percent in 2017 and 26 percent in 2018.  

  Turk Eximbank also offers short-, medium-, and long-term export insurance for Turkish companies, which is aimed at further subsidizing costs for domestic producers by reducing the financial uncertainty involved with doing business in foreign countries.  

  Turk Eximbank’s Foreign Trade Company loan program was implemented to assist large trading companies with their export financing needs and the program benefits Foreign Trade Corporate Companies (“FTCC”) and Sectoral Foreign Trade Companies. The U.S. Department of Commerce has also found this program to constitute a countervailable subsidy. Similar credits are available for smaller companies.  

- **Regional Development Subsidies:** Turkey’s government has established special zoning programs, including Organized Industrial Zones (“OIZ”), Free Zones, and Technology Development Zones. These programs have been

---

275 The Development and Investment Bank of Turkey, Annual Report 2018 at 32.  
279 An FTCC is a company whose export performance was at least $75 million in the previous year.  
282 Carbon Steel Pipe from Turkey I&D Memo at 6-7; Wire Rod from Turkey I&D Memo at 7-8.  
283 Laws No. 4737 and 3218 establish benefits for companies operating within specific areas. Investors in OIZs benefit from: an exemption from VAT for land acquisitions; an exemption from real estate duty; low water, natural gas and telecommunication costs; an exemption from the tax for unification and/or
used to subsidize and improve the performance of export companies in Turkey.

- **Tax Incentives for R&D Activities:** The Turkish government provides a wide range of R&D subsidies to support new technological developments. Pursuant to Law No. 5746, Turkish steel producers are eligible to receive corporate tax breaks for R&D expenses; income tax exemptions for R&D researchers; 50 percent of R&D employee insurance premiums; and tax-free revenue accounts for R&D expenses.284

- **The Purchase of Electricity for More Than Adequate Remuneration (MTAR):** Turkish steel producers with power generation facilities receive subsidies from the Turkish government in the form of purchases of electricity for more than adequate remuneration. Turkey’s steel industry relies largely on electric arc furnaces,285 which consume vast amounts of power. Some major Turkish steel producers operate their own cross-owned cogeneration power plants. While these producers consume much of the power they generate, they also sell excess power to the government,286 which dominates the Turkish power sector,287 for above-market prices.288 Thus, the power producers, and by extension their cross-owned steel producers, receive a significant government subsidy through these purchases of electricity at above-market prices. In a December 2018 decision memo in the preliminary phase of the countervailing duty administrative review on imports of steel concrete reinforcing bar from the Republic of Turkey (2016), the U.S. Department of Commerce found that one respondent was receiving a countervailable subsidy in the form of purchase of electricity generated from renewable resources for MTAR. The government of Turkey was found to guarantee a certain minimum price for electricity sold from renewable

---

284 PwC, Global Research & Development Incentives Group (Apr. 2017) at 40; PwC, Turkey: Corporate - Tax credits and incentives (June 19, 2014).
285 World Steel in Figures 2017 at 10.
sources to the marketplace by Icdas, which is a respondent company that generates renewable energy and sells the excess electricity generated.289

- **The Provision of Natural Gas for Less than Adequate Remuneration:** Turkish steel producers also generate power with natural gas, which is subsidized by the Turkish government in the form of discounted natural gas prices. As the WTO Secretariat has explained, natural gas prices in Turkey are not determined by the market, but rather by Turkey’s Energy Market Regulatory Authority.290 In addition, the Turkish government has full ownership of petroleum pipeline corporation BOTAS and petroleum corporation TPAO.291 Significantly, BOTAS controls more than 80 percent of Turkey’s entire gas import market.292 In a recent subsidy investigation of Turkish rebar, the U.S. Department of Commerce found that the Turkish government has “overwhelming involvement in the Turkish natural gas market,” and that Turkey’s provision of natural gas for less than adequate remuneration constitutes a countervailable subsidy.293

- **Inward Processing/Duty Drawback:** The Turkish government provides import duty rebates or duty drawback assistance to Turkish manufacturers under the country’s Inward Processing Regime.294 The Inward Processing Regime encourages Turkish steel producers to export their products rather than selling them domestically. In recent years, unfairly traded U.S. steel imports from Turkey have been one of the major causes of harm to the U.S. steel industry.

E. **Brazil**

The Brazilian government also grants significant subsidies to its domestic industries, including its steel industry, which boost Brazilian exports, give Brazilian producers an unfair advantage in global trade competition and make it more difficult for U.S. producers to compete in Brazil and in third-country markets.

---

293 See Issues and Decision Memorandum accompanying Steel Concrete Reinforcing Bar From the Republic of Turkey, 82 Fed. Reg. 23,188 (Dep’t Commerce May 22, 2017) (final affir. countervailing duty deter.) at 9, 12.
294 See, e.g., Inward Processing Regime, Website of the Ministry of Customs and Trade, Republic of Turkey.
For example, the Brazilian National Development Bank (BNDES) provides long-term financing at subsidized interest rates to Brazilian industries and much of this support has been directed at critical industries, such as the steel sector. BNDES provided preferential financing of approximately $12.1 billion in the first nine months of 2018 to various sectors throughout the Brazil and USTR has noted that loans from one BNDES program, Special Agency for Industrial Finance (FINAME), are “used primarily for capacity expansion and equipment purchases” in several key industries.

BNDES FINAME loans also provide capital financing to companies in Brazil for the acquisition of Brazilian machinery or equipment. Funds are available for non-Brazilian equipment only when domestic machinery is unavailable. Brazilian automotive manufacturers must use at least 65 percent local content in order to be eligible for FINAME loans. This level of support is expected to increase in the future, as the government aims “to reach close to 100 [percent] of local content in the automotive industry.” Further, as noted above, Brazilian wind turbine suppliers who received such “low-cost” loans were required by the bank to build their towers using at least 70 percent Brazilian produced steel. A number of wind turbine producers have recently had their financing revoked by BNDES for not complying with local content rules.

The Brazilian government also subsidizes its exporting industries through the Special Regime for the Acquisition of Capital Goods by Exporting Enterprises (RECAP), which suspends taxes on new machines, instruments and equipment imported by companies that commit for at least two years to export goods and services accounting for 50 percent of their overall gross income for the previous year. In December 2013, the EU requested dispute settlement consultations with Brazil, in part over its use of the

---

296 USTR 2019 NTE Report at 60.
297 Id. at 61.
298 The Department of Commerce has found BNDES-FINAME loans to constitute a countervailable subsidy in recent cases. See, e.g., Issues and Decision Memorandum accompanying Certain Hot-Rolled Steel Flat Products from Brazil, 81 Fed. Reg. 53,416 (Dep’t Commerce Aug. 12, 2016) (final affirmative deter., and final deter. of critical circumstances, in part) at 6; Issues and Decision Memorandum accompanying Certain Cold-Rolled Steel Flat Products from Brazil, 81 Fed. Reg. 49,940 (Dep’t Commerce July 29, 2016) (final affirmative deter. of the countervailing duty investigation) at 5.
299 Rothmann, Sperling, Padovan, Local Content Requirements in Brazil: Overview of Current Policy and Regulations (Feb. 26, 2013); Gabriela Castro, Local content requirements in Argentina and Brazil - and what they mean to your business, Strong & Herd LLP (Nov. 14, 2013).
301 USTR 2018 NTE Report at 60.
302 Alexandre Spatuzza, GE’s Alstom unit to regain Brazil local-content status, says BNDES, Recharge (Jan. 18, 2016).
RECAP program, which the EU alleges to be “inconsistent with Article 3.1(a) of the SCM Agreement because it is a subsidy programme contingent in law upon export performance.”\textsuperscript{304} The United States and Japan have since requested to join the consultations.

A panel was composed in September 2015 and on August 30, 2017 a panel report was circulated to WTO members rejecting Brazil’s argument that the tax benefits were simply preventing accumulation of tax credits by exporting countries. Instead, the Panel concluded that the programs do constitute subsidies contingent upon export performance, which are inconsistent with Article 3.1(a) of the SCM Agreement.\textsuperscript{305} In September 2017, the Brazilian government notified the dispute settlement board (DSB) of its intention to appeal certain issues of the panel report to the Appellate Body, which ultimately did not overturn the panel report and thus rejecting Brazil’s appeal. Brazil has until December 31, 2019 to comply with the recommendation s and ruling by the DSB.\textsuperscript{306}

\textbf{F. Korea}

For several years, the Korean government has provided subsidies for favored local industries,\textsuperscript{307} including its steel industry. Over the past five years, the United States government issued five countervailing duty orders on Korean steel exports, including (1) corrosion-resistant steel; (2) cold-rolled steel; (3) hot-rolled steel; (4) carbon and alloy cut-to-length steel plate; and (5) large diameter welded pipe in response to several of these subsidies.\textsuperscript{308} These subsidies include: preferential loans from government banks, export loans, equity infusions, tax exemptions, and grants.\textsuperscript{309}

These subsidies have had significant effects, ranging from contributing to the global steel excess capacity crisis to distorting downstream industries. For example, Korea produces almost no oil or gas,\textsuperscript{310} yet through government subsidies has developed and sustained a pipe and tube production industry as an offtake for its excess hot-rolled capacity. Given the lack of domestic demand for these downstream products, they are

\begin{itemize}
\item \textsuperscript{304} Id.
\item \textsuperscript{305} Id.; Brazil appealed the Panel’s report on September 28, 2017. www.wto.org/english/tratop_e/dispu_e/cases_e/ds497_e.htm On.
\item \textsuperscript{307} USTR 2019 NTE Report at 320.
\end{itemize}
almost entirely exported and frequently end up in the U.S. market. Korea continues to be the largest exporter of oil country tubular goods (OCTG) to the U.S. market. The Korean pipe industry is further distorted by price fixing – six Korean pipe producers were recently found by the Korean government to have colluded to fix prices from 2003 to at least 2013.

Continued high levels of steel exports from China to Korea further encourage Korean government subsidies to its steel producers to assist them in their exports of steel to other markets, including the U.S. market. According to the U.S. Department of Commerce’s Global Steel Trade Monitor, China exported an average 11.8 million metric tons to Korea annually. In 2018, Korea imported 14.9 million metric tons of steel, while at the same time exporting 30.1 million metric tons of steel, thus causing Korea to be one of the largest net exporters of steel at 15.1 million metric tons last year. To contrast to the United States, which is the largest net importer of steel in the world, Korea’s government continues to subsidize its export-oriented steel industry.

Another source of subsidization by the Korean government is the state-owned Korea Electric Power Corporation (KEPCO), which was created to “satisfy the nation's electric power supply and demand.” According to the WTO’s 2016 Trade Policy Review of Korea, “there is a direct subsidy in place in the form of the sale of electricity at prices below costs,” and, because “the electricity price varies widely between sectors,” there are significant cross-subsidies between consumers. The Korean government, through KEPCO, also purchases electricity from steel producers for more than adequate remuneration, only to sell it back to them at subsidized prices. The WTO’s trade policy review of Korea notes that, in addition to provision of below-cost inputs to industrial consumers like the steel industry, “tax incentives are used extensively as an instrument of industrial policy to encourage investment,” “state-owned financial institutions have a major role in assisting Korea’s industrial development,” and that “grants, tax concessions or concessional loans continue to be used to assist a range of” activities and industries. Sector-specific support measures

---

311 U.S. Census Bureau.
314 World Steel Association, World Steel in Figures 2019 at 27.
317 Id. at 89.
318 Id. at 90.
319 Id. at 92.
identified by the WTO “benefited shipbuilding, automotive, pharmaceutical, and steel-industry activities.”

With respect to the steel industry,

The government has been providing funds to raise the competitiveness of the steel sector in producing high-end products: 30 steel products are selected over a period of 10 years (3 products per year). Financial support of W100 billion is to be provided until 2019, with the aim of manufacturing the world’s best eco-friendly smart steel plates under the World Premier Materials project. To establish a “green steel industry,” the Government is to provide W150 billion, representing 60% of the firm’s total R&D costs (possibly from 2012) for eight years, to develop CO2-free technologies for the iron and steel sector.

In September 2016, the Korean government issued a detailed industrial policy plan to support the domestic steel industry. The plan’s objectives include:

- “Early development and commercialization of high value-added steel products and lightweight materials;”
- “Chang[ing] to next generation environmentally friendly facilities [and] process innovation using IT;” and
- “Secur[ing] additional price competitiveness through securing materials [and] cost savings.”

To achieve these objectives, the plan calls on the government to provide capital to steel producers for R&D, acquisitions, and investment in new facilities for producing high value-added products, including through the Korea Development Bank and the Ministry of Trade, Industry, and Energy.

The Korean government also heavily subsidizes the domestic shipbuilding industry, one of the key demand drivers for steel. In October 2016, the Korean government issued a detailed industry policy plan for the domestic shipbuilding industry, similar to its plan for the domestic steel industry. The plan provides that the Korean government will place orders for ships, and financial benefits to companies that order ships, to aid its struggling shipbuilding industry. In November 2018, the government of Japan requested consultations with Korea over the subsidization of its shipbuilding industry.

---

320 Id.
321 Id. at 131.
323 Id.
and the European Union has joined in the consultations.\textsuperscript{325} AISI encourages the Trump administration to actively monitor the developments in this critical WTO case.

In addition to these subsidies, the Korean government manages its currency, providing a benefit to domestic manufacturers. According to the May 2019 Treasury Department Report to Congress on Macroeconomic and Foreign Exchange Policies of Major U.S. Trading Partners, the government of Korea publicly reported for the first time its foreign exchange interventions and Treasury is continuing to closely monitor Korea’s currency practices. Treasury assessed that the Korean “won depreciated 4.1 percent against the dollar in 2018, while depreciating slightly on a real effective basis.”\textsuperscript{326}

G. Russia

Russia remains one of the largest exporters of steel mill products to the global steel market, steadily increasing their exports over the past seven years, from 26.6 million metric tons in 2012 to 33.3 million metric tons of steel in 2018, of which 2.3 million metric tons is imported into the U.S. market.\textsuperscript{327} Russia exports nearly half of its crude steel production to the world and is the third largest net-exporter of steel mill products worldwide.\textsuperscript{328}

1. Natural Gas Subsidies

According to the U.S. Energy Information Administration, Russia maintains the largest proven reserves of natural gas in the world in 2018.\textsuperscript{329} As USTR noted in its 2019 NTE Report, Open Joint Stock Company Gazprom (Gazprom), a Russian state-owned company, “has a monopoly on exports of pipeline natural gas produced in Russia and charges higher prices on exports of natural gas than it charges to most domestic customers.”\textsuperscript{330} Before joining the WTO in 2012, Russia implemented a trade-distortive dual pricing system for natural gas, requiring international purchasers to pay a premium for natural gas.\textsuperscript{331} President Putin declared that Russia would refuse to join

\textsuperscript{328} World Steel Association, World Steel in Figures 2018 at 9 and 27.
\textsuperscript{330} USTR 2019 NTE Report at 423.
\textsuperscript{331} Id. at ¶ 120 (expressing concern that State controls on the pricing of energy for domestic consumption has created trade distortions). The effect of these controls was to depress prices for domestic industrial users, which could lead to a very wide differential between the price paid by domestic industrial users and the price paid by export customers, as well as the world market price”); see also David G. Tarr, Export
the WTO if it were required to change this pricing system, and Russia was ultimately permitted to maintain the dual pricing system for natural gas under its WTO accession agreement. This dual pricing system acts as a trade-distortive energy subsidy to Russian industrial producers. In particular, this subsidy provides Russian steel producers with a low-priced source of energy, giving them an unfair competitive advantage in the international market. In fact, Russia has been recognized as one of the world’s top providers of subsidies for natural gas consumption, and the U.S. Department of Commerce has determined that the Russian government provides natural gas to steel producers for less than adequate remuneration.

Moreover, while Russia’s WTO accession agreement generally allows it to maintain a dual pricing system, Russia did commit to alter its pricing system by basing natural gas prices for industrial users on “normal commercial considerations,” i.e., recovery of costs and profit. However, as USTR has said, Russia’s progress in even meeting this modest commitment has been “modest and uneven.” Natural gas in Russia continues to be sold at below cost today. Russia’s largest natural gas producer, Gazprom, has admitted that domestic “prices remained below the economically viable level” to support Russia’s economy, including for its steel producers, which heavily consume natural gas. USTR should continue to monitor Russia’s actions and confirm whether

---

334 See also Anton Orlov, An assessment of optimal gas pricing in Russia: A CGE approach (Apr. 29, 2015) (“Domestic gas prices in Russia are administratively regulated, and they are substantially lower than export netback prices. The administrative price regulation operates as an implicit subsidy on domestic gas consumption”).
336 See Issues and Decisions Memorandum accompanying Cold-Rolled Steel Flat Products from the Russian Federation, 81 Fed. Reg. 49,935 (Dep’t Commerce July 29, 2016) (final affirmative countervailing duty determination and final negative critical circumstances determination) (“Cold-Rolled I&D Memo”) at cmt 1. Note that no countervailing duty order was imposed on Russian cold-rolled steel due to a negative final determination by the U.S. International Trade Commission. See Peg O’Laughlin, USITC Announces Determinations Concerning Cold-Rolled Steel Flat Products from Brazil, India, Korea, Russia, and the United Kingdom (Sep. 2, 2016).
339 See Setting fair gas prices in Russia to boost domestic economy, Gazprom (Apr. 22, 2014) (“Gazprom, the biggest gas supplier to the domestic market, sold gas at regulated prices that remained below the economically viable level, thereby supporting the domestic economy”). See also Murat Basboga, Russia Mulls Market Liberalisation, Natural Gas World (May 27, 2016).
Russia is complying with its commitment to base the price of natural gas for industrial users on “commercial considerations.” 341

In addition to its dual pricing scheme, as of 2019, Russia continues to impose a 30 percent export tax and licensing requirement on natural gas, further benefiting domestic users. 342 AISI remains concerned with these trade-distortive policies, especially given Russia’s refusal to phase out the export tax. 343 To remedy the trade distortions caused by these policies, USTR should work closely with the EU and the Russian government to obtain a reduction in or, preferably, the elimination of the natural gas export tax, liberalization of its licensing requirement, and an end to Russia’s dual pricing system for domestic natural gas users. 344 USTR should also closely monitor any future actions by the Russian government to prohibit some or all natural gas exports.

2. Preferential Loans

The Russian steel industry and related industries have historically received preferential loans from state-owned and -controlled banks such as VTB Bank, Vnesheconombank (“VEB”) and Sberbank, which have provided billions of dollars in loans to Russian steel producers. 345 Many of these state loans have been granted to support the restructuring of foreign debt.

Although Russia committed to ensuring that subsidies provided at the federal and sub-federal level are consistent with its WTO obligations, 346 state-controlled banks have

343 See Russia Working Party Report at ¶ 635 (“[Russia] considered that the request of several Members that [it] establish a timetable to completely phase-out export duties was excessive”).
344 See, e.g. 2016 Report on the Implementation and Enforcement of Russia’s WTO Commitments at 31, 32; Maria Gallucci, Europe Unprepared If Russia Cuts Off Natural Gas Exports To EU This Summer, Analysts Say, International Business Times (July 30, 2014).
345 See 2017 Russia Investment Climate; see, e.g., BRIEF – Russia’s Mechel says Vnesheconombank agrees to restructure $190 mln loan, Reuters (Sept. 28, 2017); VTB has provided “daughter” of the “Eurasia” credit line in the amount of $300 million for a period of seven years, News For Traders (May 12, 2016); Yuliya Fedorinova and Anna Baraulina, Russian Banks Awash in Dollars Make Loans Company Debt of Choice, Bloomberg (Nov. 4, 2015) (“Steelmaker Novolipetsk Steel OJSC said Nov. 3 it borrowed $400 million of pre-export financing from banks”). See also Alexander Kolyandr, Russia Mulls Helping Refinance Debts of Metals, Mining Giants, The Wall Street Journal (Nov. 26, 2013).
346 See Russia Working Party Report at ¶ 686 (stating that “the subsidies provided both on Federal and Sub-Federal levels were consistent with the national legislation and international commitments of [Russia]” and referring to “the conformity of the subsidies, granted by the regional governments, with all Federal legislation and the obligations under international treaties of the Russian Federation”).
made significant loans to Russian manufacturers despite their declining credit ratings. For example, since at least 2012, state-sponsored funds from Sberbank and other state-controlled banks have essentially kept Russian mining and metals company, Mechel, from defaulting on its loans by using state-sponsored funds to repeatedly restructure its short-term debt.\footnote{See, e.g., BRIEF – Russia’s Mechel says Vnesheconombank agrees to restructure $190 mln loan; Mechel Wins Sberbank Loans, GTR (Oct. 17, 2012).} After years of declining credit ratings, in March 2015, at the company’s request, Moody’s withdrew Mechel’s credit rating of Caa3 and a probability of default rating of Ca-PD/LD.\footnote{Moody’s withdraws Mechel’s ratings, Moody’s Investors Service (Mar. 24, 2015); Mechel PAO 2015 Form 20-F at 13 (“In March 2015, following Mechel’s request, Moody’s Investors Service withdrew our corporate family rating of Caa3, probability of default rating of Ca-PD/LD and long-term national scale rating of Caa2.ru”).} Despite the absence of an international credit rating,\footnote{Mechel PAO 2015 Form 20-F at 13 (“Downgrade and further absence of international rating may reduce our opportunities to raise necessary debt financing (including by accessing the debt capital markets), as well as potentially negatively impact the terms of such financing”).} Sberbank restructured $446 million of Mechel’s debt on April 18, 2016. Moreover, state-owned banks, including Sberbank, Gazprombank and VTB, negotiated a $5.1 billion debt restructuring deal with Mechel in 2016.\footnote{See Update1-Mechel signs debt restructuring deal with Sberbank, Reuters (Apr. 18, 2016); Yuliya Fedorinova, Mechel’s Foreign Lenders Seek Collateral for Restructuring, Bloomberg (July 21, 2016).} Most recently, Vnesheconombank agreed to restructure a loan for up to $190 million for Elagaugol, part of Mechel’s mining division.\footnote{BRIEF – Russia’s Mechel says Vnesheconombank agrees to restructure $190 mln loan; Mechel Reports Restructuring Debt With Vnesheconombank, Nasdaq GlobalNewswire (Sept. 28, 2017).}

In 2015, the Russian government created a list of 199 companies deemed to be strategic firms eligible for state assistance.\footnote{See also Gabriela Baczynska, Russia lists 199 firms eligible for state support amid crisis, Reuters (Feb. 8, 2015).} The list included steelmaker Severstal, aluminum producer Rusal, and the mining company Norilsk Nickel.\footnote{Gabriela Baczynska, Russia lists 199 firms eligible for state support amid crisis, Reuters (Feb. 8, 2015).} Russia’s Ministry of Economic Development indicated that it would provide state-backed guarantees for loans and bonds worth up to 200 billion rubles to companies on the list for investment projects and other purposes such as debt restructuring.\footnote{Paul Whitfield, Russia Offers Aid to ‘Strategic Companies’ to Ease Lender Jitters, The Street (Feb. 9, 2015).}

In September 2017, the Russian government announced that it was providing annual subsidies of no less than 134 billion rubles to its automotive industry between 2018 and 2020,\footnote{See The Russian government has decided on subsidies to the automotive industry for 2018-2020, RusAutoNews.com (Sept. 22, 2017).} allocating 138.051 billion rubles for the development of car production in 2018, 134.455 billion rubles in 2019, and 134.095 billion rubles in 2020.\footnote{Id.} As with previous subsidies to the automotive industry, these subsidies likely include support for R&D,
energy usage, warranty issuance and fulfillment, and maintenance of employment.\footnote{The Russian car industry will receive 270 billion rubles of subsidies, Autostat (Jan. 21, 2014); Russian Ministry of Industry and Trade, \textit{On government subsidies to motor vehicle manufacturers under the Automotive Industry subprogramme, of the state programme Advancing Manufacturing Industries and Raising Their Competitiveness} (Jan. 15, 2014).} \footnote{bne IntelliNews, “Russian Government to Support Local Car Market,” \textit{The Moscow Times} (Jun. 27, 2019), available at https://www.themoscowtimes.com/2019/06/27/russian-government-to-support-local-car-market-a66180.} Beginning on July 1, 2019, the Russian government launched a 19 billion ruble ($301 million) support program for its domestic car market amid declining demand and sales. This Russian government estimates that the new program, “First Far, Family Car” will increase sales by an additional 75,000 vehicles this year.\footnote{As used in these comments, “state-owned enterprises” includes “state-supported enterprises” and other government-backed entities.}

The Russian government’s provision of loans, on what appear to be preferential terms, to Russian manufacturers unfairly distorts international competition, especially when Russian producers use these funds to increase production capacity. USTR should urge Russia to end such government financial support for the expansion of steelmaking capacity and for steel-consuming industries.

\section*{VI. STATE ENTERPRISES AND GOVERNMENT INTERVENTION}

Foreign governments are increasingly using state enterprises (SEs)\footnote{OECD, “State Enterprises in the Steel Sector,” OECD Science, Technology and Industry (Sep. 2018), at 4.} and other methods of government intervention to unfairly tilt the commercial playing field, both within a country’s borders and in global markets. The OECD notes that while “state enterprises are relatively low in numbers compared to private enterprises, they account for an important share of global crude steel production. In 2016, 22 of the world’s 100 largest steelmaking companies were state enterprises… and [SEs] represented at least 32\% of global crude steel output in 2016.”\footnote{OECD, “State Enterprises in the Steel Sector,” OECD Science, Technology and Industry (Sep. 2018), at 4.} The rise of SEs and other government intervention into industry represents a growing threat to fair trade and the ability of private steel producers to compete globally. SE investment at home and abroad forces companies to compete directly against foreign governments in markets around the world, creating significant imbalances that harm workers and private companies competing in those markets. These distortions impact U.S. and global steel markets and related upstream and downstream markets, as well as other global industries.

\subsection{A. Trade Distortions and Anti-Competitive Effects Caused by SEs and Other Government Intervention in Commercial Activities}

SEs often receive massive subsidies and other benefits from their governments, which provide an unfair competitive advantage to SEs in their worldwide operations. As the OECD has noted, the main concern regarding state-ownership for the trade community...
is the “anti-competitive effects of advantages granted to SEs.”\textsuperscript{361} Some of the most significant ways in which governments benefit their SEs and distort the global marketplace include: direct subsidies in the form of cash grants and/or capital infusions;\textsuperscript{362} preferential loans and access to finance;\textsuperscript{363} tax reductions and exemptions; preferential access to raw materials and other inputs; and preferential regulatory treatment.\textsuperscript{364}

Because SEs are frequently subsidized and otherwise advantaged by their home governments,\textsuperscript{365} they often do not operate based on market principles and therefore introduce market-distorting behavior and other trade and investment imbalances when they enter the commercial arena.\textsuperscript{366} These distortive effects essentially cause market-based U.S. steelmakers to compete in global markets against foreign governments, rather than against similarly-situated foreign companies. The resulting effects create unfair conditions experienced by companies in markets around the globe.

As a result, SEs can act as a barrier to trade in a number of ways. First, government support for SEs protects a particular domestic producer and its product, and makes it more difficult for foreign companies to compete in that market. For example, subsidies and other benefits artificially lower SEs’ costs and enhance their ability to sell at lower prices than their private sector competitors. Additionally, some unprofitable SEs, which in a free market would be driven out of business, “may enjoy outright exemptions from bankruptcy rules.”\textsuperscript{367} The ability to sustain losses for longer periods of time and not having to earn a commercial rate of return provide SEs with a significant competitive advantage over their private sector counterparts. These advantages may prevent U.S. producers from exporting to a market dominated by SEs.

\begin{itemize}
\item \textsuperscript{363} \textit{See} OECD, SIEs in the Global Marketplace at 13; Stephen Lacey, \textit{How China Dominates Solar Power}, The Guardian (Sept. 12, 2011).
\item \textsuperscript{364} \textit{See} Antonio Capobianco and Hans Christiansen, \textit{Competitive Neutrality and State-Owned Enterprises}, OECD Corporate Governance Working Papers No. 1 at 6-7 and 20 (“Competitive Neutrality”); OECD, SOEs: Trade Effects and Policy Implications at 5, 16.
\item \textsuperscript{365} \textit{See}, e.g., Scott Cendrowski, \textit{China’s Global 500 companies are bigger than ever – and mostly state-owned}, Fortune (July 22, 2015) (“With the government as their largest shareholders, China’s [SOEs] enjoy massive state support, which fosters growth and insulates them from competition”).
\item \textsuperscript{366} OECD, SIEs in the Global Marketplace at 13; OECD, SOEs: Trade Effects and Policy Implications at 5. \textit{See also} OECD, \textit{Broadening the Ownership of State-Owned Enterprises: A Comparison of Governance Practices} (Feb. 4, 2016) (“OECD, Broadening the Ownership of SOEs 2016”) at 27 (referring to the “other social objectives” of OECD).
\item \textsuperscript{367} OECD, \textit{Competitive Neutrality} at 6. \textit{See also} OECD, SIEs in the Global Marketplace at 14.
\end{itemize}
Second, government support for SEs can artificially stimulate exports of a particular domestic product, displacing U.S. exporters in global markets. The Chinese government, for example, selects specific SEs to receive subsidies and other assistance to be internationally competitive and to export products abroad. In addition, as a major purchaser of goods and services, the Chinese government could, for example, “encourage” its SEs to buy a given input from one country over another or to buy domestically. In any event, the rise of SE investment abroad, and government intervention more generally, represents a significant barrier to trade in home and third country markets.

B. State Enterprises by Country

Of the world’s 25 largest SEs, thirteen are domiciled in China (including Hong Kong), three are Russian, and two are Brazilian. The remaining SEs are located in Colombia, France, India, Italy, Norway, Saudi Arabia, and Thailand. Additional country-specific information on SEs is as follows.

China: Nowhere is the rise of state capitalism more evident than in China, where the government continues to control the “commanding heights” of the Chinese economy, including through ownership of over 150,000 companies in major sectors, including steel. SEs continue to dominate the Chinese economy in terms of assets and resource allocation despite being relatively inefficient and accounting for a small share of industrial value added. With respect to the steel industry, the Chinese government has ownership interests in 18 of the 20 largest steel producers in China. In 2016, the State-Owned Assets Supervision and Administration Commission emphasized that major decisions by SEs should first be approved by the firm’s party committee, and should only then proceed to approval by the board of directors. Any moves to relinquish certain formal levers of state control over SE operations are thus being replaced by less transparent political channels of control. A recent report quotes President Xi explaining that “party leadership and building the role of the party are the root and soul for state-owned enterprises. . . . The party’s leadership in state-owned enterprises is a major political principle, and that principle must be insisted on.” “Mixed ownership” reforms, moreover, rarely involve the state relinquishing controlling ownership over SEs and increasingly involve SEs injecting state capital into

---

368 OECD, SIEs in the Global Marketplace at 7.
369 Id.
370 China’s state enterprises are not retreating but advancing, The Economist (July 20, 2017).
372 OECD State Ownership Report at 6-7.
374 Emily Feng, Xi Jinping Reminds China’s State Companies of Who’s the Boss, New York Times (Oct. 13, 2016).
the private sector. Rather than reducing state ownership and control in the Chinese economy, the government continues to “[blur] the boundary between SEs and privately owned firms, which permits the state to exercise significant influence over firms irrespective of its equity ownership stakes and where firms of all ownership types compete for state-generated rents.”

Moreover, there are no credible signs that China will change. As the U.S.-China Economic and Security Review Commission stated in its 2017 annual report:

To 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 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.

**Russia:** The U.S. Department of Commerce notes that “[b]urdensome regulations, weak intellectual property protection, the preponderance and strength of state-owned enterprises and a government focus on localization present challenges to U.S.

---

375 Reform of China’s Ailing State-Owned Firms is Emboldening Them, Economist (July 22, 2017).
exporters” in Russia. Indeed, Russia has “reasserted direct state control over ‘strategic’ industries,” including oil, gas, and transportation, which are important to the steel industry. SEs, which play a prominent role in the Russian economy, have grown dramatically in Russia, with more than 4,100 SEs reported in 2015, and more than 24,000 SEs reported in 2016. According to the U.S. State Department, SEs accounted for more than 70 percent of Russia’s economy in October 2016. While Russia appears to have made progress in its commitments to privatize SEs, investors are nevertheless warned by the State Department that “Russia has a history of indirectly expropriating companies through ‘creeping’ and informal means, often related to domestic political disputes,” which is what occurred with the privately owned oil company Bashneft. Bashneft was nationalized and then “privatized” in 2016 “through its sale to the government-owned oil giant Rosneft without a public tender.”

**India:** The Indian government owns or “controls interests in key sectors with significant economic impact, including infrastructure, oil, gas, mining, and manufacturing,” including steel manufacturing. The Heritage Foundation notes that “the state maintains an extensive presence in many areas through [SEs]” with public debt accounting for 70 percent of GDP in 2019. In fact, 65 percent of India’s investments in SEs are concentrated in the manufacturing, energy, and mining sectors, which are critical for steel manufacturing and raw materials. To this end, India’s National Steel Policy 2017 states that the steel industry will require capital investments of 10 lakh crore.

---

380 Compare 2017 Russia Investment Climate, with U.S. Department of State, Bureau of Economic and Business Affairs, Investment Climate Statement for 2016: Russia (2016) at 3.
381 See 2017 Russia Investment Climate.
382 See 2017 Russia Investment Climate.
383 See 2017 Russia Investment Climate.
in order to reach the government’s production target of 300 million MT by 2030. This funding will likely be provided by India’s state-controlled banking system.

**Indonesia:** Indonesia currently has at least 118 SEs, which operate in almost all sectors of the economy, including mining, energy, manufacturing, steel, and logistics. According to the State Department, twenty Indonesian SEs account for a quarter of the value of all listed shares on the Indonesian stock exchange. Additionally, “SEs receive strong preference for [Government of Indonesia] projects.” For example, Indonesian President Joko “Jokowi” Widodo has placed SEs at the center of the government’s economic development plans and aims to expand the SE sector rather than make it lean. In fact, in 2015, the Indonesian government injected $3 billion into various SEs. Recipients of the funds include Aneka Tambang, which plans to build an alumina refinery, and Krakatau Steel, which plans to modernize its plants. In 2018, the Indonesian government issued a plan to use state-owned holding companies as a way to stimulate sluggish economic growth in the country by putting large sums of capital towards supporting the expansion of SEs.

**Brazil:** The Brazilian government owns or controls a variety of SEs at both the federal and state levels, with a contributor in Forbes recently calling Brazil “the China of Latin America.” According to the OECD, Brazil has 418 total SEs, the most of any OECD member and by far the most in Latin America. SEs in Brazil constitute approximately 38 percent of stock market capitalization and are dominant in the mining, energy, and financial sectors. The new Bolsonaro government in Brazil has

---

387 India National Steel Policy 2017 at 2 (explaining that after 2004, the “Indian steel sector witnessed a wave of investments…funded by banks.”).
390 *Id.*
392 Kyunghoon Kim, Jokowi wakes up the leviathan, New Mandala (Dec. 2, 2016).
393 *Id.*
396 See U.S. Department of State, 2017 Investment Climate Statements: Brazil (June 29, 2017).
398 *Id.*
pledged to privatize several SEs, including some in key sectors such as energy and electricity, but little, if any, progress has been made in recent months. 400

**Vietnam:** Vietnamese SEs operate in “several key economic sectors, such as energy (electricity, coal, petroleum)” as well as the finance, banking, and insurance industries.401 In 2017, there were 2,000 SEs in Vietnam where the state retained a majority interest, and 781 SEs where the state retained 100 percent ownership.402 Vietnam has made some efforts to reform its SE sector, including plans released in recent years to divest hundreds of SEs by the end of 2020. However, the restructuring program appears to have stalled as the Vietnamese government has reduced the number of SEs to be reduced from 137 announced in 2016 under Decision 58/2016/QD-TTg to 93 announced in September 2019 by Decision 26/2019/QD-TTg.403

Many of these governments are pursuing ownership and control of their steel industries. For example, in India, the government owns 75 percent of SAIL, one of the country’s largest steel producers,404 while the Vietnamese government owns 65 percent of its largest steel producer, Vietnam Steel.405 In addition, the following governments own significant shares of the large (if not the largest) steel companies in their countries: Indonesia (PT Krakatau Steel); Libya (Libyan Iron and Steel Company); Venezuela (Siderúrgica del Orinoco and Siderúrgica del Turbio SA); Pakistan (Pakistan Steel Mills Corporation); Saudi Arabia (Saudi Basic Industries Corporation); the United Arab Emirates (Emirate Steel Industries PJSC); and Algeria (IMETAL); and Italy (ILVA).406 In fact, in 2016, four of the ten largest steel companies in the world were SEs.407 According

---


401 SOEs play dominant role in national economy, Viet Nam News (Dec. 27, 2016).


406 Algeria: State-Owned IMETAL Takes over ArcelorMittal’s Shares in Three Companies (Aug. 8, 2016); The changing face of Europe’s flat steel industry, Platts (Sept. 23, 2016); Italy takes full control of troubled Ilva steel plant, Reuters (Jan. 21, 2015) but see Matteo Meneghello, *Italian government hands Ilva to AM Investco* (June 6, 2017) (indicating that the Government of Italy will own Ilva for at least another 12 months).

407 See World Steel Association, Top steelmakers in 2016 (listing state-owned China Baowu Group, HBIS Group, Ansteel Group, and Shougang Group as top ten steel producers).
to the OECD, that same year, “state enterprises accounted for at least 32 percent of global crude steel production.”

In addition to intervening in the market through ownership, many governments around the world have significantly subsidized the growth of their steel industries and prevented permanent capacity closures in the industry, leading to significant overcapacity in the industry. Governments often will prevent steel mill closures in order to maintain employment levels and for other non-commercial purposes. In a purely market-based system, “the power of the market alleviates excess capacity, by forcing inefficient producers that incur profit losses to eventually exit the market.” However, government intervention artificially prevents the market from self-correcting in this manner. Thus, in the steel industry, government impediments to capacity closure, combined with legitimate market-based barriers to exit, have led to the accumulation of persistent and growing excess capacity.

China provides the most striking example of government intervention in the steel industry, which has resulted in its enormous growth in steel capacity. Many older, low-technology mills in China, which would likely close in a purely market-based environment, have been supported by local governments and continue to operate, intensifying global oversupply. The limited attempts at consolidation in the steel industry have been largely ineffective, as the government wants to protect so-called zombie companies, many of whom provide local economies with significant employment opportunities. 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.

---

408 See Lieven Top, 83rd Session of the OECD Steel Committee – Chair’s Statement (Sep. 28-29, 2017).
410 See Bethany Allen-Ebrahimian, Chinese Steel Output Hits All-Time High, Foreign Policy (July 19, 2017); Zombie firms and China’s economic woes, East Asia Forum (Nov. 21, 2016)
411 OECD Excess Capacity Report at 2. See also Statement on Global Steel Excess Capacity by the Governments of Canada, Mexico and the United States, OECD Steel Committee Meeting (June 5-6, 2014).
VII. CONCLUSION

The trade barriers described in this submission distort global trade and international competition, and harm U.S. industries, including the U.S. steel industry. USTR should include the trade restrictions identified above in its 2020 National Trade Estimate Report on Foreign Trade Barriers, and continue to work toward the elimination of these and other trade barriers worldwide.

Sincerely,

[Signature]

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