October 28, 2015

VIA WWW.REGULATIONS.GOV

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

Re:   Comments Regarding Foreign Trade Barriers To U.S. Exports for 2016
Reporting, Docket No. USTR-2015-0014

Dear Mr. Gresser:

In response to a request from the Office of the United States Trade Representative (“USTR”),1 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 2016 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.

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 un-level 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-owned enterprises (“SOEs”), and barriers in government procurement policies. The discussion below identifies trade restrictions in these categories for USTR’s inclusion in its 2016 NTE Report, including those that are among the most concerning to AISI’s member companies.

II. 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 manufacturers. These export barriers include export quotas, export taxes, and export licensing requirements. Foreign governments use such restrictions to discourage exports of raw materials, promote the development of domestic industries, and, according to the World Trade Organization (“WTO”), 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 product chain, from intermediate to finished goods, as well as other distortions throughout the global economy. Alarmingly, the use of export restrictions has grown in recent years, with steelmaking raw materials and metals waste and scrap being two industries “where restrictive export policies flourish.” The OECD estimates that as of 2012 there were 371 incidences of export restrictions on minerals and metals and 552 on metal waste and scrap. 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.

1. Export Restrictions on Rare Earths and Other Critical Materials

After similar rulings in China – Raw Materials, a WTO dispute settlement panel and the Appellate Body found that the Chinese government’s restrictions on exports of critical raw materials, including rare earth elements, molybdenum and tungsten, violate its WTO

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3. OECD, Export Restrictions in Raw Materials Trade: Facts, fallacies and better practices (2014) (“OECD, Export Restrictions in Raw Materials”) at 23 (of the measures in place in 2012, more than half were introduced after 2009 and almost a quarter were introduced in 2012). See also OECD, Export Restrictions on Steelmaking Raw Materials: Examining Changes in the Stance of Policies Since 2009, DSTI/SU/SC(2014)7 (June 2014) at 2.


5. Id. at 25.

commitments.\textsuperscript{7} In 2015, China reformed its regulatory regime for rare earths, tungsten, and molybdenum to implement the Dispute Settlement Body’s recommendations following the Rare Earths dispute. Specifically, China removed the export quotas on these raw materials in January 2015 and ended export duties in May 2015.\textsuperscript{8}

Despite these steps towards technical implementation of the Dispute Settlement Body’s recommendations, China has moved to strengthen state control over the rare earths industry in a manner that may result in \textit{de facto} restraints on exports of these raw materials. At the beginning of the year, 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 SOEs by the end of 2015.\textsuperscript{9} The six SOEs are (i) China Aluminum Corp., (ii) Xiamen Tungsten Co., (iii) Inner Mongolia Baotou Steel, (iv) China Minmetals Corp., (v) Guangzhou Rare Earth Group Co., and (vi) Guangdong Rare Earth Industrial Group Co.\textsuperscript{10} Recent extraction targets and production plans are weighted heavily towards these six SOEs and indicate that allocations to firms that have not been reorganized under their auspices should be gradually eliminated.\textsuperscript{11}

Consolidating the industry in this manner may further regulatory objectives such as resource conservation and environmental protection, but officials have also referenced industrial policy objectives in the wake of the WTO’s findings that export quotas and taxes could not be used. An MIIT Vice Minister explained in August that rare earths are “foundational materials” for the development of industries under strategic plans like “Made in China 2015” and “Internet Plus.”\textsuperscript{12} It is thus likely that the six SOE 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.


\textsuperscript{9} Yang Meng, \textit{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).

\textsuperscript{10} Abigail Rubenstein, \textit{China to Consolidate Rare Earth Industry Through Mergers}, Law360 (May 15, 2015).

\textsuperscript{11} MIIT Releases Control Plan for This Year’s First Batch Rare Earth Production Quantity (工信部下达今年首批稀土生产总量控制计划), Ministry of Land and Resources Website (Apr. 14, 2015); Ministry of Land and Resources Notice Regarding Release of the 2015 Annual Extraction Quantity Target for Rare Earth Ore and Tungsten Ore (国土资源部关于下达 2015 年度稀土矿钨矿开采总量控制指标的通知), MLR Notice 263 (2015).

\textsuperscript{12} Organization Work of the Six Large Rare Earths Groups Progressing, Groups’ Guiding Roles Could be Established by Year’s End (六家稀土大集团组建工作推进，达集团主导格局今年或形成), China National Radio (Aug. 10, 2015).
USTR should closely monitor the situation to ensure that China fully complies with the WTO ruling and that de facto export restrictions are not retained through discriminatory action by the six SOE rare earth industry groups.

2. Export Restrictions on Other Steelmaking Raw Materials

In addition, and as noted below, China imposes a 40 percent duty on exports of steel scrap, and a 10 percent duty on exports of coking coal.

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. Despite substantial reserves of such materials, India restricts their export. The Indian government maintains a number of export-restrictive schemes designed 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.13

1. Export Taxes and Other Restrictions

Since 2008, India has imposed restrictions on certain critical raw materials, including iron ore, in the form of ad valorem export taxes.14 In January 2012, India increased its export duty on iron ore lumps and fines to 30 percent15 “to conserve the key steelmaking raw material for the domestic sector.”16 Indian industry welcomed the decision, stating that the increase in the iron ore export duty would “contribute to preserving iron ore resources to meet growing domestic steel demand.”17 Indian industry has also called for an expansion of the 30-percent export duty to iron ore pellets, to further aid Indian steel producers.18 In mid-2015, the export duty on iron ore less than 58 grade was reduced to 10 percent, but the 30 percent export duty “on other iron ore required by the domestic steel industry” remains.19

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14 See Unmesh Wagh, Department of Revenue, Government of India Ministry of Finance, Notification No. 79/2008 and No. 66/2008 – Customs (June 13, 2008).
16 Sudheer Pal Singh, 30% iron-ore export duty a concern, says Vedanta CEO, Business Standard (Aug. 16, 2014).
17 ASSOCHAM welcomes India’s iron ore export duty hike, SteelOrbis (Jan. 9, 2012).
18 See Ajoy K Das, Indian iron-ore miners’ woes persist as govt disregards pleas to slash 30% export tax, Mining Weekly (Apr. 10, 2015). See also Udit Prasanna Mukherji, Levy 30% export duty on iron ore pellets: Assocham to commerce minister, The Times of India (June 13, 2014).
19 Export duty on iron ore less than 58 grade down to 10%, The Times of India (May 1, 2015).
The Indian government continues to signal that it views export restraints as a critical support for the development of the Indian steel industry. According to the National Steel Policy 2012, the Indian government is implementing plans to develop additional steel capacity, to reach a level of 300 million metric tons (“MT”) by 2025.\(^{20}\) In pursuit of this goal, the Indian government has devised a strategy of ensuring “uninterrupted supply of the steel-making raw materials to the Indian steel industry over the next few decades” by, \textit{inter alia}, curtailing exports of iron ore.\(^{21}\) In addition, in September 2012, India banned domestic steel companies from selling or exporting iron ore from mines that were granted to them for domestic use and consumption,\(^{22}\) further decreasing the iron ore available for export. The Associated Chambers of Commerce and Industry of India (\textquotedblleft Assocham\textquotedblright) has urged the Indian government to institute a complete ban on iron ore exports.\(^{23}\) While the government has thus far declined to do so, it stated that it would “adopt ‘appropriate fiscal measures’ to conserve the steel-making raw material.”\(^{24}\) In fact, the Handbook of Procedures recently issued by India’s Ministry of Commerce and Industry notes that “Export of iron ore shall be subject to decision of Government.”\(^{25}\)

These restrictions are having a significant and troubling effect on exports.\(^{26}\) Between 2012 and 2015, \textquoteleft India’s exports of iron ore plunged by over 80%\textquoteright.\(^{27}\) This drastic decline caused India, previously the world’s third-largest iron ore exporter, to no longer be even one of the top ten exporters of the material in 2014 and to become a net importer of iron ore.\(^{28}\)

\(^{20}\) India National Steel Policy 2012 at 3. See also Platts, \textit{Steel Raw Materials Monthly}, Issue 23 (Jan. 2015) at 2 (\“hopes 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\”).

\(^{21}\) India National Steel Policy 2012 at 6-11; Steel Re-Rolling Mills Association of India, \textit{SRMA Steel Newsletter}, 24\textsuperscript{th} Issue (Sept. 4, 2014) at 6.

\(^{22}\) Shivom Seth, \textit{India bans iron ore fines export from captive mines}, www.mineweb.com (Sept. 24, 2012). See also Rajaram Satapathy, \textit{Centre takes iron stand on captive ores}, The Times of India (Sept. 25, 2012).

\(^{23}\) Assocham for ban on iron ore exports from NMDC, Business Standard (May 23, 2014).


\(^{27}\) Rakhi Mazumdar, \textit{Railways slashes iron ore freight rates to boost exports}, The Economic Times (Sept. 3, 2015).

India also maintains an export tax of 20 percent on bauxite, which was increased from 10 percent in July 2014, in order to increase domestic supply for the benefit of Indian aluminum producers.\(^{29}\)

2. Export Licensing Regime

The Indian government retains additional control over the trade in raw materials like iron ore by requiring that most exports pass through State Trading Enterprises (“STEs”).\(^{30}\) India’s current policy gives STEs the exclusive right to import and export certain minerals,\(^{31}\) such as iron ore and chrome ore.\(^{32}\) Iron ore exports containing more than 64 percent iron (20 percent of all iron ore exports), along with some manganese ores, must be channeled through the Minerals and Metals Trading Corporation (“MMTC”), an STE and the largest Indian trading company.\(^{33}\)

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 NMDC demonstrates the magnitude of state involvement in the mining sector. State-owned NMDC is India’s largest iron ore miner,\(^{34}\) and state-owned MMTC is its single largest exporter of minerals. MMTC collects ore from other SOEs, such as NMDC, as well as from smaller, private miners and offers it to world markets.

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\(^{29}\) Rajesh Kumar Singh and Abhishek Shanker, India to Increase Bauxite Export Tax to Aid Aluminum Makers, Bloomberg (July 10, 2014).


\(^{34}\) See, e.g., NMDC slashes iron ore prices, The Economic Times (Dec. 4, 2014); Krisha N. Das, NMDC ups iron ore prices after Odisha mine closures, Reuters (June 4, 2014).
C. **Other Global Export Restrictions**

The OECD has identified a significant number of export restrictions on raw materials used in steelmaking by various countries. In fact, as of 2012, at least 38 countries imposed export restrictions on steelmaking raw materials, including some of the largest producing countries. Some of these restrictions include:

- **Argentina** imposes a 10 percent export tax on iron ore.
- **China, Vietnam, and Indonesia** all impose taxes on exports of coking coal, in the amounts of 10 percent, 20 percent, and 5 percent, respectively.
- In 2012, **Indonesia** imposed a 20 percent export tax on 65 metals and raw materials, including iron ore, lead and bauxite. In 2014, Indonesia also instituted a 20 percent export tax on concentrates of lead, iron, zinc, ilmenite, titanium and manganese, which will rise to 60 percent in 2016. After 2016, export of mineral ore concentrates will be banned completely. Indonesia further imposed a complete ban on unprocessed ore exports in January 2014. With the ban on ore exports and reported confusion over the export taxes on concentrates, Indonesia’s “metal ore and concentrate exports have ground to a complete halt.” The export ban has also greatly affected Indonesia’s production. For example, in 2013, Indonesia produced 55.7 million tons of bauxite; in 2014,
Indonesia produced only an estimated 500,000 tons, contributing heavily to the 17 percent decrease in global bauxite production last year.\(^4^4\)

Indonesia also instituted an export licensing requirement for coking coal last year, effective September 1, 2014,\(^4^5\) in part to “to ensure the fulfillment of [the] domestic need for coal.”\(^4^6\) Shortly after this requirement was imposed, “[v]arious Indonesian mining companies said that they had difficulty to secure the new export permits.”\(^4^7\)

- Malaysia imposes a non-automatic export licensing requirement on exports of minerals and ores.\(^4^8\)

- Vietnam currently imposes an export tax on iron ore and concentrate of 40 percent and a tax of 22 percent on exports of nickel, cobalt, aluminum, lead, and zinc ores and concentrates.\(^4^9\)

- Russia imposes a 30 percent export tax on natural gas, benefitting its industrial users.\(^5^0\)

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\(^{47}\) *Coal Mining in Indonesia: Coal Production & Export Update*, Indonesia-Investments (Nov. 27, 2014).


\(^{50}\) See USTR 2015 NTE Report at 341. See also U.S. Energy Information Administration, *Russia: Overview* (July 8, 2015).
D. Global Export Restrictions on Steel Scrap

Steel scrap, in which few countries are self-sufficient despite worldwide production, is subject to more export restrictions than any other raw material.\(^{51}\) The global steel industry depends on trade in scrap and other key raw materials such as iron ore, coke, coal, and ferroalloys. World demand for steel scrap has steadily increased over the last few years, and is expected to rise further due to increased steel production in countries like China, India, Turkey, and Brazil. Despite this global demand increase, at least 30 countries restrict scrap exports, resulting in 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 has led to higher international prices in recent years. Limits on scrap availability impact all consumers of scrap and negatively affect important manufacturing sectors in the U.S. economy. Because the vast majority of steel scrap is used to make new steel, difficulty obtaining scrap can lead to increased worldwide costs of steel production. Other key U.S. industries affected include foundries, construction, automotive manufacturing, and appliances. The problem impacts companies of all sizes, from national manufacturers to small family-owned businesses, and has the potential to affect tens of thousands of jobs in manufacturing and consuming industries.

While export restrictions cause global steel scrap availability to decline and can cause prices to increase,\(^{52}\) countries imposing the restrictions maintain higher stocks of the material at lower prices within their countries, subsidizing their downstream industries and giving local producers an unfair competitive advantage. Furthermore, the frequent changes to the 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, at least 30 countries impose restrictions on exports of steel scrap. The following countries impose a complete ban on scrap exports: Argentina,\(^{53}\) Azerbaijan, Burundi, Ghana, Guyana, Indonesia, Kazakhstan,\(^{54}\) Kenya,\(^{55}\) Nigeria, Rwanda, Sri Lanka, Tanzania, Argentina re-imposed a complete ban on steel scrap exports last year. Argentina bans ferrous scrap exports in bid to boost steel industry growth, SteelFirst (Apr. 4, 2014).

Kazakhstan introduced a temporary ban, from April 21, 2014 until June 30, 2014, on exports of ferrous scrap, in order to prevent a scrap shortage in its domestic market. The ban has been extended until March 2016. Kazakhstan extends scrap export ban to 2016, Steel First (Aug, 25, 2015).

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\(^{53}\) Argentina re-imposed a complete ban on steel scrap exports last year. Argentina bans ferrous scrap exports in bid to boost steel industry growth, SteelFirst (Apr. 4, 2014).

\(^{54}\) Kazakhstan introduced a temporary ban, from April 21, 2014 until June 30, 2014, on exports of ferrous scrap, in order to prevent a scrap shortage in its domestic market. The ban has been extended until March 2016. Kazakhstan extends scrap export ban to 2016, Steel First (Aug, 25, 2015).
Uganda, Uruguay, Zambia, and Zimbabwe. Many other countries currently impose trade-restrictive export tariffs on scrap, including: Armenia, Belarus, Egypt, Guinea, India, Iran, Jordan, Malaysia, Pakistan, Russia, Ukraine, the United Arab Emirates, and Vietnam. Notably, China imposes a 40 percent export tax on scrap, severely restricting its exports of the raw material and benefiting its domestic manufacturers. Additional countries, such as Algeria, Malaysia, and South Africa, enforce licensing requirements on scrap exports, which have the effect of restricting trade.

III. 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.

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55 In March 2014, Kenya enacted the Scrap Metal Act 2014, which prohibits the export of any form of scrap metal absent authorization from the Cabinet Secretary. Christabel Ligami, Scrap metal export ban good for local manufacturers, The East African (Feb. 21, 2015).


57 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).

58 In addition, in May 2012, Ukraine imposed a quota on scrap exports, limiting exports to 900,000 tons in 2012, likely violating Ukraine’s WTO commitments. Reports indicate that Ukraine further restricted scrap exports in 2013 by failing to distribute the annual quota, resulting in “an unofficial ban on steel scrap exports.” BIR Ferrous Metals World Mirror February 2013, Recycling International (Feb. 5, 2013).

59 Armenia to limit scrap metal exports for development of own processing, Kyiv Post (Oct. 4, 2012); OECD, Steelmaking Raw Materials 2012 at 66; CRSI Scrap Market Presentation at Appendix; Njabulo Mkhize, Export Duty on Scrap Metal, SEIFSA News, Vol. 12, 05 (May 2011) (“SEIFSA Export Duty on Scrap Metal”) at 4; Iran Set to Increase Export Duty on Scrap to 70 Percent, SteelOrbis (Jul. 7, 2010); Jordan steel scrap export limited by high export taxes, Asian Metal (Mar. 20, 2012); Scrap steel criticizes sector for export rate, Cost Drivers (Jan. 24, 2013).

60 China issues steel product export tax rates for 2013, SteelOrbis (Dec. 19, 2012); China scraps demand for iron ore, The Australian Business Review (Sept. 11, 2014). China reserved the right to impose this high of an export tax as part of its WTO obligations. See SEIFSA Export Duty on Scrap Metal at 4.

61 OECD, Steelmaking Raw Materials 2012 at 68.

62 Id. at 69.

A. **China**

China’s *Steel and Iron Industry Development Policy*, issued in July 2005 (“2005 Steel Policy”), discriminates against imports of foreign steel and foreign-produced equipment, in contravention of China’s WTO commitments. Specifically, the 2005 Steel Policy encourages the use of Chinese content by providing a variety of government subsidies for steel projects utilizing newly developed domestic equipment. China’s steel policies also call for the use of Chinese-produced steel-manufacturing equipment and Chinese technologies. Such requirements violate China’s WTO commitment not to condition the right of investment or importation on whether competing domestic suppliers exist.

China’s 12th Five-Year Plan for the Iron and Steel Industry “sets specific market share targets to be met by domestic steel producers, implying that imports of certain steel products are a problem to be addressed.” Most recently, a draft Steel Industry Adjustment Policy published by MIIT in March 2015 calls for the Chinese steel industry to “fully satisfy the development needs of the national economy” by 2025, revealing the ultimate intention to exclude steel imports from the Chinese market entirely. The draft policy calls for support for production of advanced steel products that the Chinese government believes are not currently produced in sufficient quantities or qualities in China. This raises concerns that the Chinese government will implement additional policies or regulations to further inhibit foreign steel producers’ (including U.S. steel producers’) exports to China. China’s various import restrictions are having their intended effect, as China’s steel imports have steadily decreased in recent years.

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64 Upon accession to the WTO, China committed to eliminate all subsidies prohibited under Article 3 of the 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. See China’s Protocol of Accession at 10.3, 7.3.


66 *Id.*

67 *Id.*


69 *Id.*

B. Argentina

Many U.S. exporters are concerned about Argentina’s overly broad use of non-automatic import licensing, trade balancing requirements and restrictive pre-registration and pre-approval requirements for all imports into Argentina. As USTR recognized in its 2015 NTE Report, “Argentina imposes a growing number of customs and licensing procedures and requirements, which makes importing U.S. products difficult.” This continues to be a problem.

Argentina often requires importers of goods to undertake certain commitments, including limiting their imports to balance them with exports, making or increasing investments in production facilities in Argentina, increasing the local content of products manufactured in Argentina (and thereby discriminating against imported products), refraining from transferring revenue or other funds abroad, and/or controlling the price of imported goods. In February 2012, Argentina adopted additional licensing requirements that apply to all imports of goods into the country and require pre-registration, review, and approval of every import transaction. Although some of these licensing requirements have reportedly been lifted, companies are still required to present sworn affidavits when seeking import permits, and import tariffs have been increased on other products. In particular, in January 2014, Argentina introduced a two-tier import tax on automobiles, increasing the rate from the previous 10 percent to 50 percent on cars whose dealer-invoice price is more than $26,500 and 30 percent on models invoiced at more than $21,500. In December 2014, the scale was modified so that for January 1, 2015 through June 30, 2015 cars priced above approximately $29,518 and $24,135 were subject to a tax of 50 percent and 30 percent, respectively.

In response to Argentina’s import restrictions, the United States, the European Union ("EU"), Japan, and Mexico each filed dispute settlement proceedings at the WTO in 2012. In

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77 USTR 2015 NTE Report at 22.
2014, a panel found that Argentina’s import restrictions violate its WTO commitments. The panel found that Argentina’s Advanced Sworn Import Declaration procedure, imposed in February 2012 and described above, violated the GATT by having a limiting effect on imports which constituted an import restriction. The panel further found that other trade-related requirements imposed by Argentina upon importation violated the country’s WTO obligations. Argentina appealed, and the Appellate Body has now upheld the panel’s findings regarding the WTO-inconsistency of Argentina’s import restrictions. Argentina has been granted until the end of 2015 to bring its measures into conformity with its obligations, but reports indicate that Argentina’s narrowing trade surplus and upcoming elections may mean that its current import scheme will not be modified by the end of the year.

C. Brazil

Brazil imposes barriers on imports of steel and other products. Due in part to these protectionist barriers, Brazil was a significant net exporter of steel in 2014, with 5.8 million MT in net exports.

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. 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. The steel products affected include carbon grade hot-rolled coils, plates, wire rod, stainless flat products, bars, electric steels, and rails for railroads, even though rails are not produced in Brazil. Although the Brazilian government has since reduced the import tariffs on certain of these steel products, some of these reductions may be temporary, and only due to domestic supply shortages in Brazil.


Argentina’s current import restrictions forecasted to continue during 2015, MercoPress (Jan. 28, 2015); Juan Pablo Rizzi, Argentina’s Import Restrictions: What’s Next?, GlobalTrade (July 24, 2015).

World Steel Association, World Steel in Figures 2015 (May 29, 2015) at 27.

See Doug Palmer, US urges Brazil in “clear terms” not to hike tariffs, Reuters (Sept. 20, 2012).

Brazil seeks higher import duties on steel, CRU Steel News Weekly (Sept. 7, 2012).

See id.

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).
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. Indeed, imports of steel products into Brazil declined in 2012 and 2013.87

2. Local Content Requirements

For example, Brazil imposes stringent local content requirements applicable to various industry sectors, which hinder imports (including imports of steel products) into Brazil. The *Buy Brazil Act* (Law 12.349/10 of December 15, 2010) imposes domestic preference requirements at the federal, state and municipal levels.88 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 60 percent of a project’s equipment, by weight, is produced in Brazil.89 In certain industries, such as the Brazilian automotive industry, the local content requirement is even higher,90 and the Brazilian government imposes a 30 percent increase on the base price of vehicles that do not meet the requirements.91

At the start of 2016, BNDES’ local content requirements for wind tower manufacturers, which are already strict, will further intensify, and producers will be required to source towers, blades, hubs and nacelles locally in order to qualify for funding.92 As the U.S. Commercial Service explains 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.”93 There are also strict rules in Brazil imposing local content restrictions


88 Business Software Alliance, *Country Report: Brazil* at 4. See also Clinton Carter, *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”).


91 McKinsey Global Institute, *Connecting Brazil to the world: A path to inclusive growth* (May 2014) at 43.


in activities related to offshore oil & gas exploration activities.\textsuperscript{94} Further, BNDES does not consider foreign steel rolled in Brazil to be produced in Brazil, “meaning that [some] companies are generally unable to import [steel] from abroad.”\textsuperscript{95} 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.\textsuperscript{96}

\section*{D. Canada}

Canada imposes restrictive local content requirements in the renewable energy sector, including with regard to the steel components of wind towers, as well as other sectors, which limit export opportunities for U.S. steel producers. In the province of Ontario, a Feed-In Tariff program maintained a minimum domestic content requirement of 50 percent for wind tower projects.\textsuperscript{97} A WTO dispute settlement panel, which was largely upheld by the Appellate Body, found that such restrictions violated Canada’s WTO obligations because they accorded preferential treatment to Canadian-origin products by requiring the purchase or use of products from domestic sources, which is prohibited by the WTO Trade-Related Investment Measures (“TRIMS”) Agreement.\textsuperscript{98} Canada notified the WTO in June 2014 that it took measure to bring the disputed measures into conformity with its obligations. AISI requests that USTR continue to monitor Ontario’s implementation of domestic content requirements in the wind energy sector, to ensure Canada’s compliance with its WTO obligations.

The province of Quebec continues to maintain “an aggressive local content policy” for wind towers,\textsuperscript{99} which were not the subject of the WTO proceeding noted above.\textsuperscript{100} The most recent wind energy tender by the province mandated a 60 percent regional local content requirement (of which at least 35 percent had to be sourced from the Gaspésie region of
As the U.S. Department of Commerce has found, “[l]ocal content requirements in Ontario and Québec… threaten to undermine U.S. export competitiveness and may pose a significant barrier for some renewable energy exporters.”

E. Mexico

On January 27, 2014, Mexico implemented a new import licensing system targeted at 113 specific steel products. The system was reportedly implemented in an effort to combat fraud and improve statistical monitoring, but the system is not automatic and has operated as a significant barrier to trade. It has resulted in substantial delays, demurrages and other complications at the U.S.-Mexico border and has significantly disrupted U.S. steel exports to Mexico. It may also be inconsistent with Mexico’s WTO obligations.

During the first several months of implementation of the new system, U.S. steel exporters estimated that more than 50 percent of import license applications were rejected, at least initially, and that an even greater percentage of U.S. steel shipments were delayed. Most of the rejections were the result of inconsistent interpretations of the application requirements and other trivial/technical reasons. Many applications were rejected multiple times, forcing applicants to reapply for a license and restart the five-day process. While there has been some improvement in the delays and demurrage issues encountered since the Mexican import licensing system was implemented, the system is still not automatic and the U.S. steel industry believes that it continues to act as an unnecessary restraint to trade.

The delays and costs have had a particularly negative impact on NAFTA steel imports because U.S. and Canadian shipments are generally sent via truck or rail, while overseas shipments are sent by ship. Because ocean shipments take several weeks to arrive in Mexico, Overseas shippers have more time to obtain licenses and are therefore not affected to the same degree as North American shipments. In addition, the inefficiencies and potential costs associated with the licensing system are now part of the negotiation process – some customers

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103 See American Institute For International Steel, Inc., Steel News (April 2014) at 1.

104 See id.; Frank Halfich, Mexico license system cause for concern: AIIS, American Metal Market (June 17, 2014).

105 See USTR 2015 NTE Report at 270.

106 See Article 3 of the WTO Agreement on Import Licensing.

107 See, e.g., WTO members discuss how to step up notifications on import licensing, WTO News (Apr. 23, 2015) (regarding Mexico’s automatic licensing procedures on certain steel products, “the U.S. asked whether receipt of an import license is a condition of entry and what the duration of the licensing requirement is, while Canada encouraged Mexico to automate its system”).
are demanding a price discount due to the various complications of getting product across the border (putting imported product from the United States and Canada at a disadvantage).

AISI urges the U.S. government to continue to press the Mexican government to immediately suspend the import licensing system until a truly automatic, WTO-compliant system can be developed that does not create barriers to legitimate NAFTA trade.

In addition, in May 2014, Mexico imposed new specification requirements for various grades of rebar, wire, stainless tubes and mesh, which had been proposed by the local steel chamber, Canacero.\(^\text{108}\) The requirements apply to both domestic and imported steel products, and thus could potentially act as an indirect barrier to trade.

More recently, in July 2015, Mexico added 25 tariff lines to its automatic import licensing regime for iron and steel products and added 86 tariff lines for steel goods to its list of sensitive products, which requires that temporary imports of such goods to comply with additional requirements.\(^\text{109}\) Just last month, the Mexican government announced that it will impose a 15-percent duty on imports of slab, cold-rolled coil, hot-rolled coil, heavy plate and wire rod imported from countries not party to a free trade agreement with Mexico in order to protect its local steel industry. The tariff will be valid for six months following the publication in Mexico’s official gazette, which occurred on October 7, 2015.\(^\text{110}\)

\section*{F. 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. Once fully implemented, Russia’s tariff rates will only decrease to 5.7 percent and 11.8 percent for products categorized under Chapters 72 and 73 of the Harmonized Tariff Schedule, respectively. In general, Russia’s tariffs on industrial goods will decrease very modestly from 9.5 percent to 7.8 percent.\(^\text{111}\) Tariffs on capital goods and equipment will still average about 5 percent.\(^\text{112}\) Although Russia is reducing tariffs on some specific products, potentially benefiting U.S. manufacturers, 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.

\(^{108}\) Mexico sets new specs for rebar, wire, mesh, Steel Business Briefing (May 23, 2014).

\(^{109}\) See \url{http://dof.gob.mx/nota_detalle.php?codigo=5409736&fecha=29/09/2015}. See also Secretaría de Economía, Press Release, The Secretariat of Economy announces additional measures against the unfair trade in goods stealers (July 9, 2015). See also Mexico Takes Additional Action Against Unfairly Traded Steel Products, HKTDC (July 31, 2015); Altos Hornos: Measures to protect Mexico steel sector should prevent layoffs, Fox News Latino (July 9, 2015).

\(^{110}\) See \url{http://dof.gob.mx/nota_detalle.php?codigo=5410812&fecha=07/10/2015}. See also Felipe Peroni, CANACERO: Mexico sets import tariffs on steel goods to protect local industry, Steel First (Sept. 29, 2015).

\(^{111}\) Lyudmila Alexandrova, Russia Finally Joins World Trade Organization, ITAR-TASS News Agency (Nov. 11, 2011).

\(^{112}\) USTR, Results of Bilateral Negotiations on Russia’s Accession to the World Trade Organization: Non-Agricultural Goods Market Access (Nov. 19, 2006).
Russia also maintains local content requirements in various sectors, including investment incentive regimes that allow for the duty-free entry of parts used to manufacture vehicles that have a certain specified level of Russian-origin content—now up to 60 percent. Russia’s local content restrictions in the automobile industry will remain in place until at least 2018. Russia also imposes local content requirements for wind energy projects. The level of local content required is currently 20 percent and will increase to 30 percent in 2016, to 45 percent for 2018-2020, and to 65 percent for 2020-2024.

G. Japan

In its 2015 NTE Report, USTR expressed concern about a variety of non-tariff barriers that have traditionally impeded access to Japan’s automotive market. Those barriers include issues relating to standards and certification, insufficient opportunities to provide input in the developments of standards and regulations, and barriers that hinder the development of distribution and service networks. USTR also found that “[o]verall sales of U.S. made vehicles and automotive parts in Japan remain low, which is a serious concern.” 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. While the recently completed Trans-Pacific Partnership (“TPP”) (if ratified) may result in some liberalization of Japan’s automotive market, we urge the U.S. government to continue pressing Japan to address the full range of barriers the U.S. auto industry currently faces.

As in the automotive sector, the Japanese steel market has long been distorted by non-tariff barriers that have significantly limited Japanese imports of steel and many steel-containing goods, thus leading to gross disparities in Japan’s steel trade. Recent data show that this continues. According to the Japan Iron and Steel Federation (“JISF”), in 2014 Japan exported 42,086,933 MT of iron and steel products. But during the same year, JISF reports that Japan

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114 Russia at the Crossroads: Russian Automotive Market Study 2014, Roland Berger Strategy Consultants (May 2014) at 27; Nick Gibbs, Suppliers enter, expand in Russia ahead of forecast sales surge, Automotive News Europe (Jan. 20, 2014) (“Carmakers are looking to source more parts from Russia to cut costs and to meet a government-mandated target of having 60 percent local content to qualify for reduced import tariffs”).

115 Eugene Gerden, Russia eases local content rules, Wind Power Monthly (July 20, 2015).

116 USTR 2015 NTE Report at 221.

117 Id.

118 Id.


120 Data available at http://www.jisf.or.jp/en/statistics (last visited October 15, 2015). This figure includes semi-finished steel products, specialty items such as stainless steel, and secondary products like steel wire. Id.
imported only 9,281,676 MT of such products.\textsuperscript{121} Total Japanese imports from the United States – home to the world’s third-largest steel industry – were only 5,823 MT.\textsuperscript{122} 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.\textsuperscript{123}

\textbf{H. Indonesia}

Indonesia has implemented various import policies that serve to protect its domestic steel industry. In its 2015 NTE Report, USTR explained that “Indonesian importers must comply with numerous and overlapping import licensing requirements that impede access to Indonesia’s market.”\textsuperscript{124} Additionally, this year, Indonesia increased its import duties on a number of products, including “on foreign steel products to protect local steel producers from cheaper imports.”\textsuperscript{125} The duties, previously ranging from 0 to 5 percent, were increased to 15 to 40 percent.\textsuperscript{126} In addition, the tariff on cars, which previously ranged from 10 to 40 percent, was increased to a fixed tariff at 50 percent.\textsuperscript{127}

Indonesia is also in the process of developing mandatory “use national” standards for steel products and increasing the amount of Indonesian steel required under local content rules for government funded construction.\textsuperscript{128} In fact, Indonesia’s president has instructed that all state institutions and industries prioritize local content.\textsuperscript{129} In May 2015, Indonesian steel company PT Krakatu Steel signed a deal with six state firms involved in construction at the State Palace; speaking of the deal, the Minister of State Owned Enterprises, Rini M Soemarno, stated “It is a must now for our (state) construction firms, if they require steel and the steel can be produced by

\begin{itemize}
\item \textsuperscript{121} Id.
\item \textsuperscript{122} Id.
\item \textsuperscript{123} For example, in a recent five-year review, the U.S. International Trade Commission found that in 2011, Japanese mills received an average unit value (“AUV”) of $1,763/MT for the tin mill products they sold in their home market, but an AUV of only $1,100/MT for their tin mill exports. See Tin- and Chromium-Coated Steel Sheet from Japan, Inv. No. 731-TA-860 (Second Review), USITC Pub. 4325 (May 2012) at IV-10 and IV-12. See also 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.).
\item \textsuperscript{124} USTR 2015 NTE Report at 187.
\item \textsuperscript{125} Linda Yulisman, \textit{Govt ups import duties to protect struggling domestic industry}, The Jakarta Post (May 5, 2015).
\item \textsuperscript{126} Id.
\item \textsuperscript{127} \textit{UPDATE 2-Indonesia raises import duties on consumer goods, denies protectionist}, Reuters (July 23, 2015).
\item \textsuperscript{128} Sushim Banerjee, \textit{Fresh challenges for steel industry}, The Financial Express (June 2, 2015).
\item \textsuperscript{129} Grace D. Amianti, \textit{Steel industry demands levies on imports}, The Jakarta Post (June 24, 2015).
\end{itemize}
the Krakatau Steel, they must buy it from Krakatau Steel." The government has also indicated that it will be prioritizing Indonesian steel—and reducing steel imports—for other projects.

Last year, Indonesia introduced a safeguard duty on flat iron and steel, with the measure set to last until July 2017. Earlier this year, Vietnam and Chinese Taipei submitted requests for consultations at the WTO, asserting that Indonesia’s safeguard is inconsistent with the GATT and the Agreement on Safeguards. The United States has reserved its third-party rights in the challenge initiated by Chinese Taipei.

I. Other Recently Imposed Import Barriers

- Ukraine introduced import quotas on certain steel pipes in 2008, which was recently extended until September 2016.

- Pakistan recently revised its import tariffs on a number of steel products, with new or modified rates ranging from 5 percent to 20 percent.

- In March 2015, Iran increased its import duties on certain steel products to 10 and 20 percent. The duty increase is “in line with Iran’s ambitious 2025 vision plan to quadruple its steel output.” Since the duty increase, the Iran Steel Producers Association has requested that the government increase the import duty on flat steel products to 40 percent and on long products to 30 percent.

- AISI believes that the Dominican Republic continues to require U.S. exporters of steel products to provide performance bonds and other financial guarantees covering civil liability in an amount equal to the full value of each shipment.

- In December 2012, Egypt imposed a 6.8 percent tariff on imports of steel reinforcing bar. The Egyptian Industry and Trade Ministry announced in 2014 that this tariff

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130 Indonesia decides to use more local steel, Xinhua (May 18, 2015).
131 Government to Reduce Steel Imports, Tempo (Sept. 19, 2015).
133 Ukraine extends restrictions on steel pipe imports until September 2016, UNIAN (Apr. 8, 2015).
134 Govt revises rates of regulatory duty on imported goods, Pakistan Ports & Customs (June 30, 2015).
135 Maytaal Angel, Iran boosts steel import duties as protectionism gathers pace, Reuters (Mar. 11, 2015).
136 Maytaal Angel, Iran steelmakers request import duty hikes, cite cheap China steel, Reuters (July 3, 2015).
137 See 2014 National Trade Estimate Report on Foreign Trade Barriers, USTR (Mar. 2014) at 82 (“Since early 2012, exporters of steel construction reinforcing bars (rebar) from the United States to the Dominican Republic have encountered various barriers to trade, with the specific form of the barrier changing over time”).
138 UPDATE 1-Egypt puts emergency import tariffs on sugar and steel rebar, Reuters (Dec. 5, 2012).
would be raised to 7.3 percent. While it was imposed as a temporary tariff, the duty was extended for three years in 2015.

- In March 2012, the Government of India raised the import tariff on coated and uncoated non-alloy flat steel products from 5 percent to 7.5 percent. In July 2014, the Indian government raised the import tariff on flat-rolled products of stainless steel from 5 percent to 7.5 percent. Just last month, the government imposed a provisional safeguard duty of 20 percent for a period of 200 days on hot-rolled flat products of non-alloy and other alloy steel in coils with a width of 600 mm or more.

- Malaysia institutes non-automatic import licensing requirements on eight tariff lines of alloy steel products. The Malaysian government has also sought to boost its economy through policies that discourage imports. In January 2015, Malaysia’s Prime Minister announced policy measures to strengthen the economy, which includes intensifying the promotion of Buy Malaysia products.

- Qatar imposes a 20 percent import tariff on steel products. According to the WTO, Qatar’s “steel tariffs currently exceed the WTO bindings.”

- In October 2014, Turkey imposed a 30 percent import tariff on rebar. Turkey also increased its import tariffs on bolts, wire, wire rod and angles to 30-40 percent.

- Vietnam imposes a number of import restrictions on steel products in order to “afford higher protection” to its domestic steel industry. Last year, Vietnam’s Ministry of Industry and Trade, in conjunction with its Ministry of Science and Technology, imposed...
strict import certification and licensing rules on a variety of steel products, ranging from flat and long carbon steel products to alloy and stainless steel goods. 151 These requirements are largely aimed at curbing steel imports into Vietnam by making them more costly and burdensome. Vietnam’s Finance Ministry has also been involved in this effort, “ask[ing] Commerce to keep a tight grip on the imports of steel products.” 152

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 a relatively 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

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. 153

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

A foreign investment project in the 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.

In a March 2015 revision to the Catalogue, China removed the steel industry from the list of “restricted” foreign investment industries, thereby opening the door to majority foreign ownership of Chinese steel enterprises. 154 The 2015 draft Adjustment Policy also calls for “restrictions on foreign investment in the domestic steel industry {to be} loosened to allow domestic and foreign enterprises to enjoy equal investment policies.” 155 Until the 2015 policy is promulgated in final form, however, the 2005 Steel Policy which generally prohibits foreign majority ownership of steel enterprises, continues to apply. In addition, administrative approvals and national security reviews will likely continue to present de facto barriers to foreign investment in China’s steel industry.

151 Vietnam’s Rush to Import Steel Ahead of New Regulation, Steel First (Sept. 28, 2014).
152 Viet Nam imports more steel as consumption rises, Viet Nam News (Apr. 21, 2014).
155 2015 Draft Adjustment Policy.
The 2005 policy forbids foreign companies from owning a controlling stake in Chinese steel producers by stating, “For any foreign investment in the iron and steel industry of China, foreign investors are ‘in principle’ not allowed to have a controlling share.”^156 According to press reports, after the release of the 2005 Steel Policy, resistance from the Chinese government caused a proposed acquisition by ArcelorMittal of a non-majority stake in China’s Laiwu Steel to fall through.\(^157\) The deal reportedly failed to close because “China is wary about foreign investment in its strategic industries.”^158 Then, in 2008, ArcelorMittal was again forced to shelve a plan to take majority control of non-SOE China Oriental Group Co. after failing to win approval from the Chinese government.\(^159\) Similarly, in 2009, China rejected a plan by Russia’s Evraz Group SA to acquire a 51-percent stake in Delong (DLNG) Holdings Ltd.\(^160\) Following the enactment of the 2005 Steel Policy, the NDRC has approved some foreign investors to set up joint ventures with Chinese steel manufacturers, although there do not appear to be any large projects where the foreign investor is holding a majority stake.

It appears that investments by foreign investors in the steel industry will also continue to be subject to the approvals of the MOC, NDRC, SASAC and CSRC, despite any revisions to the Catalogue. While controlling investments in Chinese steel enterprises are no longer expressly prohibited by law, the approval authorities in practice may exercise their discretion to reject or withhold their approval of any foreign investment application.

In addition, in 2011, China’s State Council issued a notice establishing a “security review system” for mergers and acquisitions of Chinese domestic enterprises by foreign investors,\(^161\) which the Chinese government could potentially use to restrict foreign investment in the steel industry. The review system allows the Chinese government to review transactions where a foreign company invests in, and obtains actual control over, any Chinese enterprise that is related to national security or is involved in important agricultural products, important energy and resource products, critical infrastructure, and other key areas.\(^162\) Thus, the scope of activities subject to review is quite broad. Indeed, under the new system, “national security” could include

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^156^ 2005 Steel and Iron Industry Development Policy at Article 23. See also USTR 2013 NTE Report at 69 (“foreign investors are not allowed to have a controlling share in steel and iron enterprises in China”).

^157^ See Tom Miles and Fang Yan, ArcelorMittal says China Laiwu deal collapses, Reuters (Dec. 13, 2007). See also China Considers Opening Up Its Steel Industry to Foreign Control, The Wall Street Journal (May 23, 2014) (“The law effectively blocked Mittal Steel Co., which would a year later become the world’s largest steelmaker, from its plan to acquire a controlling stake in Shenzhen-listed Hunan Valin Iron & Steel Co. that would be equal to the one held by the mid-sized Chinese mill’s parent, Valin Group”), Lucy Hornby, ArcelorMittal’s path to China not paved with steel, The Financial Times (June 14, 2014).

^158^ Tom Miles and Fang Yan, ArcelorMittal says China Laiwu deal collapses, Reuters (Dec. 13, 2007).

^159^ Mittal Backs China for Possible End of Curbs on Mergers, Bloomberg (June 16, 2014).

^160^ Id.


the impact on economic stability, social stability, or the research and development ("R&D") capabilities of key national security technologies. Transactions found to have a significant impact on national security will be denied, or approved only subject to conditions. Given the breadth of the scope of review, foreign investment in China’s steel industry could be subject to enhanced scrutiny under this new system.

The 12th Five-Year Plan for the Iron and Steel Industry also contains a number of provisions that appear to constitute foreign investment restrictions incompatible with China’s WTO obligations, including with respect to potential technology transfer requirements and domestic use/local content requirements.

As of this writing, 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 also 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 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 largely not lived up to these commitments and continues to impose policies that act as barriers to foreign investment.

For example, China’s 2005 Steel Policy requires that foreign investors in the Chinese iron and steel industry possess proprietary technology or intellectual property in the processing of steel. The 2015 Draft Adjustment Policy likewise explains that foreign investment in the steel industry should “create robust mechanisms for the sharing of technology, resources, brands, sales channels, managerial concepts and financial services.” 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. USTR has previously recognized that, “[g]iven that foreign investors are not allowed to have a controlling share in steel and iron enterprises in China, this requirement could be regarded as a

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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.
166 2015 Draft Adjustment Policy.
It is unclear whether the revision to the Catalogue will alleviate these concerns.

B. Russia

The U.S. Department of State describes Russia’s investment climate as “marked by high levels of uncertainty, corruption, and political risk.”168 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.

1. Mining Investment Restrictions

Russia implements a number of barriers to foreign investment in its mining sector.169 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 only 25 percent unless government approval is obtained.170 According to one analyst, “[t]his regulation de facto requires the [Russian] president’s personal permission for any deal involving foreign partners.”171

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.172 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.173 “In practice, this means that these licenses are granted only to state-owned oil and gas companies (such as

167 USTR 2013 NTE Report at 69. See also Joseph W. Dorn and Christopher T. Cloutier, Report on Chinese Industrial Policies at 26 (“The strategy is to limit investment opportunities to foreign firms that have technological expertise or other resources that China could not develop independently in a reasonable period of time and to entice these firms to transfer such resources and know-how to Chinese companies”).

168 U.S. Department of State, Bureau of Economic and Business Affairs, Russia Investment Climate Statement 2015 (May 2015) at 3 (“U.S. Department of State, 2015 Russia Investment Climate”).

169 See 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 Putsykina and Julia Zasukhina, Russia: Calling for Change, Mining Journal Online (June 7, 2013).

170 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.


172 Id.

173 Natalya Morozova and Rob Patterson, Russia, The Oil and Gas Law Review (Nov. 2013) at 211.
Gazprom and Rosneft) or, in some cases, to joint ventures with these companies.”

Although Russia has committed to applying its Subsoil Law in accordance with its WTO obligations, USTR should monitor Russia’s decisions under this law to ensure that Russia is not impermissibly restricting foreign investment in this sector.

In addition, Russia’s licensing system affords the government significant discretion in granting exploration and extraction rights, and there are a number of bureaucratic obstacles to converting exploration rights into extraction (or production) rights. While some foreign companies have been able to invest in Russia’s mining sector, the Russian government has intervened in several high profile foreign investments in the mining and energy sectors for the benefit of its domestic producers.

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. Domestic steelmakers and other domestic manufacturers in Russia take advantage of these policies to ensure that their raw material needs are met. Such policies may also serve to restrict exports, as the raw materials are mined and used by the same domestic enterprises.

2. Mineral Extraction Licensing Requirements

Russia operates a burdensome and opaque licensing system, which allows its government to control access to the country’s mineral resources, among other economic sectors. The Russian system allows for considerable government power over the exploration and mining of raw materials. In fact, under Russia’s Subsoil Law, mineral resources in Russian territory are defined as state property. Subsoil use rights may only be sold or transferred when

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175 Russia Working Party Report at ¶ 52 (“The representative of the Russian Federation further explained that all legal acts taken pursuant to Federal Law No. 57 FZ, including decisions resulting from the screening process, must be in compliance with this Law and, as described above, with the international obligations of the Russian Federation”).

176 See Sarah Lowther, Q&A: Amur Minerals steadily working through Russian licence process (May 12, 2014).

177 In 2006 and 2007, for example, the Russian government essentially forced Royal Dutch Shell and British Petroleum to cede majority control in two oil and gas projects to Russia’s natural-gas monopoly, Gazprom. See Richard Weitz, Can We Manage a Declining Russia? 2011 Hudson Inst. 202-03.


180 See 2395-1-LRF, Feb. 21, 1992, (Garant 10004313) [On Subsoil], section 1, art. 1.

expressly permitted by Russian law, and such transfers are strictly limited under the law. 182 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.” 183 Local governments may administer the use of the subsoil for
purposes unrelated to mineral production and for the production of “common types of
minerals.” 184

Russia generally awards licenses to mining companies following auctions, based on
certain criteria, 185 including, among other things, contribution to social and economic
development and national security interests. 186 The government reserves the right to invalidate
bids for a number of reasons. 187 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 holding the license, and/or failure to file required reports.188

According to reports, Russia’s licensing system suffers from a lack of stability and
transparency. 189 Recent amendments to Russia’s Subsoil Law 190 do not appear to have improved
the system. As noted above, the government may revoke the rights of subsoil users at its
discretion. According to an industry source, rights may be revoked on the grounds that material
terms and conditions of subsoil use are not met; “[s]uch terms and conditions, however, are not
defined in legislation and may be construed by the state to its advantage.” 191 Nor does Russia’s

other resources are state property. Issues of ownership, use and disposal of subsoil shall fall under the joint
resources produced under license terms may have the status of federal property, the property of the Russian
Federation sub-divisions, municipal, private or any other property status”).

182 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”).

183 2395-1-LRF, Feb. 21, 1992, (Garant 10004313) [On Subsoil] at section 1, art. 3.

184 Id., section 1, art. 5.

185 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.

186 2395-1-LRF, Feb. 21, 1992, (Garant 10004313) [On Subsoil], section 1, art. 13.1.

187 See id., section 1, art. 14.

188 See id., section 1, art. 21; Legislative Overview at a Glance: Russian Mining Regulations at 4; Natalya
Morozova and Rob Patterson, Russia, The Oil and Gas Law Review (Nov. 2013) at 207.

189 A. Bardin et al., The View of Foreign Investors on the Subsoil Licensing Regime and Related Risks in
Russia, CIS Energy & Mining L. J. (2003). See also Working Party Report at ¶ 48; Yuliya Fedorinova, Russia

190 2395-1-LRF, Feb. 21, 1992, (Garant 10004313) [On Subsoil], section 1, art. 1.

191 See A. Bardin et al., The View of Foreign Investors on the Subsoil Licensing Regime and Related Risks in
Russia, CIS Energy & Mining L. J. (2003). See also Jacob Gronholt-Pedersen & Jeffrey Sparshott, Russia
licensing regime contain a “stability clause” to protect investors from adverse changes in legislation.192

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. industry, including U.S. steel producers.

A. China

The Chinese government at all levels (central, provincial, and local) provides massive government subsidies to Chinese manufacturers, including steel producers. Last year, Reuters reported that “[s]ubsidies accounted for four-fifths of the profits reported by Chinese steel companies in the first half of [2014].”193 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.194 A number of these subsidies are explicitly prohibited by the WTO.195 With respect to preferential loans, “Chinese banks [have thrown] money at the steel trade.”196 In fact, in the first half of 2014, two steel mills alone received nearly $100 million in subsidies from the Chinese government.197 As a result of such subsidies, China’s steel industry has increased production far beyond domestic

192 See A. Bardin et al., The View of Foreign Investors on the Subsoil Licensing Regime and Related Risks in Russia, CIS Energy & Mining L. J. (2003).

193 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”).

194 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, 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”).

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

196 Ruby Lian and Kelvin Soh, Insight: China’s Steel Traders Expose Banks’ Bad Debts (Sept. 2, 2012).

197 Fayen Wong, Steel industry on subsidy life-support as China economy slows, Reuters (Sept. 18, 2014).
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.

These subsidies are mandated by China’s industrial policies. For example, China’s 2005 Steel Policy mandates direct government subsidization of the steel industry in the form of discounted interest rates, tax refunds, funds for research, and other policy support for major iron and steel projects utilizing newly developed domestic equipment. Subsequent industrial policies – including the 2009 Steel Adjustment and Revitalization Plan, the June 2010 State Council Policy, the 12th Five Year Plan for the Iron and Steel Industry, and the 2015 Draft Adjustment Policy – have provided for additional subsidies and state support to the steel industry. In addition, China’s general 12th Five-Year Plan (2011-2015) “calls for the transformation and upgrading of key existing industries,” including the iron and steel industry, “to increase the competitiveness of China’s industrial core.”

This year, China also introduced a new strategic plan to enhance China’s manufacturing prowess. The plan, called “Made in China 2025,” aims to “transform China from a manufacturing giant into a world manufacturing power.” Some analysts have 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 the Made in China 2025 plan 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. The 2015 Draft Adjustment Policy also enumerates an array of similar goals specifically for the steel industry – e.g., application of smart manufacturing technologies, development of new materials, and support for

198 See, e.g., World Steel Association, World Steel in Figures 2015 (May 29, 2015) at 7, 9; Peter Cai, China is caught in a steel trap, China Spectator (Feb. 27, 2014); Pain Spreads From China’s Excess Production, The Wall Street Journal (Jul. 16, 2014).


200 See 2014 WTO Trade Policy Review Report: China at 12-13 (“Credit policy continues to be of major importance in China. Efforts continue to be made to enhance the coordination between credit policy and industrial policies… Financial institutions were also guided to extend credit support for… steel, and were encouraged to use credit products flexibly to support profitable export-oriented enterprises”). See also id. at 20.


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

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

204 Id.

205 Id.
strategic industries – indicating that the government intends for the steel industry to play a major role in the Made in China 2025 plan’s objectives. AISI is concerned that state subsidization of upgraded manufacturing facilities could bestow further unfair competitive advantages on Chinese steel producers vis-à-vis global competitors.

1. **Manipulation of Value Added Tax (“VAT”) Export Rebates**

China also subsidizes its steel industry and promotes exports by manipulating its VAT system to provide domestic producers with inexpensive primary and intermediate products. As the WTO recently noted, “the [VAT] rebate has been used [by China] as a policy instrument to encourage or discourage exports, as necessary, to meet industrial development goals.” Indeed, China has either reduced or eliminated VAT rebates on many steel products, making them cheaper and benefitting downstream producers. China specifically eliminated VAT export rebates on some commodity-grade steel products in 2007, 2008, and 2010, encouraging Chinese producers to shift production to those value-added steel products for which VAT rebates were still available.

In September 2012, China announced enhancements to its export tax rebate system to promote foreign trade growth by speeding up the payment of export tax rebates to help improve corporate cash flows. It began implementing its new system in 2013, and implementation, including of additional measures, has continued. In explaining the rationale for these enhancements, one Chinese news report stated that export rebates act as incentives to operational decisions and that the improvements would also enhance the effects of these incentives on

206 See USTR 2015 NTE Report at 73. See also Julien Gourdon, Stéphanie Monjon & Sandra Poncet, *Incomplete VAT Rebates to Exporters: How Do they Affect China’s Export performance?*, CEPII Working Paper (Feb. 2014) (“adjustments to the VAT rebates have significant repercussions on the exported volume: a one percentage point increase in the VAT rebate can lead to a 7% increase in export volumes”); USTR, *2013 Report to Congress On China’s WTO Compliance* (Dec. 2013) at 44 (“With VAT rebates ranging from zero to 17 percent and export duties typically ranging from zero to 40 percent, these border tax practices have caused tremendous disruption, uncertainty and unfairness in the global markets for the affected products – particularly when these practices operate to incentivize the export of downstream products for which China is a leading world producer or exporter such as steel…”).


208 See id. (“in 2010 the VAT rebate on exports of certain products (406 tariff lines at HS 10-digit level), such as steel…was eliminated”); Julien Gourdon, Stéphanie Monjon & Sandra Poncet, *Incomplete VAT Rebates to Exporters: How Do they Affect China’s Export performance?*, CEPII Working Paper (Feb. 2014) at note 14.

209 See Yan Pei, *China to cut tax rebates on steel products by 4%*, china.org.cn (June 13, 2010); Julien Gourdon, Stéphanie Monjon & Sandra Poncet, *Incomplete VAT Rebates to Exporters: How Do they Affect China’s Export performance?*, CEPII Working Paper (Feb. 2014) at 6; USTR, *2013 Report to Congress On China’s WTO Compliance* (Dec. 2013) at 45 (“In some situations, China has also used its border taxes to encourage the export of certain finished products over other finished products within a particular sector. For example, in the past, China has targeted value-added steel products, particularly wire products and steel pipe and tube products, causing a surge in exports of these products, many of which ended up in the U.S. market”).


exporters’ decisions. Last year, China rolled out an enhanced export tax rebate system to additional ports, in order “to incentivize exports amidst the country’s slowing foreign trade sector.” In one positive development this year, China removed a VAT rebate on exports of boron-added steels, which disrupted markets around the world by entering as “alloy steels” subject to lower tariff rates or evading antidumping and countervailing duties.

2. Export Finance Support

China has furthered its export promotion strategy in part through “the most aggressive export credit financing campaign in history.” As part of this campaign, the Chinese government has provided an enormous amount of export financing support to its companies, in part through the official Export-Import Bank of China and the China Export and Credit Insurance Corporation (“SINOSURE”).

In addition to China’s official government system of export financing, commercial banks that are owned or otherwise controlled by the government also lend extensively to Chinese exporters. In particular, the China Development Bank extends loans that are consistent with the goals of China’s economic plans, including producing “national champions” to compete on a global scale.

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212 600 billion export tax rebates help foreign trade enterprises resist winter, Xinhua (Aug. 27, 2013). The report cited as an example the increase over the last six years in the export volume of certain “high-tech products” that received a full 17 percent VAT rebate. Id. See also Qiu Quanlin, New tax rebate policy will help exports, China Daily (Apr. 1, 2014).


214 China Cancels VAT Rebate on Boron Added Steel Exports Sans HR, Steel Guru (Jan. 2, 2015).


The U.S. Export-Import Bank estimated in its most recent report to Congress that the export support granted by SINOSURE, China EX-IM Bank and China Development Bank increased from $82 billion in 2011 to $96 billion in 2012 and to $111 billion in 2013.\(^{219}\)

In March 2015, the National Development and Reform Commission released a plan for the implementation of President Xi Jinping’s “One Belt, One Road” initiative, which aims to use Chinese infrastructure investment and construction throughout Asia to draw the region into China’s economic sphere of influence.\(^{220}\) The plan is remarkably vague, does not involve the implementation of a trade agreement with binding and transparent rules, and has been linked to state efforts to use foreign markets to relieve pressures from industrial overcapacity.\(^{221}\) The plan will be financed primarily through China’s state policy banks and new China-led international financial institutions like the Asian Infrastructure Investment Bank and the New Silk Road Fund.\(^{222}\) Under this plan, China’s steel industry could receive significant benefits through preferential state export financing and exclusive access to supply major infrastructure projects at the expense of foreign producers.

### 3. Currency Manipulation

The Chinese government continues to undervalue its currency, the RMB, which subsidizes Chinese exporters to the clear detriment of U.S. producers. For years, the Government of China maintained an exchange rate policy that pegged the value of the RMB to a basket of foreign currencies heavily weighed by the U.S. dollar.\(^{223}\) This practice has ensured that the RMB exchange rate heavily understates the value of the RMB vis-à-vis the U.S. dollar.\(^{224}\) Although the Chinese government officially moved off its peg against the U.S. dollar in 2010, China’s central bank continues to set the yuan’s value, only permitting it to fluctuate within a controlled range against the dollar.\(^{225}\) In July, the Chinese government indicated that it would widen this daily trading band to three percent in either direction,\(^{226}\) but it has yet to do so, and subsequent events demonstrate that the government remains unwilling to allow market forces to determine the RMB’s value against foreign currencies. In August, China’s central bank intervened over three days to devalue the RMB by more than two percent against the dollar, in


\(^{221}\) *Building China’s One Belt, One Road*.

\(^{222}\) Id.


part to bolster export competitiveness as economic growth slows.\textsuperscript{227} As the U.S. Department of the Treasury recently concluded, China’s RMB exchange rate “remains significantly undervalued.”\textsuperscript{228}

By continuing to undervalue its currency, the Government of China actively promotes the export of Chinese-manufactured products.\textsuperscript{229} If, for example, the Chinese government’s intervention keeps the value of the RMB at 50 percent below its market rate, Chinese goods sold in the United States are 50 percent less expensive than they would be if the RMB were allowed to float freely. This practice has directly contributed to the increasing U.S. trade deficit, and is a leading cause of the movement of U.S. jobs overseas. Over the last decade, the United States has lost over 5.5 million manufacturing jobs – and more than half of these have been attributed to the trade deficit with China and China’s currency manipulation.\textsuperscript{230} Recent research by the Economic Policy Institute indicates that an end to Chinese currency manipulation would reduce the U.S. trade deficit and increase annual U.S. GDP, resulting in the creation of 2.3 million to 5.8 million jobs, 40 percent of which would be in manufacturing.\textsuperscript{231}

\textbf{B. Japan}

Like China, Japan undervalues its currency, the yen, in a manner that encourages exports and discourages imports. As demonstrated by the American Automotive Policy Council and others, Japanese companies have used this manipulation to gain a competitive advantage.\textsuperscript{232} In recent years, the Japanese yen has weakened dramatically, falling from 78 yen/dollar at the beginning of October 2012 to about 120 yen/dollar now.\textsuperscript{233} This policy aids Japanese automakers and encourages increased exports of Japanese steel.\textsuperscript{234} While the TPP agreement

\textsuperscript{232} American Automotive Policy Council, \textit{U.S. Trade Agreements & Currency Manipulation}, at 7 (last visited Oct. 19, 2014) (“Japan has used direct intervention in currency markets – and the threat of intervention – to gain a competitive export advantage”).
includes “a set of principles to measure the problem,” it does not contain an enforceable provision.235

C. India

The Indian government also heavily subsidizes its domestic industries, including its steel industry. The Indian steel industry has 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.236 Through its Ministry of Steel, the Indian government has developed a series of National Steel Policies to coordinate government assistance to its steel industry and dramatically increase steel production in the country.237

Reflecting the ambitious goals of its National Steel Policies, India’s support for its steel industry is direct and massive. Financial support is provided through a number of channels, including state-owned suppliers and various subsidy programs. The government owns the largest steel producer in India, the Steel Authority of India (“SAIL”) as well as India’s largest iron ore mining company, NMDC, and a host of other suppliers of key inputs in the steel-making process, including coal. These state-owned suppliers not only derive significant subsidies from their relationship with the government but also – in conformance with India’s steel policies – provide key inputs (such as hot-rolled steel and iron ore) to Indian steelmakers for less than adequate remuneration.238

The Indian government also 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. Among the more significant of the export subsidies provided by the Indian government 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.239 The AAP provides benefits well beyond a normal duty drawback system as it

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235 Roberta Rampton & Julia Edwards, Obama says TPP will ‘raise the bar’ on currency manipulation concerns, Reuters (Oct. 6, 2015).

236 See Import Administration, U.S. Dep’t of Commerce, Report to the President, Global Steel Trade, Structural Problems and Future Solutions (2000).


239 See OCTG from India I&D Memo at 14-15.
lacks a reliable system to determine the inputs (and the amount of each) that are consumed in the production of the exported product.\(^{240}\)

- **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.\(^{241}\) Like the AAP, the DFIA Scheme lacks a reliable system to determine the inputs (and the amount of each) that are consumed in the production of the exported product.\(^{242}\)

- **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.\(^{243}\)

- **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.\(^{244}\) In April 2013, the Indian government extended the period and scope of the interest rate subsidy provided under the EPCGS, in order to “enhance exports.”\(^{245}\) In April 2015, the export obligation under the EPCGS was reduced for goods for capital goods procured from indigenous manufacturers.\(^{246}\)

- **Preferential Export Financing.** India’s Department of Banking Operations & Development, Directives Division of the Reserve Bank of India (“RBI”), provides short-term pre-shipment export financing, or “packing credits,” to exporters through

\(^{240}\) See, e.g., id. at 15; Polyethylene Terephthalate Film, Sheet, and Strip from India: Final Results of Countervailing Duty New Shipper Review, 76 Fed. Reg. 30910 (Dep't Commerce May 27, 2011) and accompanying Issues and Decision Memorandum (“PET Film 2009 NSR IDM”) at 9.


\(^{242}\) PET Film 2009 NSR IDM at 9.


\(^{244}\) Issues and Decision Memorandum accompanying Steel Threaded Rod from India, 79 Fed. Reg. 40,712 (Dep’t Commerce July 14, 2014) (final affirmative countervailing duty deter. and partial final affirmative deter. of critical circumstances) at 14; OCTG from India I&D Memo at 16-18.

\(^{245}\) India announces interest subsidy, sops to boost exports, Yahoo Finance (Apr. 18, 2013).

commercial banks. Credit line limits for these credits are established by commercial banks, which must, by law, charge interest at rates capped by the RBI.

- **Merchandise Exports from India Scheme (“MEIS”).** The MEIS was introduced in India’s most recent Foreign Trade Policy (“FTP”) as a “reward[] to exporters to offset infrastructural inefficiencies and associated costs involved and to provide exporters a level playing field.” Under the MEIS, duty credit scrips are granted and can be used to pay for duties on imports of inputs or goods, excise duties on domestic procurement of inputs or goods, and payment of service tax on 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 new FTP (2015-2020) (“FTP”), which continues to include subsidies for Indian manufacturers, including those specifically targeted at boosting exports. The FTP seeks to increase India’s exports to $900 billion by 2019-2020, up from $466 billion in 2013-2014, and to increase India’s share of world exports from 2 percent to 3.5 percent.

Indian steel producers also receive significant subsidies at the sub-national 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

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248 See id.; Issues and Decision Memorandum accompanying *Steel Threaded Rod from India*, 79 Fed. Reg. 40,712 (Dep’t Commerce July 14, 2014) (final affirmative countervailing duty deter. and partial final affirmative deter. of critical circumstances) at 10-11.

249 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. Government of India, Ministry of Commerce and Industry, Department of Commerce, *Highlights of the Foreign Trade Policy 2015-2020* at 1.


254 See, e.g., *OCTG from India* I&D Memo at 21 (“Programs by State Government of Maharashtra”).
and services for less than adequate remuneration. Many state-level industrial policies explicitly call for the Indian state governments to provide customized subsidies to certain sectors or large companies (including in the steel industry) at the discretion of state officials.

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 2014. Turkey exported 16.2 million MT of steel products in 2014, approximately half of its 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 the U.S. steel industry. Indeed, in the past 16 months, Commerce has issued affirmative final determinations in three countervailing duty investigations on steel products from Turkey. Some of the major Turkish government subsidies that contributed to its steel industry’s growth are described below.

- Turkish Development Bank Loans: The Turkish Development Bank (“TDB”), 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 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.” In 2014, TBD increased its funding support to the private sector by 14 percent with, a

258 Id. at 27.
261 TDB 2010 Annual Report at 40.
total loan volume of TL 3,145 million, and had new disbursements totaling TL 767 million.\(^{262}\)

- **Turk Eximbank Subsidies**: The Export Credit Bank of Turkey (“Turk Eximbank”) is a “fully state-owned bank and the Turkish government’s major export incentive instrument in Turkey’s sustainable export strategy.”\(^{263}\) The bank is a significant player in encouraging Turkish exports, providing $20.1 billion in loans in 2014.\(^{264}\)

- Turk Eximbank provides short-term pre-shipment export loans through intermediary commercial banks. The U.S. Department of Commerce has found this program to constitute a countervailable subsidy, as receipt of these loans is contingent upon export, and the interest paid is less than what the recipient would pay on comparable commercial loans.\(^{265}\) Of the short-term credits granted by Turk Eximbank in 2014, 19 percent were directed to the iron and steel sector and 16 percent to the mining and metal products sector; in contrast, the iron and steel and mining and metal products sectors each accounted for only 9 percent of short-term credits in 2008.\(^{266}\)

- Turk Eximbank also offers short-, medium-, and long-term export insurance for Turkish companies,\(^{267}\) which is aimed at further subsidizing costs for domestic producers by reducing the financial uncertainty involved with doing business in foreign countries. Turk Eximbank provided $11 billion in insurance and guarantees in 2014.\(^{268}\)

- Turk Eximbank’s Foreign Trade Company loan program was implemented to assist large trading companies with their export financing needs.\(^{269}\) The program benefits Foreign Trade Corporate Companies\(^{270}\) and Sectoral Foreign Trade Companies. The

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\(^{262}\) Kalkınma Development Bank of Turkey, *Annual Report* 2014 at 34.


\(^{265}\) See, e.g., Issues and Decision Memorandum accompanying *Steel Concrete Reinforcing Bar from Turkey*, 79 Fed. Reg. 54,963 at 17-18; *Certain Welded Carbon Steel Pipes and Tubes from Turkey*, 65 Fed. Reg. 18,070, 18,072 (Dep’t Commerce Apr. 6, 2000).


\(^{270}\) An FTCC is a company whose export performance was at least $75 million in the previous year.
U.S. Department of Commerce has also found this program to constitute a countervailable subsidy.\footnote{Issues and Decision Memorandum accompanying \textit{Certain Welded Carbon Steel Standard Pipe from Turkey}, 71 Fed. Reg. 43,111 (Dep’t Commerce July 31, 2006) (“Carbon Steel Pipe from Turkey I&D Memo”) at 6-7; \textit{Carbon and Certain Alloy Steel Wire Rod from Turkey}, 67 Fed. Reg. 55,815 (Dep’t Commerce Aug. 30, 2002) (“Wire Rod from Turkey I&D Memo”) at 6-7.} Similar credits are available for smaller companies.\footnote{Carbon Steel Pipe from Turkey I&D Memo at 6-7; Wire Rod from Turkey I&D Memo at 7-8.}

- **Regional Development Subsidies**: Turkey’s government has established special zoning programs, including Organized Industrial Zones (“OIZ”), Free Zones, and Technology Development Zones.\footnote{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 separation of plots; and an exemption from municipality taxes for construction and usage of a plant and on solid waste. Various Turkish steel producers are eligible to receive benefits under these programs. Republic of Turkey Prime Ministry, Investment Support and Promotion Agency, \textit{Special Investment Zones}, http://www.invest.gov.tr/en-US/investmentguide/investorsguide/Pages/SpecialInvestmentZones.aspx (last visited Oct. 19, 215).} These programs have been used to subsidize and improve the performance of export companies in Turkey. The OIZ program alone has provided hundreds of millions of dollars in total benefits to recipient companies since 2006.\footnote{WTO Trade Policy Review Body, \textit{Trade Policy Review: Turkey}, Report by the Secretariat, WT/TPR/S/259 (Jan. 17, 2012) at 60-61, 68-69.}

- **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.\footnote{PWC, \textit{Turkey: Corporate - Tax credits and incentives} (June 19, 2014).}

- **The Purchase of Electricity for More Than Adequate Remuneration**: 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,\footnote{World Steel Association, \textit{World Steel in Figures 2015} (May 29, 2015) at 10.} 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,\footnote{See, e.g., Energy Market Regulatory Authority, \textit{Turkish Energy Market: An Investor's Guide} (2012) at 26.} which dominates the Turkish power sector,\footnote{See, e.g., International Energy Agency, \textit{Energy Policies of IEA Countries: Turkey 2009 Review} (2010) at 105, 112, 114, 116.} for above-market prices.\footnote{See, e.g., I. Atiyas et al., \textit{Reforming Turkish Energy Markets: Regulatory Reform and Competition in the Turkish Electricity Industry} (2012) at 22, 24.} 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.

**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.

For example, BNDES provides long-term financing to Brazilian industries. BNDES disbursed R$ 183.8 billion in financing in 2014 and R$ 68.7 billion in the first half of 2015; between January and June of 2015, R$ 20.2 billion was disbursed to the “industry” sector. As USTR has recognized, a significant portion of BNDES funding is provided at rates that are “substantially lower than the prevailing market interest rates for commercial financing.” And much of these funds are specifically devoted to increasing Brazilian exports. For example, in 2013, the bank provided R$ 154 million in financing to Peugeot Citroën Brazil, to be used in part to finance exports of cars from Brazil. According to www.export.gov, “[t]he lending practices of Brazil’s development bank, [BNDES], pose a significant hurdle to U.S. exports.”

BNDES-FINAME loans 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. USTR has noted that FINAME loans can be used “for financing capacity expansions and equipment purchases” in Brazil’s steel industry. Brazilian automotive manufacturers must use at least 65 percent local content in

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280 McKinsey Global Institute, *Connecting Brazil to the world: A path to inclusive growth* (May 2014) at 18-19.
282 USTR 2015 NTE Report at 43.
287 See USTR 2015 NTE Report at 43.
order to be eligible for FINAME loans. This level 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 receive such “low-cost” loans are
required by the bank to build their towers using at least 70 percent Brazilian produced steel.
These local content requirements will increase in 2016. 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 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,” and the United States has since
requested to join the consultations. A panel was composed in March 2015.

Another tax benefit for Brazilian exporters is the Special Regime for the Reinstatement of
Taxes for Exporters (“Reintegra”), reenacted in September 2014 through Decree 8304. Exporters of products representing R$ 80 billion of exports receive a subsidy of three percent of
the value of their exports, to be used either as a credit against their income tax or as a cash
payment. To qualify, the imported content of the exported goods must not exceed 40

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288 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).
290 Brian Greene and Guillermo Sandoval Coustasse, Brazil Enacts New Local Content Rules for Wind Projects Financed BNDES (April 10, 2013). Moreover, pursuant to these local content rules, the blades must be manufactured in Brazil, and both the nacelle and hub must be assembled in Brazil. Id.
293 See Brazil – Certain Measures Concerning Taxation and Charges: Request for Consultations by the European Union, WT/DS472/1, G/L/1061, G/SCM/D100/1, G/TRIMS/D/39 (Jan. 8, 2014) at 6.
294 Id.
295 See U.S. Dep’t of State, Bureau of Economic and Business Affairs, 2014 Investment Climate Report: Brazil.
296 Id.
percent.297 Reintegra also exempts exporters from a number of indirect taxes on capital expenditures, including social contribution taxes and the IOF tax.298 Decree 8415, issued in February 2015, set forth new regulations for the Reintegra program, but the three percent subsidy is still in effect.299

F. Korea

The Korean government provides several subsidies to its steel industry. For example, the state-owned Korea Electric Power Corporation (“KEPCO”) controls all aspects of electricity generation, transmission, distribution and retail in Korea300 and provides energy at below-cost rates to domestic industries, including the steel industry.301 KEPCO’s current CEO has acknowledged that the Korean government has “been supporting [certain] industries with cheap power in order to make them a growth engine for the economy,”302 and “help them become more competitive.”303 Furthermore, the Korean government’s “Green-Steel Industry” support program provides the steel-manufacturing sector with subsidies “to develop CO2-free steel-manufacturing technology” to reduce emissions.304 By 2021, the Korean government is expected to have provided Korean steel producers with over 112 billion won in subsidies through this program.305 Finally, Korea’s government-owned and -controlled banks, such as the Korean Export-Import Bank (“KEXIM”),306 the Korea Development Bank (“KDB”),307 and the Industrial Bank of Korea (“IBK”)308 provide various subsidies contingent upon export performance that are often utilized by the steel industry. For instance, both the KDB and IBK

297 Id. In the case of high-tech goods, such as pharmaceuticals, electronics, and aircraft and parts, up to 65 percent of inputs can be imported.
298 Id.
299 Id.
301 See Jin Heo, Kepco found cutting chaebol huge power deals, Korea JoongAng Daily (June 13, 2013), http://bit.ly/1MriCnG. (“KEPCO sold the electricity used in industrial sites of the country's largest conglomerates at about 85.8 percent lower than the production cost... in order to strengthen the competitiveness of those large conglomerates”); Petition for the Imposition of Countervailing Duties, Certain Corrosion-Resistant Steel Products from the Republic of Korea, vol. I at 295 (June 3, 2015).
305 Id.
provide short-term export financing in the form of discounted documents against acceptance ("D/A") loans\textsuperscript{309} and KEXIM provides short-term export credits, export factoring, export loan guarantees, trade bill rediscounting, and import financing.\textsuperscript{310}

G. Russia

1. Natural Gas Subsidies

Russia maintains the second largest proven reserve of natural gas in the world.\textsuperscript{311} Open Joint Stock Company Gazprom ("Gazprom"), a Russian state-owned company, currently has a monopoly on exports of pipeline natural gas produced in Russia. The Russian government also controls domestic pricing of natural gas to both industrial users and other consumers.\textsuperscript{314} Prior to joining the WTO, Russia implemented a trade-distortive dual pricing system for natural gas, requiring international purchasers to pay a premium for natural gas.\textsuperscript{315} President Putin declared that Russia would refuse to join the WTO if it were required to change this pricing system,\textsuperscript{316} and Russia was ultimately permitted to maintain the dual pricing system for natural gas under its WTO accession agreement.\textsuperscript{317} This dual pricing system acts as a trade-distortive

\textsuperscript{309} Coated Free Sheet Paper From the Republic of Korea, 72 Fed. Reg. 17,507, 17,513 (Dep't Commerce Apr. 9, 2007) (prelim. affirmative countervailing duty deter.). See also Issues and Decision Memorandum accompanying Coated Free Sheet Paper from the Republic of Korea, 72 Fed. Reg. 60,639, 60,641 (Dep't Commerce Oct. 25, 2007) (notice affirmative countervailing duty deter.) at 17-18.


\textsuperscript{311} U.S. Energy Information Administration, Russia, International energy data and analysis (July 28, 2015). See also BP Statistical Review of World Energy (June 2015) at 20.

\textsuperscript{312} Levelling the International Playing Field Between Public and Private Business: What Have We Learnt So Far?, Meeting of the OECD Council at Ministerial Level (May 6-7, 2014) at 4.

\textsuperscript{313} See Katya Golubkova and Tim Heritage, Putin Signals End to Gazprom’s Russian Gas Export Monopoly, Reuters (June 21, 2013) ("Gazprom . . . has a monopoly on exports of both pipeline gas and LNG under a 2006 law"); Lars Petter Lunden and Daniel Fjaertoft, Government Support to Upstream Oil & Gas in Russia, International Institute for Sustainable Development (July 2014) at 15.


\textsuperscript{315} Id. ¶ 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 Restraints on Russian Natural Gas and Raw Timber: What are the Economic Impacts?, Centre for Energy Policy and Economics Working Paper No. 74 (Mar. 2010) at 2.


\textsuperscript{317} See generally Russia Working Party Report at “Pricing Policies.”
energy subsidy to Russian industrial producers.\(^{318}\) 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.

Moreover, while Russia’s WTO accession agreement generally allows it to maintain a dual pricing system, Russia did commit to alter the pricing system by basing natural gas prices for industrial users on “normal commercial considerations,” \(i.e.,\) recovery of costs and profit.\(^{319}\) However, it appears that Russia has failed to comply with even this commitment thus far. A study concerning the feasibility of increases in Russian domestic natural gas prices noted that in 2012, “sixty percent of the [natural gas] production [was] sold domestically at prices below long term marginal cost, for households and for industrial producers.”\(^{320}\) While Russia is permitted to continue to regulate prices to households and other non-commercial users, industry analysts recognize that a natural gas price based on “commercial considerations,” \(i.e.,\) elimination of dual pricing for industrial users, should be equal to the price of gas on the European market.\(^{321}\) Yet the Russian government continues to set natural gas prices in Russia substantially below European market prices. Recognizing that gas prices have “remained below the economically viable level, thereby supporting the domestic economy[,]” Gazprom indicated that prices to industrial consumers should be increased 15 percent annually between 2013 and 2015 “to bring them closer to the level of profitability equal to export supplies.”\(^{322}\) However, in December 2013, the Russian government reportedly froze natural gas prices in Russia until least July 2015, with a price increase of 4.8 percent from July 1, 2015 and of 4.9 percent from July 1, 2016.\(^{323}\) USTR should investigate Russia’s actions and confirm whether Russia is complying with its commitment to base the price of natural gas for industrial users on “commercial considerations.”\(^{324}\)

\(^{318}\) Id. ¶ 120. 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”).


\(^{320}\) Christophe Heyndrickx, Victoria Alexeeva-Talebi and Natalia Tourdyeva, *Implications of an Increase in Domestic Prices of Gas in Russia, an Application of the Regional Economic Model SUSTRUS* (2012) at 1.


\(^{324}\) See Russia Working Party Report at ¶ 132.
In addition to Russia’s dual pricing scheme, Russia continues to place a 30 percent export tax on natural gas, further benefiting domestic users.\footnote{Id. at ¶ 631. See also Deloitte & Touche, Tax and Legal Guide to the Russian Oil & Gas Sector (2012) at 43; Lars Petter Lunden and Daniel Fjaertoft, Government Support to Upstream Oil & Gas in Russia, International Institute for Sustainable Development (July 2014) at 18, 19, 20.} AISI remains concerned with this trade-distortive policy, especially given that Russia has indicated that it will not phase out the export tax.\footnote{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”).} 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 and an end to Russia’s dual pricing system for domestic natural gas users. Moreover, given current events in the region, USTR should closely monitor any future actions the Russian government may take to prohibit some or all natural gas exports.\footnote{See, e.g., Maria Gallucci, Europe Unprepared If Russia Cuts Off Natural Gas Exports To EU This Summer, Analysts Say, International Business Times (July 30, 2014).}

2. Freight Transportation Subsidies

Russia also continues to apply different freight rates for domestic companies to promote domestic production of finished goods and to discourage the export of raw materials.\footnote{See Russia Working Party Report ¶ 115 (“The representative of the Russian Federation to the WTO further confirmed that, over the period between the accession of the Russian Federation to the WTO and 1 July 2013, the Russian Federation would gradually reduce the existing differences between, on the one hand, rail transportation charges applicable to like, directly competing or substitutable products transported between domestic locations, as well as the existing differences in rail transportation charges for imported and exported products depending on whether they enter or exit the territory of the Russian Federation by land or through a port or depending on their origin or destination”); see also Working Party Seals the Deal on Russia’s Membership Negotiations, World Trade Organization (Nov. 10, 2011) http://www.wto.org/english/news_e/news11_e/acc_rus_10nov11_e.htm; Russia to Unify Railway Tariffs Under WTO Rules Two Yrs After Accession, ITAR-TASS (Nov. 16, 2011).} The primary rail carrier in Russia is Russian Railways, an SOE. With control over much of the freight system, the Russian government affects transportation through an extensive system of tariff rates,\footnote{The tariffs are contained in Price List No. 10-01. Russell Pittman, Blame the Switchman? Russian Railways Restructuring After Ten Years, U.S. Dep’t of Justice, Antitrust Division Discussion Papers (Feb. 2011) at 12.} which are segregated into three categories: final products, intermediate goods and raw materials.\footnote{Id.} Because of tariff differences, transporting raw materials within Russia is cheaper than transporting products in the other two categories.\footnote{European Conference of Ministers of Transport, Regulatory Reform of Railways in Russia, OECD (2004) at 54. See also Milla Laisi, Business Environment and Future Opportunities in Russian Railway Freight Market, Finnish Transport Agency, Rail Department (June 2010) at 45.}

Russia also places higher tariffs on freight for goods and raw materials intended for export, as opposed to domestic use.\footnote{European Conference of Ministers of Transport, Regulatory Reform of Railways in Russia, OECD (2004) at 52.} This is particularly concerning, as the elevated tariffs on...
goods destined for export act as another barrier to global trade in raw materials. Furthermore, Russian steelmakers can continue to exploit the transit system, while they increase steel production capacity.

Russia agreed to eliminate these discrepancies in its railway tariffs by July 1, 2013 as part of its WTO accession. Effective September 3, 2013, Russia does appear to have made some changes to its railroad tariffs, but they appear to apply only to grain. It is not apparent that Russia has made any other effort to comply with this commitment. Russia also committed to publishing all changes that regulated railway tariffs for the transit of goods before their entry into force, but it does not appear to have done so. As a result, it appears that Russia has failed to comply with its obligation within the clearly specified deadline. USTR should confirm whether Russia has in fact failed to eliminate distortive freight transportation tariffs.

At the same time, while Russia utilizes its tariff system to discourage exports of certain goods and raw materials, it supports exports of other products by drastically reducing fuel rates for carriers fueling at Russian ports. Artificially cheap prices for shipping fuel facilitate Russian exports of products like hot-rolled steel, including to the United States. Such subsidies are another means by which the Russian government provides certain Russian manufacturers with an unfair competitive advantage in the international market.

### 3. Preferential Loans

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

335 See Russia Working Party Report ¶ 117.
Although Russia committed to ensuring that subsidies provided at the federal and sub-federal level are consistent with its WTO obligations, state-controlled banks have made significant loans to Russian manufacturers despite declines in their credit ratings. In 2012, state-sponsored funds from Sberbank helped Russian mining and metals company Mechel restructure its short-term debt with four long-term credit lines totaling nearly US $8 billion. Mechel has been able to obtain such loans from state-owned Russian banks despite a continual decline in its credit rating since 2012. Less than one month after Moody’s downgraded Mechel’s credit rating from B2 to B3 (junk status), and changed its outlook on the rating from stable to negative, two state-controlled banks, VTB Bank and Gazprombank, provided Mechel with loans valued at US $1.3 billion and US $1 billion, respectively. Mechel recently restructured its loans with these banks, the terms of which set a grace period until April 2017 and loan maturity in April 2020. In addition, in December 2012, Russian steel pipe producer, ChelPipe, received more than $13 billion in state guarantees to help restructure debt it had accumulated by investing in new production capacity. According to a ChelPipe spokesperson, the company chose to seek government assistance because of the state bank’s “comfortable” loan guarantee terms.

In 2014, the Russian government created a list of 199 companies deemed to be strategic firms eligible for state assistance. Included on the list are steelmakers Severstal and Evraz, aluminum producer Rusal, and the mining company Norilsk Nickel. Russia’s Ministry of Economic Development will provide state-backed guarantees for loans and bond worth up to 200

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338 See Russia Working Party Report ¶ 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”).


342 Mechel OAO Raises USD 1 Billion in Loans from Gazprombank OAO-Interfax, Reuters (Apr. 29, 2013).


345 ChelPipe Asks Russian Government For Loan Guarantees, SteelFirst (June 5, 2012).

346 See also Gabriela Baczynska, Russia lists 199 firms eligible for state support amid crisis, Reuters (Feb. 8, 2015).
billion rubles to the companies on the list for investment projects and other purposes such as debt restructuring.348

In addition, the Russian government will reportedly provide nearly $8 billion, including assistance with loan payments, to its domestic auto manufacturers this year, with a goal of bringing the share of domestic-made cars in the Russian market to 80 percent.349

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 encourage Russia to end such government financial support for expansion of steelmaking capacity.

VI. STATE-OWNED ENTERPRISES AND GOVERNMENT INTERVENTION

Foreign governments are increasingly using SOEs350 and other methods of government intervention to unfairly tilt the commercial playing field, both within a country’s borders and in global markets. China, in particular, has created massive state-owned and -controlled national champions that are designed to be competitive on the international stage, and other countries are following suit. The rise of SOEs and other government intervention into industry represents a growing threat to fair trade and the ability of private steel producers to compete globally. SOE 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 the U.S. and global steel markets and related upstream and downstream markets, as well as other global industries.

A. Trade Distortions and Anti-Competitive Effects Caused by SOEs and Other Government Intervention in Commercial Activities

SOEs often receive massive subsidies and other benefits from their government, which provide an unfair competitive advantage to SOEs 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 SOEs.”351 Some of the most significant ways in which governments benefit their SOEs and distort the global marketplace include: direct

348  Paul Whitfield, Russia Offers Aid to 'Strategic Companies' to Ease Lender Jitters, The Street (Feb. 9, 2015).
350  As used in these comments, “state-owned enterprises” includes “state-supported enterprises” and other government-backed entities.
subsidies in the form of cash grants and/or capital infusions; preferential loans and access to finance; tax reductions and exemptions; preferential access to raw materials and other inputs; and preferential regulatory treatment.

Because SOEs are frequently subsidized and otherwise advantaged by their home governments, 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. These distortive effects essentially cause market-based U.S. steel companies 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, SOEs can act as a barrier to trade in a number of ways. First, government support for SOEs 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 SOEs’ costs and enhance their ability to sell at lower prices than their private sector competitors. Additionally, some unprofitable SOEs, which in a free market would be driven out of business, “may enjoy outright exemptions from bankruptcy rules.” The ability to sustain losses for longer periods of time and not having to earn a commercial rate of return provide SOEs with a significant competitive advantage over their private sector counterparts. These advantages may prevent U.S. producers from exporting to a market dominated by SOEs.

Second, government support for SOEs can artificially stimulate exports of a particular domestic product, displacing U.S. exporters in global markets. The Chinese government, for example, selects specific SOEs 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 SOEs to buy a given input from one country over another or to buy domestically. In any event, the rise of SOE investment abroad, and government intervention more generally, represents a significant barrier to trade in home and third country markets.

355 See, e.g., Scott Cendrowski, 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”).
356 OECD, SIEs in the Global Marketplace at 13; OECD, SOEs: Trade Effects and Policy Implications at 5.
357 OECD, Competitive Neutrality at 6. See also OECD, SIEs in the Global Marketplace at 14.
B. SOEs by Country

According to a recent OECD study, 282 of the 2000 largest global companies in the business year 2012-2013 were identified as state-owned or state-invested enterprises. Of the world’s 25 largest SOEs, thirteen are domiciled in China (including Hong Kong), three are Russian, and two are Brazilian. The remaining SOEs are located in Colombia, France, India, Italy, Norway, Saudi Arabia, and Thailand, with one of the largest SOEs each. Additional country-specific information on SOEs 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 such as banking, insurance, raw materials, and steel. “Currently, assets of both central and local SOEs amount to about 94 trillion RMB.” SOEs constitute 80 percent of the value of the Chinese stock market. More than three-quarters of Chinese companies on this year’s Fortune Global 500 list are state-owned. According to a 2013 study, the share of SOEs in the sales, assets and market value of China’s top ten firms is 96 percent. With respect to the steel industry, the Chinese government has ownership interests in 18 of the 20 largest steel producers in China. The OECD has identified 29 large Chinese steel companies (i.e., companies which produced 2 million MT of steel or more in 2011) as being majority owned by the state. Chinese SOEs control almost 15 percent of metal production globally. While many expected President Xi Jinping to loosen state control

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358 OECD, SIEs in the Global Marketplace) at 8.
359 **Id.** at 7.
360 **Id.**
362 See, e.g., OECD, State-Owned Enterprises in the Development Process (Apr. 23, 2015) at 137-163; Sara Hsu, China’s Changing State-Owned Enterprise Landscape, The Diplomat (June 25, 2014) (“SOEs at the central level include the largest and most important firms in China, concentrated in the energy, aviation, technology, steel, shipping, mining, telecom and financial sectors”).
363 Sara Hsu, China’s Changing State-Owned Enterprise Landscape, The Diplomat (June 25, 2014) (emphasis added).
365 Scott Cendrowski, China’s Global 500 companies are bigger than ever—and mostly state-owned, Fortune (July 22, 2015).
367 OECD State Ownership Report at 6-7.
over the SOE sector, a reform plan released in September reveals a desire to enhance state control over the economy by, for example, formalizing the Chinese Communist Party’s role in SOE corporate governance and encouraging SOEs to acquire private firms in strategic industries.\(^{370}\)

- **Russia:** Russia has “reasserted direct state control over ‘strategic’ industries,” including oil, gas, and transportation,\(^{371}\) which are important to the steel industry. SOEs play a prominent role in the Russian economy, with their revenues accounting for at least 71 percent of GDP.\(^{372}\) In 2013, the Russian government issued its 2014-2016 Privatization Plan, which rolled back a previous plan’s commitments to privatize a number of SOEs.\(^{373}\) Many of the stated goals of decreased ownership by the end of 2014 were not achieved.\(^{374}\) Instead, the U.S. State Department reports that Russia “appears to be increasing state control over the country’s leading economic institutions as the economy continues to weaken.”\(^{375}\)

- **India:** The Heritage Foundation notes that “[t]he state’s presence in the economy remains extensive through [SOEs] and wasteful subsidy programs that cause chronically high budget deficits.”\(^{376}\) Indeed, SOEs in India account for 20 percent of the value of the stock market and are pervasive in mining, energy, steel, logistics, and other sectors critical to manufacturing and raw materials.\(^{377}\) The assets controlled by Indian SOEs equal 75 percent of the country’s Gross National Income.\(^{378}\) And India’s state-owned banks are responsible for three-quarters of all bank loans in the country.\(^{379}\)


\(^{372}\) U.S. Dep’t of State, Bureau of Economic and Business Affairs, 2015 Russia Investment Climate Statement at 20.

\(^{373}\) U.S. Dep’t of State, Bureau of Economic and Business Affairs, 2014 Investment Climate Statement – Russia (June 2014).

\(^{374}\) U.S. Dep’t of State, Bureau of Economic and Business Affairs, 2015 Russia Investment Climate Statement, at 5.

\(^{375}\) Id. at 20.


\(^{378}\) OECD, SOEs: Trade Effects and Policy Implications at 21; Motilal Oswal, India PSUs (June 2014) at 8.

• **Indonesia**: Indonesia currently has more than 119 SOEs.\(^{380}\) Indonesian SOEs accounted for 40 percent of GDP in 2014\(^{381}\) and are dominant in mining, energy, manufacturing, steel, and logistics.\(^{382}\) Indonesian President Joko “Jokowi” Widodo has placed SOEs at the forefront of the drive to ramp up infrastructure.\(^{383}\) In fact, in February 2015, the Indonesian government passed a supplementary budget that allocated $3 billion to various SOEs.\(^{384}\) Recipients of the funds include Aneka Tambang, which plans to build an alumina refinery, and Krakatau Steel, which plans to modernize its plants.\(^{385}\)

• **Brazil**: SOEs in Brazil account for 38 percent of stock market capitalization and are dominant in the mining, energy, and financial sectors.\(^{386}\) Rather than trending toward privatization, in recent years, the Brazilian government has created a number of new SOEs, including an SOE for reinsurance known as “Segurobras” and a state-owned company mandated to manage the network of regional airports.\(^{387}\)

• **Singapore**: As the Department of State has recently noted, “Singapore has an extensive network of government-linked corporations . . . [that] are active in many sectors of the

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\(^{384}\) *Id.*


In 2014, SOEs contributed over 20 percent of Singapore’s GDP and over 40 percent of market capitalization.

- **Malaysia:** According to a U.S. Department of State report earlier this year, SOEs “play a very significant role in the Malaysian economy.” SOEs represent 36 percent of Malaysia’s total stock market capitalization. One SOE, Petronas, is the single largest contributor to Malaysian government revenues, about 45 percent.

- **Vietnam:** According to the U.S. Department of State, “SOEs still dominate in all strategic sectors” in Vietnam. Indeed, in 2014 there were over 500 SOEs, including 15 of the 20 largest Vietnamese enterprises, accounting for 32 percent of Vietnam’s GDP. “Although Vietnam unveiled a broad, ‘three pillar’ economic reform program in early 2012,” proposing the restructuring of SOEs, “little perceptible progress had been made” according to a WTO review last year.

Many of these governments are pursuing ownership and control of their steel industries. For example, in India, the government owns up to 80 percent of SAIL, the country’s largest steel producer, while the Vietnamese government owns 65 percent of its largest steel producer.

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392 *Id.*

393 U.S. Energy Information Administration, *Malaysia* (Sept. 29, 2014); *Malaysia's Petronas swings to $2.02 billion loss in Q4*, The Jakarta Post (Feb. 27, 2015).


396 2013 WTO Trade Policy Review Report: Vietnam at 81. See also U.S. Department of State, Bureau of Economic and Business Affairs, *2014 Investment Climate Statement – Vietnam* (June 2014). (“The government has set a target to equitize more than 400 SOEs by 2015. However, as only 180 SOEs were restructured during 2011-2013, this target appears ambitious”).

Vietnam Steel.\textsuperscript{398} 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 this trend does not appear to be reversing. In 2013, the Algerian government purchased ArcelorMittal’s Annaba and Tebessa plants,\textsuperscript{399} and in early 2015, the Italian government took over full control of the Ilva steel plant, which has Europe’s biggest output capacity with a capacity of more than 11 million tons.\textsuperscript{400} In fact, in 2012, the Organization for Economic Cooperation and Development estimated that 25 of the 50 largest steel companies in the world have some level of state ownership.\textsuperscript{401}

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.\textsuperscript{402} Governments often will prevent steel mill closure in order to maintain employment levels and for other non-commercial purposes.\textsuperscript{403} 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.”\textsuperscript{404} 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. While the limited attempts at consolidation in the steel industry have been largely ineffective,

\textsuperscript{398} CORRECTED - Vietnam PM approves VNSteel privatization plan, Reuters (Apr. 21, 2011).
\textsuperscript{399} ArcelorMittal sells majority of Algerian unit to state, Reuters (Sept. 29, 2013); Algeria’s Steel Giant to Be De-Facto Nationalized, The North Africa Post (Nov. 7, 2013).
\textsuperscript{400} Italy takes full control of troubles Ilva steel plant, Reuters (Jan. 21, 2015).
\textsuperscript{401} State Ownership in the Steel Industry: Issues for Consideration, OECD Steel Committee, DSTI/SU/SC (2012)6 at 6-7. This estimate is conservative, as the OECD limits its definition of an SOE to an entity with state ownership exceeding 50 percent. This fails to take into account entities that are otherwise owned, controlled or effectively influenced by the government (through, for example, controlling minority shares, golden shares, the ability to appoint board members or the ability to otherwise influence management or operations of the entity).
\textsuperscript{404} 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).
“Local governments, still desperately pursuing economic growth, are approving new steel projects.”

Even in countries with historically market-based economies, governments are intervening in the steel sector. Some European governments have intervened to delay or prevent plant shutdowns, in order to avoid potential social and economic consequences, and many expect them to continue to do so in the future. “European governments will likely continue to pressure European steelmakers to keep steel production facilities open, and not downsize their European operations.” So-called “zombie mills” – “dead mills being almost entirely propped up by state assistance through direct subsidies or indirect arrangements” – exist across Europe. For example, in recent years, the governments of Italy, France and Belgium have each objected to the closures of mills within their borders.

VII. GOVERNMENT PROCUREMENT

China’s accession to the WTO Government Procurement Agreement (“GPA”) is a necessary step in removing the current restrictions that limit access to China’s large public procurement market. Since 2005, China’s government procurement has increased at a rate of nearly 25 percent each year. In 2012, China’s government procurement market was at least $230 billion. However, this figure may not include procurement at all levels of government, most government-funded construction projects or public works, or procurement by SOEs.

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405 See Local resistance to Beijing’s steel consolidation, CRU Steel News Daily (Feb. 27, 2013); First Up on the Reform Plans: Tackling Overcapacity, The Wall Street Journal (Nov. 15, 2013) (“Beijing has long tried to shutter inefficient manufacturing capacity in its efforts to rise from manufacturing inexpensive goods to making higher-value products, but it has encountered stiff resistance from local governments who rely on these industries to meet local economic growth and employment targets”).


408 Morgan Stanley Global Steel Report at 15; Steelworkers strike against job cuts at Italy's Terni plant, Reuters (July 28, 2014); Renzi 'concerned' after AST Terni talks collapse, ANSA (Oct. 9, 2014); ArcelorMittal: Problems in Europe and Regaining Investment Grade Status, Seeking Alpha (Jan. 21, 2013); Ben Deighton, Belgium considers nationalization of ArcelorMittal plant, Reuters (May 30, 2013); Silvia Antonioli and Philip Blenkinsop, CORRECTED-UPDATE 2-EU unveils action plan for Europe’s ailing steel sector, Reuters (June 12, 2013); Charlotte Stubben, Will ArcelorMittal in Belgium be nationalised?, Metal Supply (Aug. 23, 2013); Caroline Bauman and James Fontanella-Khan, Steelmaker clashes with unions over job losses, The Financial Times (Nov. 7, 2013).

409 USTR, 23rd U.S.-China Joint Commission on Commerce and Trade Fact Sheet (Dec. 19, 2012); see also Yao Jing, China Aims to Open Up Procurement Market, China Daily (Jan. 11, 2014) (stating that government procurement increased 23.3 percent from 2011 to 2012).

410 See Yao Jing, China Aims to Open Up Procurement Market (Jan. 11, 2014).

411 See USTR 2013 NTE Report at 96 (“While official figures for procurement covered under the [China’s Tendering and Bidding Law] are not available, analysts estimate that this procurement may exceed $200 billion”); Wayne M. Morrison, China-U.S. Trade Issues, Congressional Research Service, RS33536 (July 10, 2014) (“A study
U.S. companies have largely been closed off from this lucrative market, due to Chinese government restrictions on foreign participation in government procurement. For example, China’s Government Procurement Law directs central and sub-central government entities to give priority to “local” goods and services.\textsuperscript{412}

China has continually failed to take the necessary measures to liberalize its government procurement market and accede to the GPA, as it committed to doing as part of its accession to the WTO. In accordance with China’s Protocol of Accession, it became an observer to the WTO Committee on Government Procurement in 2002. China also committed to initiate negotiations for accession to the GPA “as soon as possible.”\textsuperscript{413} China initiated the GPA accession process by submitting its application for accession and initial offer of coverage in December 2007. China subsequently submitted revised offers of coverage in 2010, 2011, 2012, 2013 and in January and December 2014.\textsuperscript{414}

China’s offers of coverage have thus far been deficient. While China’s most recent offers have made some progress, China’s fourth and fifth offers were described as “far from acceptable” and “highly disappointing” due to their limited coverage and scope as compared to other GPA parties.\textsuperscript{415} To fulfill the GPA’s accession requirements, which China committed to do upon its WTO accession, China’s future revised offer must include coverage of SOEs engaged in procurements for government purposes, additional sub-central entities and services, and full coverage of procurement under China’s Government Procurement Law and Tendering and Bidding Law. Unfortunately, China indicated this year that “it would be difficult or impossible for it to make significant further additions to entity coverage,”\textsuperscript{416} indicating a continued desire to use government procurement to further industrial policy objectives.

\textsuperscript{412} USTR 2013 NTE Report at 95.
\textsuperscript{413} China’s Accession Working Party Report, WT/ACC/CHN/49 (October 1, 2001), ¶ 341.
\textsuperscript{414} Frank Ching, China revises WTO procurement bid, The China Post (Jan. 15, 2014); Committee on Government Procurement Moves Ahead on Multiple Accessions, World Trade Org. (Feb. 11, 2015).
\textsuperscript{415} USTR 2015 NTE Report at 75.
\textsuperscript{416} Committee on Government Procurement Moves Ahead on Multiple Accessions, World Trade Org. (Feb. 11, 2015).
VIII. CONCLUSION

The trade barriers described above 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 2016 National Trade Estimate Report on Foreign Trade Barriers, and continue to work toward the elimination of these and other trade barriers worldwide.

Sincerely,

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