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October 22, 2013

VIA WWW.REGULATIONS.GOV

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

Re: Request for Comments Regarding the 2014 National Trade Estimate
Report on Foreign Trade Barriers, Docket No. USTR-2013-0027

Dear Mr. Bell:

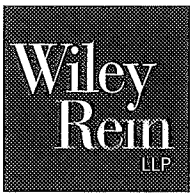
In response to a request from the Office of the United States Trade Representative (“USTR”),¹ the American Scrap Coalition (“the Coalition”),² on behalf of its U.S. member companies, hereby submits comments to the interagency Trade Policy Staff Committee regarding USTR’s 2014 National Trade Estimate 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 the Coalition and its members.

I. INTRODUCTION

Foreign trade barriers, including export restrictions, distort international trade and are extremely harmful to U.S. companies. Such measures restrict U.S. producers’ access to raw materials such as steel scrap, thereby creating a distorted 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 on steel scrap and other raw materials. The discussion below identifies trade restrictions in this category for USTR’s inclusion in its 2014 NTE Report.

¹ *Request for Public Comments Regarding the National Trade Estimate Report on Foreign Trade Barriers*, 78 Fed. Reg. 50,481 (Aug. 19, 2013).

² The American Scrap Coalition was formed in 2004 to address steel scrap issues and to remove barriers to trade in scrap. Founding members of the American Scrap Coalition include the Steel Manufacturers Association, the American Foundry Society, the National Precast Concrete Association, and other groups representing manufacturers or users of steel and steel scrap. In all, more than 2,000 companies are members of these associations.



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 such as steel scrap, 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.³ 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. Some of the most restrictive global export barriers on steel scrap, which negatively affect the U.S. and global steel industries, are described below.

A. 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.⁴ U.S. industries face a severe scrap crisis. 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 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, more than 30 countries restrict steel 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. Prices have surged from less than \$100 per ton in 2002 to nearly \$400 per ton today, leading to growing concerns about scrap availability.⁵ Rising costs and decreasing availability

³ See *Trade in Raw Materials: Breaking Free from Export Restrictions*, OECD (Feb. 2011); OECD, *Steelmaking Raw Materials: Market and Policy Developments*, DSTI/SU/SC(2012)1/FINAL (Oct. 11, 2012) (“OECD, *Steelmaking Raw Materials*”) at 57.

⁴ OECD, *Steelmaking Raw Materials* at 56.

⁵ *SteelBenchmarker Scrap Price* (Sept. 23, 2013).

impact all scrap consumers and negatively affect important manufacturing sectors in the U.S. economy. Because the vast majority of steel scrap is used to make new steel, higher scrap prices, in turn, lead to increased worldwide costs of steel production. Other key U.S. industries affected by this crisis 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 prices to increase,⁶ countries imposing the restrictions maintain 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 the supply and availability of scrap, rendering scrap prices highly volatile.

2. Country-by-Country List of Scrap Export Restrictions

- Algeria requires an export license for exports of steel scrap.⁷
- Argentina imposed a year-long export ban on scrap in August 2012.⁸
- Armenia increased its export duty on ferrous scrap, by 80 times the previous duty, in October 2012.⁹
- Azerbaijan currently imposes a complete export ban on scrap.¹⁰
- Belarus imposes a 15 percent export tax on ferrous scrap, with a minimum of 20€ per ton.¹¹
- In November 2012, a coalition of Brazilian steel producers submitted a proposal to Brazil's Ministry of Development, Trade and Industry to impose a tax on scrap exports to countries which themselves impose scrap export

⁶ See K.C. Fung and Jane Korinek, *Economics of Export Restrictions as Applied to Industrial Raw Materials*, OECD Trade Policy Paper No. 155, TAD/TC/WP(2012)23/FINAL (Apr. 26, 2013) at 4.

⁷ OECD, *Steelmaking Raw Materials* at 69.

⁸ *Argentina reveals ferrous scrap export ban*, Recycling International (Sept. 5, 2012). It is unclear whether this ban was lifted or extended after August 2013.

⁹ *Armenia to limit scrap metal exports for development of own processing*, Kyiv Post (Oct. 4, 2012).

¹⁰ Presentation of David Hodory to the OECD, *CRSI Scrap Market Presentation* (Dec. 5, 2011) at Appendix ("*CRSI Scrap Market Presentation*").

¹¹ OECD, *Steelmaking Raw Materials* at 66.

restrictions.¹² In February 2013, the Brazilian government requested more time to analyze the proposed measure.¹³

- Burundi imposes a complete ban on scrap exports.¹⁴
- China has a 40 percent export tax on steel scrap.¹⁵ It reserved the right to impose this high of an export tax as part of its WTO obligations.¹⁶ This export restriction on scrap has been extremely effective – China exported no scrap in 2011 or 2012.¹⁷
- Egypt imposes an export tax of between 500 and 750 Egyptian pounds per ton of steel scrap.¹⁸
- Ghana imposes a ban on scrap exports “in order to support the operations of local steel manufacturing companies.”¹⁹
- Guinea currently imposes an export tax of GNF 25,000 per metric ton of steel scrap.²⁰
- Guyana currently imposes a complete export ban on scrap.²¹
- India imposes a 15 percent export tax on steel scrap.²²
- Indonesia currently imposes a complete scrap export ban.²³
- Iran’s export tax on steel scrap ranges from 35 to 50 percent.²⁴

¹² Juan Weik, *Gerdau, IABr collaborating on Brazil scrap export tax*, AMM (Nov. 27, 2012).

¹³ Ana Paula Camargo, *Brazilian trade group opposes proposed scrap export tax*, AMM (Apr. 15, 2013).

¹⁴ OECD, *Steelmaking Raw Materials* at 69.

¹⁵ *China issues steel product export tax rates for 2013*, SteelOrbis (Dec. 19, 2012).

¹⁶ See Njabulo Mkhize, *Export Duty on Scrap Metal*, SEIFSA News, Vol. 12, 05 (May 2011) (“SEIFSA Export Duty on Scrap Metal”) at 4; Chinese Ministry of Finance, *Export Taxes 2011* (2010), available at <http://gss.mof.gov.cn/zhengwuxinxi/zhengcefabu/201012/P020101214580452058878.pdf>.

¹⁷ World Steel Association, *World Steel in Figures 2013* (May 30, 2013) at 27.

¹⁸ OECD, *Steelmaking Raw Materials* at 66.

¹⁹ *Ghana: Export ban on scrap metal*, Global Trade Alert (Apr. 5, 2013). See also OECD, *Steelmaking Raw Materials* at 69.

²⁰ See *CRSI Scrap Market Presentation* at Appendix.

²¹ Bert Wilkinson, *Scrap metal dealers push back against government ban*, Caribbean Life News (Nov. 8, 2011); *Scrap metal industry exports 32,000 tons in 2012*, Kaieteur News (Mar. 3, 2013).

²² OECD, *Steelmaking Raw Materials* at 66.

²³ See *id.* at 69; *CRSI Scrap Market Presentation* at Appendix.

- Jamaica lifted its complete ban on scrap metal exports in January 2013; however, scrap exports remain strictly regulated, with restrictions placed on the type of scrap metal to be exported and requirements that all containers be loaded under the supervision of the police, customs officers, and/or the military.²⁵
- Jordan imposes a \$50 per ton tax on exports of steel scrap.²⁶
- Kazakhstan continues to impose an export tax of 15 percent, with a minimum tax of €20 per ton.²⁷
- Kenya previously imposed a complete ban on the export of steel scrap.²⁸ Recent reports are conflicting; some indicate that the ban remains in place,²⁹ while others indicate that Kenya imposes a 20-25 percent export tax on scrap.³⁰ Other reports state that scrap metal is a “restricted item” in Kenya, meaning that exports need a special permit from the country’s Industrialization Ministry with consent from the Trade Ministry.³¹
- Malaysia currently imposes an export tax of 10 percent on steel scrap.³² The Malaysian government has also considered imposing a complete ban on scrap exports to ensure efficient domestic supply,³³ which it has done previously.³⁴ Further, scrap exporters are required to obtain a non-automatic export license.³⁵

²⁴ *Id.* at 66. See also *SEIFSA Export Duty on Scrap Metal* at 4; *Iran Set to Increase Export Duty on Scrap to 70 Percent*, SteelOrbis (July 7, 2010); Michelle Applebaum, *Resource-Hugging – Reverse Protectionism Will Drive Further Commodity Price Hikes*, Steel Market Intelligence (June 12, 2008), as cited in *Coalition Releases List of Foreign Scrap Trade Barrier* (July 2008), American Scrap Coalition, available at <http://www.americanscrapcoalition.com/news/story.asp?articleid=25>.

²⁵ Ingrid Brown, *Scrap metal trade to resume*, Jamaica Observer (Dec. 20, 2012).

²⁶ OECD, *Steelmaking Raw Materials* at 66; *Jordan steel scrap export limited by high export taxes*, Asian Metal (Mar. 20, 2012).

²⁷ See *CRSI Scrap Market Presentation* at Appendix; OECD, *Steelmaking Raw Materials* at 66.

²⁸ Clemence Machadu, *Scrap export ban a disaster*, The Zimbabwean (June 19, 2012).

²⁹ See OECD, *Steelmaking Raw Materials* at 69; *East African Countries to Ban Scrap Metal Exports*, Recycling International (Aug. 13, 2010).

³⁰ See *SEIFSA Export Duty on Scrap Metal* at 4; OECD, *Steelmaking Raw Materials* at 66.

³¹ Brian Otieno, *Kenya: Revenue Authority Seizes Scrap Metal, Sandalwood for Export*, allAfrica (Feb. 27, 2012).

³² See *SEIFSA Export Duty on Scrap Metal* at 4; OECD, *Steelmaking Raw Materials* at 66.

³³ *Malaysia May Ban Scrap Exports to Ensure Sufficient Supply*, SteelGuru (Mar. 4, 2011).

³⁴ See *Malaysia temporarily lifts scrap metal export ban*, Lead Battery Recycling World (Nov. 16, 2008).

³⁵ OECD, *Steelmaking Raw Materials* at 69.

- Nigeria currently imposes a complete export ban on steel scrap.³⁶ Scrap metal is on the Nigerian federal government's Export Prohibition List.
- Since June 2008, Pakistan has imposed a 25 percent export tax on ferrous scrap and other steelmaking raw materials so that its local steel industry can procure cheaper materials.³⁷
- From April 1999 to August 2012, Russia imposed a ferrous scrap export duty of 15 percent, or no less than 15 Euros per ton, which severely distorted the international market for scrap.³⁸ In connection with its accession to the WTO, Russia committed to lower its scrap export duty gradually to five percent over a five-year period, but refused to remove the duty completely.³⁹ The export duty reduction is to take place at a rate of 2.5 percent per year.⁴⁰ Accordingly, upon its WTO accession in August 2012, Russia reportedly lowered its duty from 15 to 12.5 percent.⁴¹ However, it is unclear whether Russia has reduced its export duty any further since then.

In addition, Russia's Supreme Court recently overturned a February 2012 government regulation that limited the number of ports from which scrap could be exported.⁴² The ban's objective was reportedly "to help the only steel producer in the far east of the country, Amurmetal, to acquire more scrap by prohibiting exports of ferrous and non-ferrous metal except from Magadan, the largest sea port in northern Russia."⁴³ It is unclear whether or

³⁶ See Masahudu Ankiilu Kunateh, *Ghana: Gov Won't Lift Scrap Metal Exports Ban – Iddrisu*, allAfrica.com (May 16, 2013); *Scrap export ban arrests in Nigeria*, Recycling International (Sept. 2, 2011).

³⁷ See *Scrap steel criticizes sector for export rate*, Cost Drivers (Jan. 24, 2013); Alan Price and Scott Nance, *Export Barriers and the Steel Industry: The Economic Impact of Export Restrictions on Raw Materials* (2010); *CRSI Scrap Market Presentation* at Appendix.

³⁸ European Confederation of Iron and Steel Industries, *End of Steel Quota Upon Russia WTO Accession: A Structural Change in Conditions of EU Steel Import Competition* (Mar. 24, 2011) at 10.

³⁹ United States Trade Representative, *2008 National Trade Estimate Report on Foreign Trade Barriers* at 416.

⁴⁰ WTO Working Party on the Accession of Russia, *Report of the Working Party on the Accession of the Russian Federation to the World Trade Organization*, ¶ 529, WT/ACC/RUS/70 (Nov. 17, 2011). See also Benjamin Close, *Russia reduces duty on scrap export to meet WTO obligations*, Metal Mining Wire (Aug. 27, 2012).

⁴¹ See *Russia reduces scrap export duty to meet WTO requirements*, Steel Orbis (Aug. 24, 2012); Benjamin Close, *Russia reduces duty on scrap export to meet WTO obligations*, Metal Mining Wire (Aug. 27, 2012).

⁴² See *Russian Far East scrap exporters suffer first losses from shipping restrictions*, MetalBulletin (Feb. 27, 2012).

⁴³ *Russian Court Lifts 'Unlawful' Scrap Export Ban*, Recycling International (June 6, 2012).

not scrap is now being exported through all Russian ports, but recent reports indicate that at least some Russian ports remain closed to scrap exports.⁴⁴

- Rwanda imposes a ban on exports of steel scrap.⁴⁵
- South Africa requires that scrap exporters obtain an export permit.⁴⁶ In August 2013, South Africa's Department of Trade and Industry published a policy directive giving its International Trade Administration Commission the power to regulate the exportation of scrap metal by barring exports if the metal has not first been offered for domestic consumption at a price discount of 20 percent.⁴⁷
- Sri Lanka currently imposes a complete export ban on steel scrap.⁴⁸
- Tanzania currently imposes a complete export ban on scrap.⁴⁹
- Uganda currently imposes a complete export ban on scrap.⁵⁰
- Ukraine currently imposes an export tax of €13.2 per metric ton on ferrous scrap,⁵¹ and requires exporters to obtain a license.⁵² Prior to joining the WTO, Ukraine imposed an export duty of €30 per ton on ferrous scrap and prohibited the export of non-ferrous metals.⁵³ As part of its WTO accession in May 2008, Ukraine agreed to reduce export duties on ferrous scrap to €10 per ton by 2014.⁵⁴

⁴⁴ See *High US ferrous scrap exports, low stocks breed volatility*, Steelfirst (Mar. 13, 2013).

⁴⁵ OECD, *Steelmaking Raw Materials* at 69.

⁴⁶ See WTO Trade Policy Review Body, *Trade Policy Review Report by the Secretariat: Southern African Customs Union*, WT/TPR/S/222 (Sept. 30, 2009) at Annex 4; OECD, *Steelmaking Raw Materials* at 69.

⁴⁷ Amanda Visser, *Government shows mettle with crackdown on scrap metal exports*, BDlive (Aug. 21, 2013).

⁴⁸ See *CRSI Scrap Market Presentation* at Appendix; OECD, *Steelmaking Raw Materials* at 68.

⁴⁹ See Clemence Machadu, *Scrap export ban a disaster*, The Zimbabwean (June 19, 2012); *CRSI Scrap Market Presentation* at Appendix; OECD, *Steelmaking Raw Materials* at 69.

⁵⁰ See Patrick Jaramogi, *Scrap dealers want ban on exports lifted*, New Vision (May 28, 2012); *CRSI Scrap Market Presentation* at Appendix; OECD, *Steelmaking Raw Materials* at 69.

⁵¹ United States Trade Representative, *2013 National Trade Estimate Report on Foreign Trade Barriers* at 368 ("USTR 2013 NTE Report"); OECD, *Steelmaking Raw Materials* at 66.

⁵² USTR 2013 NTE Report at 367.

⁵³ WTO Working Party on the Accession of Ukraine, *Report of the Working Party on the Accession of Ukraine*, WT/ACC/UKR/152 (Jan. 25, 2008) at Table 20(a): Current Export Duties Levied by Ukraine; WTO Working Party on the Accession of Ukraine, *Report of the Working Party on the Accession of Ukraine*, WT/ACC/UKR/152 (Jan. 25, 2008) at Table 22(a): Export Prohibitions.

⁵⁴ USTR 2013 NTE Report at 368.

In addition, in May 2012, Ukraine imposed a quota on scrap exports, limiting exports to 900,000 tons in 2012,⁵⁵ likely violating Ukraine's WTO commitments. Recent reports indicate that Ukraine has further restricted scrap exports in 2013 by failing to distribute the annual quota, resulting in "an unofficial ban on steel scrap exports."⁵⁶ Such measures have had a dramatic impact on Ukraine's scrap exports, which dropped significantly throughout 2012 and into 2013.⁵⁷

- The United Arab Emirates currently imposes an export tax of AED 250 per metric ton.⁵⁸
- Uruguay currently imposes a complete export ban on steel scrap.⁵⁹
- Vietnam currently imposes an export tax of 22 percent on scrap.⁶⁰ Vietnam's 2011 export tax rate was 25 percent; in connection with its accession to the WTO in 2007, the Vietnamese government agreed to reduce its scrap export tax to 17 percent by 2012.⁶¹ Thus, Vietnam's current export tax appears to violate its WTO commitment.
- As of September 20, 2011, the government of Zambia banned all exports of scrap metal, and revoked all previously issued export licenses for scrap metal.⁶²
- Zimbabwe has imposed a complete ban on exports of scrap metal since at least 2004.⁶³

⁵⁵ *Government Imposes a Quota on Metal Scrap Exports* (May 21, 2012), available at <http://wto.in.ua/index.php?lang=en&start=1&get=3&id=2493>.

⁵⁶ *BIR Ferrous Metals World Mirror February 2013*, Recycling International (Feb. 5, 2013).

⁵⁷ *Ukraine turns net scrap importer as exports halt*, Steel First (Aug. 5, 2013); *Ukraine steel scrap exports down to zero in January*, Scrap Monster (Feb. 14, 2013).

⁵⁸ See *CRSI Scrap Market Presentation* at Appendix; OECD, *Steelmaking Raw Materials* at 66.

⁵⁹ See *CRSI Scrap Market Presentation* at Appendix; OECD, *Steelmaking Raw Materials* at 69.

⁶⁰ OECD, *Steelmaking Raw Materials* at 66.

⁶¹ See WTO Working Party on the Accession of Viet Nam, *Accession of Vietnam – Report of the Working Party on the Accession of Viet Nam*, WT/ACC/VNM/48 (Oct. 27, 2006) at Table 17.

⁶² *RB Bans Export of Scrap Metal*, Lusaka Times (Sept. 20, 2011); OECD, *Steelmaking Raw Materials: Market and Policy Developments*, DSTI/SU/SC(2012)1/FINAL (Oct. 11, 2012) at 69.

⁶³ *Maintain scrap metal ban*, The Zimbabwean (July 3, 2013); Clemence Machadu, *Scrap export ban a disaster*, The Zimbabwean (June 19, 2012).

B. World Trade in Scrap

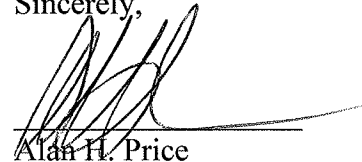
The scrap export restrictions described above have had a severe effect on global trade in the raw material. World scrap exports in 2012 totaled 101.7 million metric tons.⁶⁴ Exports from the United States, which does not place export restrictions on steel scrap, have increased significantly over the last decade. From just 8.9 million metric tons in 2002,⁶⁵ U.S. scrap exports grew to over 21 million metric tons in 2012, making it – by far – the largest exporter of scrap in the world.⁶⁶

Turkey was the largest importer of U.S. scrap last year, importing over 6.4 million metric tons of scrap from the United States, and 22.4 million tons of scrap in total.⁶⁷ China, India, and Malaysia – all countries which restrict exports of scrap from their countries and which exported only negligible amounts of scrap in 2012 – also were among the largest importers of scrap from the United States.⁶⁸

III. CONCLUSION

As demonstrated above, trade barriers have distorted the market for steel scrap, significantly raising scrap prices and severely injuring U.S. manufacturers. The Coalition urges the U.S. government to take action to confront these export restrictions and to require countries with such restraints to abolish all scrap trade barriers or face the risk of action under U.S. trade laws. A rapid solution to the problem of foreign trade barriers on the exports of steel scrap is essential to prevent additional, long-term harm to U.S. manufacturers and consumers.

Sincerely,



Alan H. Price
Timothy C. Brightbill

*Counsel to the American Scrap
Coalition*

⁶⁴ World Steel Association, *World Steel in Figures 2013* (May 30, 2013) at 27.

⁶⁵ International Iron and Steel Institute, *Steel Statistical Yearbook 2003* (Feb. 2004) at 103.

⁶⁶ World Steel Association, *World Steel in Figures 2013* (May 30, 2013) at 27.

⁶⁷ Bureau of International Recycling, *World Steel Recycling in Figures 2008 – 2012* (May 2013) at 18, 20.

⁶⁸ See *id.* at 20. See also American Scrap Coalition, *The Crisis*, available at <http://www.americanscrapcoalition.com/news/crisis.asp?articleid=117>.