



Curtis, Mallet-Prevost, Colt & Mosle LLP

Almaty
Ashgabat
Astana
Beijing
Buenos Aires
Dubai
Frankfurt
Geneva

Houston
London
Mexico City
Milan
Muscat
New York
Paris
Rome

1717 Pennsylvania Avenue, N.W.
Washington, D.C. 20006

Telephone +1 202 452 7373
Facsimile +1 202 452 7333
www.curtis.com

Christopher A. Dunn
Tel: +1 202 452 7325
Fax: +1 202 452 7333
E-Mail: cdunn@curtis.com

May 31, 2017

Via Hand Delivery and E-mail

Mr. Brad Botwin,
Director, Industrial Studies
Office of Technology Evaluation,
Bureau of Industry and Security
U.S. Department of Commerce,
Room 1093
1401 Constitution Avenue, NW
Washington, DC 20230
e-mail: *Steel232@bis.doc.gov*

Re: Section 232 Investigation Comments of BlueScope Steel Ltd.

Dear Mr. Botwin:

Enclosed please find Section 232 investigation comments on the possible effects on the U.S. national security of imports of steel.

We are submitting these comments on behalf of BlueScope Steel Ltd., the only Australian exporter of steel products to the United States, pursuant to the invitation for comments set forth in the Commerce Department's *Notice Request for Public Comments and Public Hearing on Section 232 National Security Investigation of Imports of Steel* that was published in the Federal Register on April 26, 2017.



Curtis, Mallet-Prevost, Colt & Mosle LLP

Mr. Brad Botwin

May 31, 2017

Page 2

Should you have any questions, please contact me.

Respectfully submitted,

/s/ Christopher Dunn

Counsel for BlueScope Steel Ltd.

**BEFORE
THE UNITED STATES COMMERCE DEPARTMENT
BUREAU OF INDUSTRY AND SECURITY**

In the Matter of :

IMPORTS OF STEEL

Investigation conducted under section 232 of the Trade
Expansion Act of 1962, as amended

COMMENTS OF BLUESCOPE STEEL LTD.

**Christopher Dunn
Curtis, Mallet-Prevost, Colt & Mosle LLP
1717 Pennsylvania Ave. N.W.
Washington, D.C. 20006
(202) 452-7325**

May 31, 2017

EXECUTIVE SUMMARY

I. IMPORTS OF STEEL FROM AUSTRALIA DO NOT THREATEN THE NATIONAL SECURITY

- **BlueScope Steel is the sole exporter of Australian steel to the United States. It has invested over \$2 billion in U.S. facilities and companies over the past 36 years, currently employing over 3,000 American workers.**
- **Most of the steel BlueScope exports to the U.S. goes to a single downstream customer, Steelscape LLC. Steelscape is a West Coast manufacturer of coated and painted steel.**
- **Steelscape must have imported steel to function, being located next to a port. It was designed to receive steel from abroad, because there are no suppliers of hot metal for flat-rolled steel on the West Coast. It cannot obtain its needs from domestic sources, which are overwhelmingly located on the other side of the Rockies and cannot ship steel economically by rail to meet Steelscape's requirements.**
- **Historically, over 95% of the steel BlueScope has shipped to the U.S. has gone to the West Coast of the U.S. All flat-rolled steel producers in the West Coast need to import some steel to use as raw material for their products, because there is no "hot-end" production of flat-rolled steel in that region and the cost of obtaining raw material from U.S. mills located on the other side of the Rockies is too great. Imports of Australian steel thus do not threaten American jobs in the steel industry.**
- **Australian steel actually helps the U.S. steel industry in particular and the American economy in general by providing for high-paying jobs at Steelscape and in companies that purchase Steelscape's steel for downstream use.**
- **Australia is a reliable source of steel for the U.S. Australia is a long-standing ally of the U.S. and has a bilateral Free Trade Agreement that has returned a net surplus to the United States. Imports of Australian steel to Steelscape cannot possibly threaten national security.**

II. IMPORTS OF STEEL GENERALLY DO NOT THREATEN THE NATIONAL SECURITY

- **The statute requires that imports must threaten "national security" specifically, not a particular industry. For the imports of a product to threaten national security, they must pose a direct threat to the national defense or to the economy's strategic need for the product.**
- **Imports of steel do not threaten national security directly, as the domestic industry's production of steel alone is more than 240 times the Defense**

Department's need for steel. Imports would have to threaten the very existence of the domestic steel industry to constitute a threat of national security.

- **Imports of steel do not threaten the health of the domestic steel industry. To begin with, the domestic steel industry is fundamentally sound, returning over half a billion dollars in profit so far in 2017. While the industry has had its ups and downs with the business cycle, it has generated billions in profits in good years. It is not threatened with extinction.**
- **New steel mills have sprung up in recent years, particularly those using electric arc furnaces to make steel from scrap. All indications are that “mini-mills,” which use electric arc furnaces, are doing well and constitute an increasingly large portion of domestic steel production.**
- **Imports of steel have historically been about 26%-28% of domestic consumption. They are needed to supply steel mills with raw materials when those mills cannot obtain sufficient supply of raw materials from domestic sources. They also provide a reliable supplemental source of steel for US manufacturers that need special products not available in sufficient quantities domestically, or that need to secure multiple sources of steel supply to meet their production requirements.**
- **To the extent that imports may have injured the American steel industry in the past, that injury has been remedied by scores of antidumping and countervailing duty orders on numerous steel products. Those orders have reduced annual imports by more than 7 million tons since 2014. There is no need for further “protection” for the American steel industry.**
- **Imports of steel do not displace American jobs. On the contrary, by allowing both direct steelmakers and downstream manufacturers to operate at their maximum efficiency, they are a substantial net positive to the American economy.**

III. BLUESCOPE ASKS THAT AUSTRALIAN STEEL IMPORTED FOR USE BY STEELSCAPE BE EXEMPTED FROM ANY RESTRICTIONS THE DEPARTMENT MAY OTHERWISE RECOMMEND

- **Although BlueScope does not believe that any further restrictions on the importation of steel are necessary or productive, should the Department nevertheless recommend some restrictions on imports, BlueScope asks that it exempt Australian steel shipped to and used by Steelscape.**
- **Steelscape is an American steel producer that needs imported steel to survive. Australian steel shipped to Steelscape does not injure the domestic industry; it helps it survive and prosper.**

I. IMPORTS OF STEEL FROM AUSTRALIA DO NOT THREATEN THE NATIONAL SECURITY

BlueScope Steel Ltd. (“BlueScope”) is an Australian company that manufactures flat-rolled steel products both for the Australian market and for export. BlueScope has subsidiaries and affiliates around the world and has numerous subsidiaries in the United States. BlueScope has been involved in the U.S. since 1980, with investments in American companies of over \$2 billion, including hundreds of millions invested in American steel companies. BlueScope companies employ some 3,300 American workers.¹ To our knowledge BlueScope is the *only* Australian exporter of steel to the United States. Hence, all Australian steel entering the United States is BlueScope steel.² In these comments, therefore, whenever we refer to Australia’s steel exports, that term is synonymous with BlueScope’s steel. It is clear that Australia’s exports of steel to the United States do not threaten the security of the United States steel industry and pose no threat to the national security. Steel exports from Australia actually help the U.S. industry by providing jobs to U.S. downstream producers.

A. Historically most of Australia’s exports to the U.S. have been to a single company, Steelscape LLC, a longstanding U.S. steel producer.

BlueScope is a 50-percent owner, with Nippon Steel & Sumitomo Metals Corporation (“NSSMC”) in a joint venture in the West Coast of the United States, Steelscape LLC. Steelscape is an American manufacturer of coated, and coated and painted, flat-rolled steel, which it sells to customers located primarily in Western States. Steelscape has facilities located in Kalama, Washington and Rancho Cucamonga, California. Set forth below is a table showing

¹ Further details of BlueScope’s investments in the United States appear in Exhibit 1 to this submission.

² There is only one other steel producer in Australia, OneSteel, a manufacturer of “long” products such as wire, rails and structural steel. While OneSteel may have exported a small amount of these long products to the U.S. in the distant past, it is BlueScope’s belief that OneSteel has not exported any steel to the U.S. for many years and it has no plans to do so.

annual Australian exports of steel to the U.S. from 2013 to 2016, together with exports to Steelscape in each period.

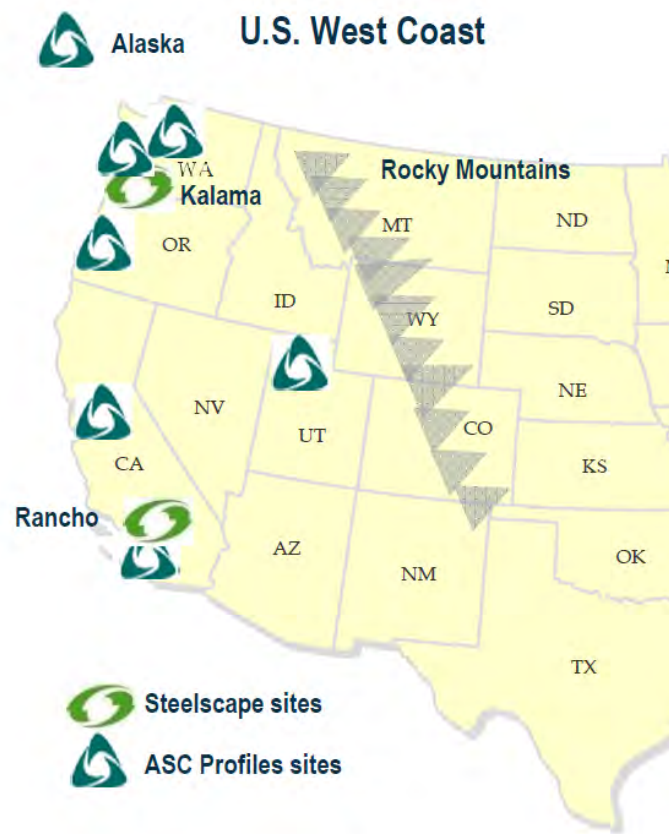
	2013	2014	2015	2016	Total
Exports to Steelscape (MT)	95,257	128,511	218,305	143,513	585,586
Total Australian Exports to the US (MT)	133,366	221,762	280,358	244,902	880,388
Steelscape as a Percent of Total Exports	71%	58%	78%	59%	67 %

As the table makes clear, although the percentage of Australia's exports to Steelscape has fluctuated from year to year, over the past four years 67%, or two-thirds of Australia's steel exports, have gone to Steelscape for the production of coated steel.

Australia's exports of steel to Steelscape do not threaten the security of the United States or the U.S. steel industry because these exports fundamentally do not compete with steel made in the United States. BlueScope exports hot-rolled and cold-rolled flat-rolled steel to Steelscape, which Steelscape uses as "feedstock" for its coated steel products. Steelscape cold-rolls any hot-rolled steel substrate it receives at its Kalama, Washington, facility, transforms it further into galvanized steel by applying a zinc coating, and usually paints it. Steelscape's Rancho Cucamonga facility receives cold-rolled steel substrate, coats it with a zinc-aluminum ("galvalume") coating, and paints it. (Steelscape's Rancho facility does not have a cold-rolling mill, so its substrate must be cold-rolled steel.)

Steelscape's sales of coated and painted steel products are largely consumed in the Western states (West of the Rockies) for the building and construction industries. Steelscape is ideally positioned for this market. While the West Coast market is responsible for 20-25% of the

nation's non-residential construction and residential housing starts, Steelscape is one of the very few West Coast suppliers of coated, painted steel for this market. One of Steelscape's largest customers is ASC Profiles LLC, a BlueScope affiliate which makes roof and wall panels for the housing market. Many of ASC's plants are located west of the Rockies. The map below shows the location of Steelscape's and ASC's facilities.



Virtually all (over 98%) of the substrate that Steelscape purchases for its steel production is imported. Steelscape is ideally located to receive steel from abroad. Its Kalamazoo facility is located literally next to a deep-water port on the Columbia River, with its warehouse only a few

hundred yards from the docks. The photograph below demonstrates this clearly, with the ship on the left only two boat lengths from Steelscape's facilities.



Steelscape's Rancho facility is located a short distance from the port of Los Angeles. While Kalama does send some of its cold-rolled steel by rail to the Rancho facility, both Rancho and Kalama facilities are primarily structured to receive their steel by ship. Kalama, for example, normally receives its monthly needs of steel substrate through one or two ships a month. BlueScope's steel plant in Port Kembla, Australia, is less than two miles from the port of Port Kembla. Hence, BlueScope is as ideally suited to ship steel by ocean vessel to Steelscape as Steelscape is to receive it.

In contrast, Steelscape is not designed to receive its steel substrate from domestic US steel producers. The vast majority of U.S. steel producers are located east of the Rocky Mountains, in the Midwest and on or near the Gulf. To send steel substrate to Washington State or California, these mills must ship it by rail across the Rockies. That is an expensive proposition, one that is much more costly than sending steel by ship from Australia.

Steelscape examined the precise differences in freight rates between shipping substrate from Australia and obtaining it from U.S. mills in connection with the U.S. International Trade

Commission's ("ITC") antidumping investigation of hot-rolled steel from Australia. In its Prehearing Brief submitted to the ITC, Steelscape noted that while shipping steel from Australia cost between \$22 and \$27 per ton, shipping by rail from U.S. mills cost anywhere between \$73 and \$110 per ton, a difference of anywhere from \$50 to \$88 per ton.³

Freight Costs from US Mills to Kalama, Washington

Mill Name	Point of Origin	Per-ton rate from Mill to Steelscape
North Star BlueScope	Delta, OH	\$84.00
Arcelor Mittal USA	Burns Harbor, IN	\$72.27
Nucor	Hickman, ARK	\$82.84
ArcelorMittal/Nippon	Calvert, Ala.	\$110.61

These rail freight costs stand in stark contrast to the much lower ocean freight costs from Australia and Asia:

Freight Costs from Australia/Asia to Kalama, Washington

Mill Name	Country of Origin	Per-ton ocean freight rate
BlueScope	Australia	\$22-\$27
NSSMC	Japan	\$22-\$27
Hyundai and POSCO	Korea	\$27-36

In subsequent testimony to the ITC, Steelscape's president John Cross stated that a representative difference in freight costs would be that it cost roughly \$65 more per ton to ship steel substrate over the Rockies than it would to ship it by ocean-going vessel from Australia. That freight differential alone can amount to eight to ten percent of Steelscape's finished price

³ Relevant pages from BlueScope's Prehearing Brief to the ITC in that proceeding appear in Exhibit 2 to this submission.

for steel, effectively eliminating Steelscape's profit on its products. It simply is not economical for Steelscape to purchase steel from across the Rockies.⁴

Moreover, the diseconomies of shipping across the Rockies works both ways: U.S. producers located east of the Rockies have shown as little interest in selling hot-rolled steel to West Coast entities such as Steelscape as Steelscape is constrained from buying from them. In the ITC's hearing on hot-rolled steel, a survey of U.S. hot-rolled steel mills found that these mills shipped 95% of their steel to customers located within 1,000 miles of their mills. There is no mill east of the Rockies that is within 1,000 miles of Steelscape. With their production and delivery schedules geared to customers much closer in than Steelscape, the idea of selling steel to Steelscape is at best an afterthought for these suppliers.

Theoretically, Steelscape could purchase some of its substrate needs from steel mills located on the West Coast. However, there are only three other flat-rolled steel mills located on the West Coast, and none of them produces its own steel from hot metal. All three mills purchase a substantial portion of their raw materials – including both slab and hot-rolled steel – from abroad. California Steel Industries (CSI) is a joint venture of JFE Steel (formerly Kawasaki Steel) of Japan and Vale, Inc. of Brazil. It purchases steel slab from Brazil and Japan in order to make hot-rolled steel. USS-POSCO Inc. (UPI) is a joint venture of US Steel and POSCO Korea which purchases hot-rolled steel to make cold-rolled and coated steel products. Historically, UPI has imported half of its hot-rolled steel requirements, or more, from POSCO in Korea. Finally, Evraz Portland is a plate mill that is owned by the Evraz Group, a Russian-owned conglomerate

⁴ Steelscape does purchase a small amount of substrate – less than 2% of its needs – from an affiliated party, North Star BlueScope Steel in Ohio. However, it purchases this steel only for very particular uses that require domestic steel, for which it is able to charge extra high prices.

whose shares are traded on the London stock exchange. Its web site states that it rolls its products from purchased slab, which it purchases from “domestic or foreign” sources.

The fact that all of the West Coast suppliers of steel must purchase their raw materials in large part from foreign sources underlines the limitations of the West Coast market for steel production. In the past, Steelscape has explored sourcing its feedstock from all three other mills on the West Coast. However, no West Coast mill has ever offered to provide Steelscape with its requirements of hot-rolled and cold-rolled steel such that it could look to any of these suppliers for a steady, reliable source of substrate. Moreover, sourcing substrate from any of these mills would not solve the fundamental structural requirement that all West Coast mills, like Steelscape, must source a considerable portion of their raw material from imported steel if they are to remain in business.

Finally, sourcing its steel from American companies would impose a significant physical and financial burden on Steelscape. As noted, the facility in Kalama is sited so as to receive steel substrate in coils directly from ships located practically next to its warehouse. It is not, however, structured to receive substrate by rail car. Any steel substrate that Steelscape purchased from a U.S. mill would have to be brought in by rail (either from across the Rockies or from other West Coast producers). Steelscape simply lacks the physical space to accommodate the number of rail cars that would be required to enter its facility if it were to source its substrate from domestic companies. In order to source domestically, Steelscape would at a minimum have to purchase substantial additional land next to its Kalama facility (assuming such land were available) and purchase additional loading and offloading equipment. These additions would require major additional financial commitments and would take years to implement. Steelscape is just not in a position to purchase its needs for steel substrate for delivery by rail.

Given the additional delivery cost and physical constraints attendant on Steelscape's purchase of steel by rail, it is apparent that U.S. mills cannot realistically compete with imported steel to satisfy Steelscape's needs for substrate. As a practical matter, if it is to continue in business, Steelscape has to import its substrate. BlueScope, as a 50% owner of Steelscape, has a commitment to supply Steelscape with a major portion (up to 50%) of Steelscape's substrate needs. That is why two-thirds of BlueScope's exports of steel have gone to Steelscape over the past four years, and it is why these exports do not threaten the U.S. steel industry in any way.

B. Most of the remaining steel that Australia exports to the U.S. has been to the West Coast of the United States.

While Steelscape is the largest single U.S. purchaser of Australian steel, it is not the only one. The vast majority of BlueScope's other customers, which include both steelmakers and industrial steel users, are, like Steelscape, also located along the West Coast of the United States. Examining its steel exports on a customer-by-customer basis, BlueScope has been able to determine its exports to the U.S. in each year from 2013 to 2016.

	2013	2014	2015	2016	Total
Exports to West Coast (MT)	133,365	221,762	267,456	214,346	836,932
Total Exports to US (MT)	133,366	221,762	280,358	244,902	880,388
Percentage	100%	100%	95%	88%	95%

As the chart shows, while the percentage of Australian shipments to the West Coast has varied from year to year, over the past four years 95% of Australia's exports have been to U.S. customers located along the West Coast of the United States.

The western United States steel market, as discussed above, is a unique market. The vast majority of steel produced in the U.S. comes from steel mills located east of the Rocky Mountains, particularly in the Midwest and Gulf Coast states. However, as previously discussed, the prohibitively high cost of rail freight has historically precluded these mills from shipping steel across the Rockies to the West Coast. Hence, the Rocky Mountains operate as an effective physical barrier to most American steel mills' participating in the West Coast market.

To be sure, there are steel mills on the West Coast that can serve this market. However, no steel mill west of the Rockies melts and pours its own steel. Every one of the four West Coast flat-rolled steel producers is a rolling mill (with other operations, such as coating) only, and has to purchase its raw material substrate – whether slab, hot-rolled or cold-rolled steel – from someone else. And, since there has not been enough domestic substrate available west of the Rockies, every one of the four West Coast producers has had to import at least a significant portion of its substrate from foreign sources. All of these mills therefore need foreign steel in some form to maintain their production of steel products.

It is axiomatic that if U.S. mills on the West Coast need to purchase imported steel to maintain their operations, that imported steel cannot be threatening the U.S. steel industry and, clearly, poses no threat to national security. Australia's steel exports to the West Coast therefore do not threaten either the U.S. steel industry or the national security.

C. Australia's exports to the U.S. are concentrated in steel companies and direct industrial users.

Australia has not exported significant quantities of steel for general commercial use (for example, to trading companies for unknown distribution). Rather, Australia's exports have been concentrated in direct sales to two classes of customers: (1) steel companies (companies that

purchase steel to make steel), and (2) industrial manufacturers. These exports do not threaten the national security.

1. Exports to steel companies

As we have stated, over the past four years 67% of Australia's steel exports have been to a single company, Steelscape, a domestic producer of coated and painted steel. Another 10% of Australia's exports have gone to another steel mill, USS-POSCO Inc. (UPI), which purchased BlueScope's hot-rolled steel to make cold-rolled and coated products. Australia's exports to steel companies are shown in the table below, for each year from 2013 to 2016.

	2013	2014	2015	2016	Total
Australian Exports to US Steel Mills (MT)	124,944	194,230	218,305	143,513	680,992
Total Steel Exports from Australia (MT)	133,366	221,762	280,358	244,902	880,388
Percentage of Total	94%	88%	78%	59%	77%

As the table illustrates, when sales to Steelscape are added to sales to UPI, 77% of Australia's steel exports to the U.S. have gone to steel companies that used the steel to make other steel products.

Australia's exports have been concentrated on Steelscape and, for a time, UPI. Both these companies have been unable to meet their needs for steel substrate, and must purchase imported steel to remain in business. Australia's exports to these companies have helped, not hurt, the U.S. steel industry's ability to produce steel for the domestic market.

2. Exports to industrial users

In addition to exports to steel companies, over the past four years Australia has exported about 8.4% of its steel to industrial users (manufacturers) of downstream products. Together with the steel company customers, these customers make up a full 85.75% of Australia's steel exports. Without divulging their names, these customers produce the following products using Australian steel: pipes and tubes, ducts, steel framing and metal lathe systems, and precision stampings (for use in appliance manufacturing). BlueScope's manufacturing customers purchase the steel from Australia either because they cannot obtain the steel domestically or because they need to supplement and round out their domestic sources of steel. Australian steel does not threaten these customers; it allows them to continue in business profitably with a reliable source of supply.

It should be noted, moreover, that the steel Australia ships to Steelscape ultimately goes to industrial customers as well, a large portion of which are located west of the Rockies. These customers turn to Steelscape because it is a reliable supplier of high-quality coated and painted steel. The coated steel is largely used in the buildings and construction industry, where Steelscape is a premier supplier, being highly ranked for both reliability of delivery (with 95% performance in just-in-time delivery) and quality of product. Steelscape's customers understand that Steelscape's products are made almost entirely from imported substrate, and they do not question those sources. What matters to them is Steelscape's ability to provide a steady supply of quality coated and painted products. That supply allows Steelscape's manufacturing customers to remain in business; it does not threaten their existence.

D. Australia's exports of steel to Steelscape help the U.S. economy.

Taken in perspective, it is apparent that Australia's exports of steel to Steelscape are directly beneficial to the American economy, particularly in the Western United States. Steelscape directly employs 374 people in high-paying jobs in its facilities in Washington state and California. Steelscape is, moreover, the principal supplier of coated and painted steel to ASC Profiles, which in turn employs 234 people in multiple facilities in the Western U.S. By using imported steel, Steelscape is thus able to support 608 good jobs in the United States, not to mention the jobs provided by its other customers. Many if not all of these jobs would be in jeopardy if Steelscape were unable to import steel from Australia and other countries, because, for the reasons previously discussed, Steelscape must import steel to remain a viable U.S. steel producer.

E. Australia does not ship to the U.S. defense industry; it ships commercial products intended entirely for commercial use. Australia is therefore a reliable source of steel that does not threaten national security.

As should be obvious from the preceding discussion, Australia does not sell any steel to the U.S. Department of Defense or for strategic use. Australia exports steel to the U.S. entirely for commercial use, principally in the building and construction industries. Australian steel exports, moreover, are flat-rolled steel of various types (hot-rolled, cold-rolled, coated and plate). They do not contain any scarce or strategically important materials. Hence, Australian steel exports are of no direct importance to the United States' national security interests. And since Australian steel exports actually help American steel producers and users continue to operate profitably, they have no adverse effect on the national security.

It bears mention, in this respect, that Australia is both a "reliable" and "safe" source of steel to the United States. Australia is a long-standing ally of the United States, having sent

troops to fight alongside American troops in every war since World War II, including both Iraq and Afghanistan. Australia also has a bilateral Free-Trade Agreement with the U.S., an agreement that has had positive effects on both countries' economies, and indeed has returned a net trade surplus to the U.S. BlueScope, the sole Australian exporter, is a profit-oriented publicly held corporation that receives no government subsidies. If there were ever a "safe" source for steel into the United States, Australia is it.

II. THE NATIONAL SECURITY IS NOT THREATENED BY STEEL IMPORTS

A. The Statute Requires that the Threat Must be to "National Security," a Relatively Narrow Term.

Section 232(b) (19 U.S.C. §1862(b)) concerns the effects "on national security of imports of articles." Neither the statute itself nor the Department's regulations define the term "national security." However, in the one court case that reviewed this statutory provision, the Supreme Court applied a relatively narrow definition of the term. In *Federal Energy Administration v. Algonquin SNG Inc.*, 426 U.S. 548 (1976), the Court noted that in passing and renewing this provision, Congress specifically rejected an amendment that would have allowed the president to increase the duty on any article "when he finds it in the national interest." Hence, the Court held that "national security," whatever else it may be, is a narrower term than national interest. The Department's examination of the issue must therefore focus on national security specifically and not on the impact of imports on an industry outside the context of national security.

In the only instance in which the Department examined imports of steel under section 232(b), it focused overwhelmingly on the effect of imports of steel products on national defense interests. In its *Report on the Effects of Imports of Iron Ore and Semi-Finished Steel on the National Security*, 67 Fed. Reg. 1958 (January 15, 2002) (hereafter, *Iron Ore and Semi-*

Finished Steel), the Department noted that imports could threaten the national security in either of two ways: “(i) through excessive domestic dependency on unreliable foreign suppliers, or (ii) if such imports fundamentally threaten to impair the capability of the U.S. iron ore and semi-finished steel industries to satisfy national security requirements.” 67 Fed. Reg. 1959. The Department concluded, however, that there was no evidence that imports of iron ore or semi-finished steel threatened the national security.

In reaching this conclusion, the Department looked specifically at the Department of Defense’s (DOD) requirements for “finished steel,” and found that they were very low. Domestic production of finished steel alone was more than two hundred times what the DOD consumed. Hence, defense needs could be “readily satisfied by domestic production.” The Department also noted that “no weapons system is dependent on foreign steel,” and that imports of iron ore and semi-finished steel are from “diverse and ‘safe’ foreign suppliers” such as Canada, Mexico and Brazil. Perhaps most importantly, the Department found that –

Although domestic manufacturers of iron ore and semi-finished steel clearly are enduring substantial economic hardship, there is no evidence that imports of these items (which account for approximately 20 and 7 percent of U.S. iron ore and semi-finished steel consumption, respectively) fundamentally threaten to impair the capability of U.S. industry to produce the quantities of iron ore and semi-finished steel needed to satisfy national security requirements, a modest proportion of total U.S. consumption.

67 Fed. Reg. 1959 (emphasis added).

The Department’s final conclusion exemplifies the proper analysis of national security under section 232(b). The question asked by the statute is not whether a given U.S. industry is itself threatened by imports, but rather whether imports threaten the capability of that industry “to produce the quantities...needed to satisfy national security requirements.” Hence, while the threat to a particular U.S. industry may be relevant to the Department’s analysis, it is relevant

only to the extent that the threat to the industry affects national security. As the Department stated in *Iron Ore and Semi-finished Steel*, “the issue whether imports have harmed or threaten to harm U.S. producers writ large is beyond the scope of the Department’s inquiry, and need not be resolved here. Under Section 232, the Department is authorized only to determine whether imports fundamentally threaten the ability of domestic producers to satisfy the United States’ national security requirements.”⁵

Other determinations by the Department support this narrow focus. In *The Effect of Imports of Uranium on the National Security* (September 1989), the Department examined the national requirements for uranium given a one-year mobilization period followed by three years of a major conventional international conflict. Similarly, in the *Investigation of Imports of Bolts, Nuts and Large Screws of Iron or Steel*, 48 Fed. Reg. 8842, 8843 (March 2, 1983), the Department developed a wartime stockpile requirement as necessary for the Department of Defense national defense stockpile.

These decisions reflect a three-step analysis of national security. The Department first determines the need for a product during a national security emergency. Second, the Department determines the available supply to meet that need, including *both* domestic production and “safe” imports (imports from reliable sources). Finally, if there is a shortfall, the Department examines the extent to which imports are a significant cause of that shortfall.

In sum, the Department’s interpretation of its statutory obligations under section 232 does not encompass the broader question of the impact of imports generally on the industry producing the product under investigation. Rather, it examines that impact only to the extent the impact of imports threatens the investigated industry’s ability to meet national security requirements. Even

⁵ *Report on the Effects of Imports of Iron Ore and Semi-Finished Steel on the National Security*, 37.

if imports cause “substantial economic hardship” to the industry in question, when those imports do not impair that industry’s ability to satisfy national security needs the national security is not threatened.

B. Imports of Steel do not Threaten National Security.

Viewed in light of the Department’s analysis in *Iron Ore and Semi-finished Steel* and previous investigations, it is clear that imports of steel, taken as a whole, do not threaten the national security. As the Department has found, the question at issue is whether imports of steel so threaten the health of the domestic steel industry that they may make it extremely difficult if not impossible for the industry to “satisfy national security requirements.” In the specific context of the domestic steel industry that would require an existential threat, which is not an issue here since domestic steel production is more than one hundred times greater than what the Department of Defense (DOD) needs. All available evidence makes clear that imports of steel do not threaten the existence of the domestic steel industry.

The most recent analysis of DOD’s need for steel was issued by BIS in its 2001 report on *Iron Ore and Semi-finished Steel*. In that report, the Department stated that it would “give consideration” to the following potential “effects” of imports on national security⁶ –

- “domestic production needed for projected national defense requirements;”
- “the capacity of domestic industries to meet such requirements;”
- “existing and anticipated availabilities of the human resources, products, raw materials, and other supplies and services essential to the national defense;”

⁶ *Report on the Effects of Imports of Iron Ore and Semi-Finished Steel on the National Security*, 6.

- “the requirements of growth of such industries and such supplies and services including the investment, exploration, and development necessary to assure such growth;” and
- “the importation of goods in terms of their quantities, availabilities, character, and use as those affect such industries and the capacity of the United States to meet national security requirements.”

The Department’s report estimated that DOD’s need for finished steel was 325,000 tons, or 0.3 percent of the industry’s (then) annual output. It further estimated that even after the event of a two-major theater of war conflict, DOD’s need would be “not more than 650,000 tons of finished steel annually.” The report projected that for the “next five years,” (that is, through 2006), “DOD’s requirement for steel for weapons systems is projected to be flat.”⁷ Although we have no information on DOD’s current need for finished steel, given the fact that advances in weapons (including ships) have led to the use of relatively less steel in favor of lighter metals and composites such as carbon fiber materials, it is unlikely that current DOD needs for finished steel are greater now than in 2001.

We can, however, place DOD’s needs for finished steel in the context of current domestic steel output. According to the Department’s *Steel Industry Executive Summary* issued in April of 2017, the U.S. steel industry’s production of finished steel in 2016 was 78.6 million tons, virtually unchanged from 2015. That amount is *two hundred forty times* what the Department found DOD’s need for steel to be in 2001. Even if the Department were to assume the worst case scenario – a two-theater major war – domestic production would be more than one hundred twenty-five times what the Department needs. Put differently, the domestic steel industry’s

⁷ *Id.*, 13-14.

production would have to decline by more than 99 percent in order to be unable to meet DOD's needs for steel. This is simply not a realistic possibility.

As limited as the DOD's needs for steel are, its need for imported steel is even less. Very little steel is imported for defense use; almost all is imported purely for commercial uses, having nothing to do with national security. Indeed, only a few countries are even allowed to supply steel for DOD purposes. These countries, such as Canada, supply such steel pursuant to specific Memoranda of Understanding (MOU) with the DOD. All countries that have such MOUs are dependable allies of the United States, that is, "safe" sources of steel. DOD's needs for imported steel are not under threat from imports, nor do the limited volumes of defense-related imports threaten injury to the U.S. steel industry.

In sum, the need for steel for direct use in the U.S. defense is in no way threatened or compromised by steel imports.

C. The National Security is not Threatened by Imports Damaging the U.S. Steel Industry.

In theory, a threat to a given industry could, in itself, constitute a threat to national security. However, the Department has historically ruled that national security is threatened only where the industry is so important that a threat to its welfare constitutes a pervasive threat to the entire economy. In *Iron Ore and Semi-finished Steel*, the Department described such industries as "industries that are critical to the minimum operations of the U.S. economy and government". One example of such an industry is crude oil. In its section 232(b) decision on *Crude Oil and Products* (1976) [CITE], however, the Treasury Department noted that –

Petroleum is a *unique commodity*: it is essential to almost every sector of our economy, either as a raw material component or as the fuel for processing or transporting goods. It is thus essential to the maintenance of our gross national product and overall economic

health. If our imports not presently deemed to be secure from interruption were in fact kept from our shores, the effect on the U.S. economy would be staggering and would clearly reach beyond a matter of inconvenience, or loss of raw materials and fuel for industries not essential to our national security.

CITE to p. 346 of report (italics added).

While steel is obviously an important commodity, it does not even come close to the “unique” position occupied by the petroleum industry. Steel constitutes a much smaller portion of the economy than petroleum and is nowhere near as pervasive. While obviously important to the automotive and other downstream industries, potential adverse effects on the domestic steel industry simply do not constitute the same level of threat to the domestic economy as would be the case with petroleum. Thus, in *Iron Ore and Semi-finished Steel*, the Department noted that “the demand of critical industries for iron ore and semi-finished steel can be readily satisfied by domestic production, even assuming that all such demand were necessary to preserve the national security (*which is not the case*).”

For imports of steel to threaten national security, then, they would have to constitute an existential threat to the domestic steel industry. Since DOD’s defense needs constitute less than one percent of current domestic production, the domestic steel industry would have to be virtually destroyed for national security to be threatened. This is not the case. While the domestic steel industry may have suffered some injury over the past few years, it remains fundamentally sound, and its viability is not threatened by imports.

1. The Domestic Industry is Fundamentally Healthy

The domestic steel industry is not composed of one or two producers whose survival could be threatened by imports. On the contrary, the industry is composed of scores of producers, including numerous basic oxygen and electric arc furnace producers that manufacture

steel from iron ore or scrap, rolling mills and coating (galvanized and galvalume) facilities. These producers are largely profitable and are not threatened with extinction.

Although there are no publicly available data on the profitability of the entire domestic steel industry, the Department does publish information on the profitability of the six largest domestic steel producers that publish quarterly financial statements.⁸ These reports show that four of the six producers are currently profitable and that the industry has been profitable overall since 2009. In the first quarter of 2017 alone, five of the six companies returned a total profit of \$695.6 million with only United States Steel showing a loss. Even considering the United States Steel loss, the net profit of the industry in the first quarter of 2017 was \$515 million.

To be sure, the producers have experienced the ups and downs of the industry cycle, with the major producers showing substantial losses in some years but substantial profits in others. Thus 2009, 2012, 2014 and 2015 were loss years, while 2011, 2013, 2014, 2016 and now 2017 showed substantial profitability. In 2011 the six producers showed close to \$1 billion in profits, while in 2014 the six companies returned a total of \$1.2 billion. Hence, although the industry's financial performance is volatile from year to year, over the long term it is clearly viable. This is not an industry that is threatened with collapse.

The continuing health of the domestic steel industry is confirmed by the fact that new domestic steel producers have continued to come into existence. The most recent of these is Big River Steel in Osceola, Arkansas, which began production in January, 2017 with a record production run of 63,000 tons. Big River is an electric-arc furnace (EAF) producer with a

⁸ These companies are AK Steel, Carpenter Technologies, Commercial Metals, Nucor, Steel Dynamics and U.S. Steel. Department of Commerce, *Steel Industry Executive Summary* April 2017 at 17.

capacity of 1.6 million tons of steel per year. Big River reflects the trend in steel production away from large, expensive basic oxygen furnaces making steel from iron ore and scrap, toward more flexible mini-mills whose electric arc furnaces make steel from scrap metal.

Big River Steel in many ways is symptomatic of the positive change that has swept the domestic steel industry over the past 30 years. Domestic production of steel, which was once entirely made from basic oxygen furnaces (BOF) using iron ore, is now mostly (by a substantial majority) made from EAFs. Steel production by EAF has risen steadily since 2008 and in 2016 reached 67 percent of total steel produced in the United States.⁹ EAF production has substantial economic advantages over BOF production in that EAF facilities are cheaper to build and operate, and they are able to adjust their output upward or downward to meet demand without incurring substantial economic costs. Moreover, the rise of EAF production in the U.S. has had substantial positive effects on the U.S. economy. A recent report by the OECD noted that –

- The energy needed to melt scrap is only 40% of the energy needed to smelt iron ore in a “modern BF/BOF integrated mill.”
- The capital cost of an EAF per ton of capacity is 60 to 70% lower than the cost of capital for an integrated mill; maintenance costs are decreased in the same proportion.
- Labor productivity is twice as high in an EAF facility and the smaller size of EAF mills usually leads to better social relationships and a more flexible production schedule.¹⁰

Over the past fifteen years all the new steel making facilities that have been added to the U.S. steel industry have been EAF mills. This has not been without its adverse effects, particularly on integrated mills using blast furnaces and basic oxygen furnaces. However, the OECD report stated unequivocally that “in the USA, the entry of mini-mills [using EAF]

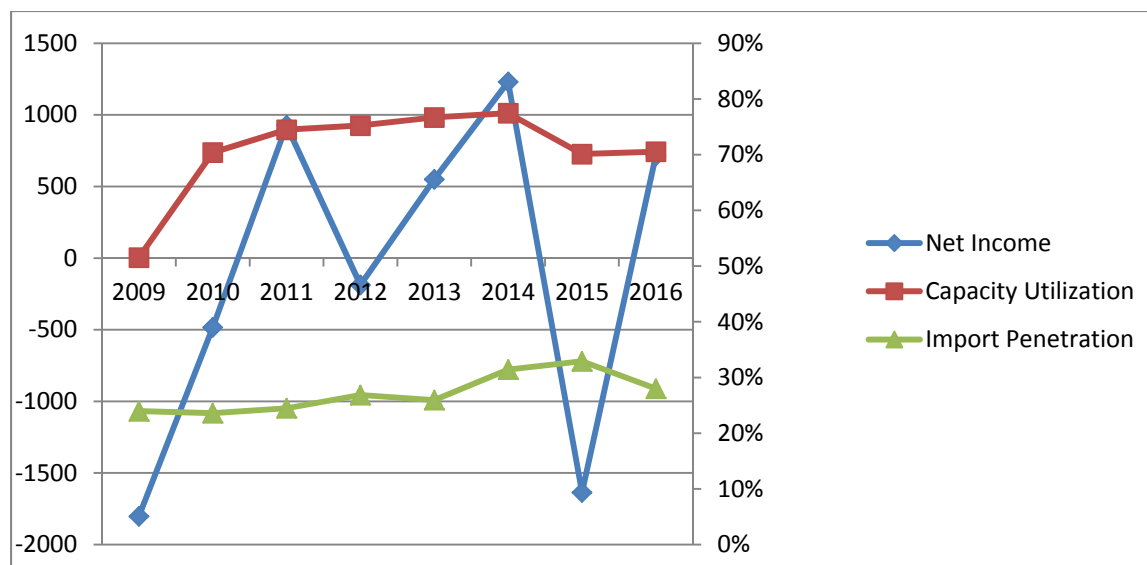
⁹ www.statista.com, Steel production figures in the U.S. from 2006 to 2016.

¹⁰ “Impacts of Energy Market Developments on the Steel Industry,” 74th Session of the OECD Steel Committee, July 2, 2013 (attached as Exhibit 3).

accelerated the decline of integrated mills much more than imports.”¹¹ Little wonder, then, that in the Commerce Department’s most recent report on the financial performance of six publicly-held steel producers, only one, United States Steel Corp, showed a loss in the first quarter of 2017. United States Steel Corp is largely an integrated mill, heavily dependent on blast furnaces and basic oxygen furnaces to produce its steel from iron ore.

To be sure, considering both BOF and EAF producers together, the domestic industry has not been operating at full capacity in recent years. Current capacity utilization now stands at 74.27%, virtually the same as the industry’s average utilization ratio since 2006 (74.65%). At these capacity utilization levels, however, the industry has been able to be profitable. The chart below measures the profitability of the six major domestic producers tracked by the Department, and compares it with capacity utilization. As the chart shows, the industry was profitable in 2011 and 2016 with capacity utilization ratios below 80%. In the first quarter of 2017, moreover, the six companies showed profits of more than \$500 million with capacity utilization of 74.27%. Again, the capacity utilization levels of recent years do not reflect an industry that is under serious threat.

¹¹ *Id.*



2. The U.S. steel market has historically relied on imports to provide a proportion of supply.

The chart above reveals another interesting fact: there is no correlation between import penetration and steel industry profitability. Import penetration approached 30% in 2014, yet the domestic producers turned a profit of \$1.2 billion. By the same token, import penetration was 26% in 2009, yet the industry showed large financial losses. Indeed, over the past seven years, import penetration has been relatively stable at about 27-28% of apparent domestic consumption, while the profitability of the major steel producers has swung wildly from year to year.

The reason that the domestic steel industry's profitability has so little to do with import penetration is simple. The U.S. economy in general, and the domestic steel industry in particular, needs a certain amount of imported steel to perform properly. There are at least three reasons why steel is imported into this country. First, steel may be imported by steel makers themselves, as raw material for their operations. This is the case for slab, as well as for hot-rolled steel imported to make cold-rolled steel, cold-rolled steel imported to make coated steel, and hot-rolled steel imported to make pipe and tube. Second, flat-rolled steel may be imported

for direct manufacturing, such as steel imported to make “blanks” for automotive parts, or to make automotive parts themselves. Third, steel may be imported for downstream industrial uses, such as cold-rolled steel used to make construction materials, furniture, and appliances.

a. Steel imported by U.S. steelmakers to make steel

In the first of these uses – steel imported to make steel – the imported steel does not hurt the domestic steel industry at all. On the contrary, it permits domestic steel producers to function competitively in supplying the needs of the domestic steel market. Imported slab is the most obvious of these products. Slab imports in 2016 totaled 6.65 million tons, almost 13% of total imports of steel mill products. U.S. producers such as AM/NS Calvert in Calvert, Alabama must purchase slab because they lack sufficient “hot-end” production of their own to keep up with the needs of their rolling mills. CSI in California is in a similar position, as it lacks any raw steel production facility at all. Since very little domestic slab is sold by U.S. producers in the merchant market, these companies must import considerable quantities of slab to keep their rolling mills operating.

U.S. producers also find it necessary to import hot-rolled steel as the raw material to make further processed steel mill products. Although we have been unable to find statistics as to how much finished steel is imported to make other finished steel, the Department’s hearings saw numerous examples of steelmakers who import steel to make steel. Steelscape, discussed in detail above, is one such producer. Steelscape imports both hot-rolled and cold-rolled steel in order to make its coated, painted steel in the U.S. Another company is Ohio Coatings Company (OCC). As OCC testified before the Department, it does not have its own supply of black plate, the type of cold-rolled steel which it uses to produce tin plate. OCC must purchase black plate, which it is unable to do in the domestic market because domestic producers of black plate are

OCC's competitors, and they will not provide it with sufficient steel to operate. OCC must be able to purchase black plate from import sources in order to remain in business.

American steel producers located along the West Coast of the United States are another group of steelmakers that must rely on imported steel for their raw materials. As noted above, on the West Coast there are virtually no "hot-end" steel producers,¹² and flat-rolled steel producers – all of which are rolling mills only – must purchase their substrate (hot-rolled or cold-rolled steel) from other suppliers. On the West Coast, the availability of domestic substrate is further limited by the Rocky Mountains, which make it prohibitively expensive to obtain steel from mills located in the Midwest or along the Gulf Coast. All of these mills must purchase a significant amount of imported steel substrate in order to produce the amount of steel their customers require.

b. Steel imported for direct manufacturing uses

In the second type of use, U.S. companies that manufacture downstream products directly from steel require some imported steel for particular uses or to round out their supply sources. For example, Hyundai Motor Manufacturing Alabama and Kia Motors Manufacturing Georgia have both testified to the Department that they must import a significant amount of cold-rolled and coated (corrosion-resistant) steel from Korea and Japan. Some of this steel is simply not produced domestically, and some is not available domestically in the quality and quantity they require. These companies have to purchase up to sixty percent of their steel from import sources.

¹² Nucor Steel does have an EAF facility in Seattle, Washington. This facility, however produces bar, rod and other "long" products. It does not produce flat-rolled steel

Similarly, Nippon Steel & Sumikin Cold Heading Wire Indiana Inc. stated that it must import cold-heading quality wire rod from Japan in order to make wire and wire products in its Indiana plant. The quantity of cold-heading quality wire rod it needs to make its products is not available domestically. For these companies, and many others, it is necessary to import steel in order to be able to be productive, profitable companies employing thousands of Americans.

Pipe and tube makers have a particularly strong need for imported pipe for at least part of their pipe production. State Pipe, an oil country tubular goods (“OCTG”) manufacturer, must import smaller sizes of OCTG tubing and larger sizes of casing pipe that it cannot produce in its US mill. And Borusan Mannesmann Pipe U.S. Inc. of Texas, also an OCTG manufacturer, has noted that must “fill out its product line by importing selective sizes of pipe” that are not produced domestically.

At the Department’s May 24, 2017 hearing, domestic can manufacturers stated that only a portion of their needs for tin plate, used to make cans, can be met by US production. Without imported tin plate, these manufacturers would have difficulty continuing in operation. Similarly, the Air Distribution Institute stated that thin-gauge galvanized steel for air ducts must be imported because the product is not available from domestic sources.

These manufacturers are only those that were able to obtain presentation time at the Department’s hearing. There were many more manufacturers that requested to appear who were not granted time, but who would have testified as to their need to imported particular steel products not available from domestic producers. There appears to be no information available as to the total quantity of steel that is imported for uses where the domestic steel industry cannot provide the quantity of steel necessary to meet demand. We submit, however, that the amount of

such steel is not insignificant. There a number of producers, with significant numbers of employees, that must have imported steel to use as raw materials for all or part of their U.S. production.

Imported steel can be particularly important for manufacturing companies located close to the border. For example, automotive assembly plants are located on both the Canadian and US sides of the Great Lakes. Numerous steel “stampers,” who manufacture “first-stage blanks” for automotive parts, as well as parts makers who make automotive parts from those blanks, are located on both sides of the border in close proximity to the car companies’ automotive assembly plants. Automobile companies contract for their steel suppliers to ship to specific facilities on either side of the border according to the varying production needs of the assembly plants. As a result, steel “melted and poured” in the U.S., and steel melted and poured in Canada, will often pass across the border several times in various processing operations before ending up in automobile assembly plants located on both sides of the Great Lakes.

In all these uses, imported steel does not displace domestic steel production, it complements it. Imported steel allows domestic steel producers to operate to their maximum efficiency, and it allows steel users to have stable supplemental sources of supply to meet their clients’ needs. These imports do not threaten the viability of the U.S. steel industry or the national security.

D. Imports of steel do not take away jobs from the U.S. steel industry or from the U.S. economy

Available evidence reveals that imports have not had any negative impact on employment, either in the domestic steel industry itself or among the industry’s customers. With respect to direct steel makers, those who make steel either from “hot metal” or from purchased

steel, national employment levels have ranged between 135,000 and 160,000 employees since January of 2007, over ten years. While levels have fluctuated up and down with the steel business cycle, there is no significant trend in employment levels that relates to imports. The current employment level of steel producers stands at 140,000 employees.¹³

Moreover, these employment levels consider only employees engaged in the direct production of steel. When downstream effects of employment are considered, the positive impact of steel imports is considerably clearer. As noted above, many downstream manufacturers require imported steel either to obtain specialized raw materials not available in sufficient quantities domestically or to obtain a stable supplemental source of raw materials that allows them to meet their customers' requirements for quick delivery. These downstream companies, it turns out, employ many more employees than direct steel producers do.

A recent report by Daniel Pearson of the Cato Institute notes that downstream manufacturers that use steel as an input employed 6.5 million people in 2014.¹⁴ In early 2017, there were some 140,000 people employed in direct steel making. Hence, downstream manufacturers employ more than 46 workers for every one employed in direct steelmaking. By providing these downstream manufacturers with a steady, reliable supplemental source of raw materials, imported steel allows them not only to remain in business, but to maximize their efficiency in production, thus preserving many more jobs than even exist in direct manufacturing.

¹³ Source: Bureau of Labor Statistics monthly employment data, categories CES3133110001 and CES3133120001.

¹⁴ Daniel Pearson, "Global Steel Overcapacity: Trade Remedy 'Cure' is Worse than the 'Disease,'" Free Trade Bulletin No. 66, April 11, 2016, at 2. Attached as Exhibit 4.

BlueScope's operations in the United States provide a good example of the positive "multiplier effect" of imported steel. As we have discussed, BlueScope's American subsidiary Steelscape must have imported steel to serve as raw material substrate for its coated and painted steels. Steelscape employs 374 people at its two West Coast facilities. However, two of Steelscape's principal customers are ASC Profiles and BlueScope Buildings North America ("BBNA"). Both ASC and BBNA use Steelscape's coated, painted steel to sell building components and, in BBNA's case, buildings and building systems. Together these companies employ some 2,700 people, seven times the number of Steelscape's direct employees. That is not to say that those downstream companies would necessarily go out of business or that all their jobs would be directly imperiled if Steelscape were unable to operate with imported steel substrate. It does mean, however, that imported steel allows Steelscape to provide these companies with steady, high-quality steel that permits ASC and BBNA to manufacture downstream products with maximum efficiency and reliability. The steel that Steelscape imports from Australia has positive employment effects that are substantially greater than the number of its direct employees.

In sum, it is apparent that the importation of steel does not produce a net loss of American jobs. Rather, it allows American manufacturing to operate to the best of its ability, securing many more jobs throughout the economy than would be the case if imports of steel were restricted. Imported steel helps, rather than hurts, the American economy.

E. To the extent steel imports have been a problem for the domestic industry, that problem has already been contained by recent antidumping and countervailing duty orders.

In the Department's May 24, 2017 hearing, one domestic steel producer after another stepped forth to blame imports for their current problems. These producers agreed on four

points: (1) the source of the problem is China, with its massive overcapacity; (2) Chinese imports have displaced other countries in world markets, forcing them to come to the United States; (3) China and these other countries have engaged in “illegal dumping” and subsidies to win market share from US producers; and (4) as a result, import levels are as high as they were before any antidumping (“AD”) or countervailing duty (“CVD”) cases were brought. Unfortunately, this entire syllogism is wrong, contradicted by the facts on virtually every point.

First, to the extent the problem is China, that problem is largely taken care of. As the table below makes clear, there are currently at least 12 active antidumping duty orders in place against steel imports from China. These orders cover 12 of the 35 steel mill products identified by the American Iron and Steel Institute (“AISI”), including virtually all types of flat-rolled steel.

Product	Federal Register Notice Date
Hot-rolled Flat-Rolled Steel	79 Fed. Reg. 7425 (February 4, 2014)
Steel Nails	79 Fed. Reg. 1830 (January 10, 2014)
Pre-stressed Concrete Rail Tie Wire	79 Fed. Reg. 35727 (June 24, 2014)
Oil Country Tubular Goods	79 Fed. Reg. 52301 (September 3, 2014)
Non-oriented Electrical Steel	79 Fed. Reg. 71741 (December 3, 2014)
Grain-oriented Electrical Steel	79 Fed. Reg. 59226 (October 1, 2014)
Carbon and Alloy Steel Wire Rod	80 Fed. Reg. 1015 (January 8, 2015)
Carbon Standard, Line and Pressure Pipe	81 Fed. Reg. 7301 (February 11, 2016)
Cold-Rolled Steel Flat Products	81 Fed. Reg. 45956 (July 14, 2016)
Corrosion-Resistant Steel Products	81 Fed. Reg. 48387 (July 25, 2016)
Carbon and Alloy Steel Cut-to-Length Plate	82 Fed. Reg. 14349 (March 20, 2017)
Stainless Steel Sheet and Strip	82 Fed. Reg. 16166 (April 3, 2017)

The AD and CVD orders on these products have resulted in the virtual elimination of all Chinese steel in the products covered by the orders. As a result, total imports of steel mill products from China have been reduced by 2.11 *million metric tons*, or 72.8 percent since 2014.¹⁵

Second, while imports from some other countries did initially increase to compensate for the decline in imports from China, most of those import sources are now also covered by AD and CVD orders. Since 2014, there have been a total of 63 AD and/or CVD orders on steel products from 19 countries, covering all the major exporters of steel products to the United States. These orders cover all the flat-rolled products as well as numerous pipe and tube and “long” products. Imports of products from those countries subject to AD and CVD orders have dropped significantly since those orders were placed on their products.

Third, imports from other countries not covered by the AD and CVD orders have *not* swarmed in to fill the gap left by the countries covered by the orders. This can be seen by examining overall imports of steel mill products from 2013 to the present, as shown by the table below.

Year	Quantity of Steel Mill Products Imports (MT) *
2013	24,829,000
2014	33,633,000
2015	31,494,000
2016	26,340,000

*Defined as products classified in AISI categories 1A-37

¹⁵ The precise numbers are: 2014: 2,900,317 tons; 2015: 2,161,101 tons; 2016: 789,133 tons.

As the table shows, imports of steel mill products in 2016 were almost 7.3 million tons, or 21.7 percent *lower* in 2016 than they were in 2014, following two years of intense AD and CVD cases on flat-rolled products from numerous countries. It bears mention, moreover, that 2014, the year of maximum import penetration, was a year in which the six “representative” steel mills alone made \$1.2 billion in profits. In sum, the remedies afforded by the antidumping and countervailing duty laws have been extremely successful in protecting the domestic industry from harm by imports. At current import levels, imports of steel mill products from around the world are clearly not threatening the health of the domestic steel industry. No further “relief” from imports is necessary.

III. REQUEST FOR RELIEF FROM ANY RESTRICTIONS THE DEPARTMENT MAY ULTIMATELY RECOMMEND

The Department should not recommend that the President take any action to restrict imports of steel. As noted above, imports of steel do not threaten the national security, either with respect to direct defense-related uses, or with respect to the security of the economy generally. Imports of steel products, in fact, are necessary to keep domestic steel makers and industrial manufacturers strong and competitive. Downstream manufacturers that depend, directly or indirectly on imports employ many more people than domestic steelmakers do.

Notwithstanding the clear evidence that imports of steel do not threaten the national security, should the Department nevertheless recommend that the President take action to restrict imports, it should make an exception to those restrictions to take into account the needs of domestic steel manufacturers that need imported steel to remain in business. BlueScope’s American subsidiary, Steelscape, is one such producer. Steelscape cannot survive without imported steel to use as a substrate for its production of coated and painted products. BlueScope

therefore requests that the Department grant an exception to any restrictions it may recommend for hot-rolled and cold-rolled steel shipped from Australia for use in Steelscape's facilities in Kalama, Washington and Rancho Cucamonga, California. There is no reason that the Department could not recommend a Steelscape use exemption in its recommendation to the President. Such an exemption would allow Steelscape to remain in business and would further the close economic ties between the United States and Australia. BlueScope urges the Department to recommend such an exemption if it does recommend that the President adopt restrictions on imports.

Respectfully submitted,

BlueScope Steel Ltd.

EXHIBIT 1

FACT SHEET ON BLUESCOPE STEEL INVESTMENTS IN THE U.S.

Snapshot: BlueScope

Jobs: Over 3,300 employees in the US.

Location:

Key facilities in Alabama, Alaska, Arkansas, California, Missouri, North Carolina, Ohio, Oregon, Pennsylvania, Tennessee, Utah, Washington and Wisconsin.

Industry sectors:

Engineering design and consulting services, hardware and building supplies retailing, iron smelting and steel manufacturing, metal and mineral wholesaling, metal coating and finishing, non-residential building construction, prefabricated metal building manufacturing, site preparation services, and structural steel erection services.

"Through its US-based businesses, characterized by high quality, efficient and innovative operations, products, people and networks, BlueScope brings financial benefit to US customers and their businesses."

Paul O'Malley, BlueScope Managing Director and CEO.

Founded in Australia, BlueScope is the world's largest supplier of metal coated and painted steel products for building and construction markets. BlueScope is also the world's leading global supplier of custom engineered building solutions to industrial and commercial markets.

BlueScope has been present in the US since 1980 and has invested more than US\$2 billion across its three North American businesses, which consist of 17 key facilities in 13 US States and a workforce of over 3,300 employees. Adding engineering and sales offices, and its partner networks, BlueScope is present in nearly all US States.

North Star BlueScope Steel

North Star BlueScope Steel in Delta, Ohio, was established as a 50:50 joint venture partnership in 1996. BlueScope acquired its partner's 50% interest in October 2015 for US\$720 million. This business, with an asset value of approximately US\$1,300 million and 400 employees, represents a major investment by BlueScope in North America.

This highly productive mini-mill runs at 100% capacity utilization, using leading edge steelmaking technologies and processes, amongst the newest and most efficient in North America. The business is consistently voted number one in the annual Jacobsen Survey of steel customers measuring customer satisfaction.

BlueScope Buildings

BlueScope Buildings, which includes Butler Buildings and Varco Pruden Buildings businesses, has seven facilities in the US with a total asset value of approximately US\$500 million and over 2,300 employees.

This fully integrated business designs, manufactures and markets custom engineered metal building systems and components for industrial, commercial and community segments of low-rise, non-residential building and construction markets and government applications. BlueScope Buildings partners with customers, many of them global brands and Fortune 500 companies such as Costco, to deliver their construction projects. Customers are supported by BlueScope's North American builder network of 2,000 authorised construction professionals.

	<p><u>BlueScope Building Products</u></p> <p>Steelscape and ASC Profiles, both BlueScope Buildings Products businesses, have nine facilities across the US with a total asset value of approximately US\$500 million and 600 employees. BlueScope's global building products business is a technology leader in metal coated and painted steel building products.</p> <p>Steelscape produces metal coated and painted steel coils for non-residential building and construction markets, while ASC Profiles manufactures steel building components. This includes architectural roof and wall systems and structural roof and floor decking.</p>
--	--

EXHIBIT 2

**EXCERPTS FROM BLUESCOPE PRE-HEARING BRIEF TO THE U.S.
INTERNATIONAL TRADE COMMISSION**

**BEFORE THE UNITED STATES INTERNATIONAL TRADE
COMMISSION**

In the Matter of

**Certain Hot-Rolled Steel Flat Products From
Australia, Brazil, Japan, Korea, The
Netherlands, Turkey And The United
Kingdom**

Investigation Nos. 701-TA-545-547 and 731-
TA-1291-1297 (Final)

Nonconfidential Version

Confidential BPI
appears on pages _ and Exhibits ____.

**PRE-HEARING BRIEF OF BLUESCOPE STEEL LTD, BLUESCOPE
STEEL AMERICAS LLC, AND STEELSCAPE LLC**

Christopher A. Dunn
Daniel L. Porter

Curtis, Mallet-Prevost, Colt & Mosle LLP
1717 Pennsylvania Avenue, N.W.
Washington, DC 20006
(202) 452-7373

July 28, 2016

from North Star BlueScope Steel LLC, located in Minnesota, in order to satisfy various Buy American requirements for its corrosion-resistant steel products.

(North Star BlueScope formerly was owned 50% by BlueScope Steel Ltd., and is now wholly owned by BlueScope.) In addition, over the past two years Steelscape has attempted to purchase hot-rolled steel from Midwest mills, obtaining proposals with freight costs stated separately. As a result, Steelscape has been able to determine the freight cost of shipping steel from US mills east of the Mississippi to its Kalama, Washington facility. The table below shows the rail freight per ton for each of the four North American mills from which Steelscape has sought shipment bids.

Freight Costs from US Mills to Kalama, Washington

Mill Name	Point of Origin	Per-ton rate from Mill to Steelscape*
North Star BlueScope	Delta, OH	\$84.00
Arcelor Mittal USA	Burns Harbor, IN	\$72.27
Nucor	Hickman, ARK	\$82.84
ArcelorMittal/Nippon Steel	Calvert, Ala.	\$110.61

*Rate based on 100 tons per rail car with no fuel surcharge

These rates are to be compared to ocean freight from Australian and Asian ports, which are Steelscape's principal sources of hot-rolled steel. The following are the ocean rates for Steelscape's principal hot-rolled suppliers.

Mill	Country of Origin	Per-ton ocean freight rate
BlueScope	Australia	\$22-\$27
NSSMC	Japan	\$22-\$27
Hyundai and POSCO	Korea	\$27-36

Comparing the cheapest US rail freight (\$73/ton) with the most expensive ocean freight rate (\$36/ton), the least difference between US mill freight and ocean freight costs is \$37 per ton (\$73-\$36). Comparing the most expensive US rail freight (\$111/ton) with the cheapest ocean freight (\$22/ton) produces a difference of \$89 per ton (\$111-\$22). A representative difference, based on these tables, would be \$65 per ton.

In other words, even if the ex-mill price of hot-rolled steel were the same for both US and foreign mills, imported hot-rolled would be between \$37 and \$89 per ton more expensive for Steelscape to obtain from Midwest or Gulf Coast US mills than from Australian/Asian suppliers. This is a significant difference. During the period of investigation, the price of hot-rolled steel varied between \$400 and \$620 per ton ex-mill. Thus, the additional freight costs from US mills would account for

anywhere from [10 to 20] percent of Steelscape's cost of its principal raw material for the manufacture of corrosion resistant steel. The Commission has recently reviewed the data from US corrosion-resistant producers (including Steelscape) in its investigation of corrosion-resistant steel from Brazil, China, India, Japan, Korea, Russia and the United Kingdom. It can confirm, as Steelscape knows well, that an increase of 10 percent in raw material costs would essentially eliminate any profit that it would make in the production and sale of corrosion-resistant steel. The additional freight cost alone makes purchasing steel from Midwest or Gulf Coast US mills economically impracticable for Steelscape, even when domestic steel is priced at exactly the same price as imported steel.

4. Steelscape has been unable to purchase its requirements of hot-rolled steel from domestic suppliers on the West Coast of the United States.

Even if Steelscape could somehow overcome its structural impediments to the purchase of hot-rolled steel by rail, it may be asked whether Steelscape could purchase hot-rolled steel from domestic suppliers located on the West Coast of the US. Such purchases would at least reduce the significant freight cost disadvantage that makes purchasing from the Midwest economically impracticable. The short answer to this question is that Steelscape has explored purchasing hot-rolled steel from West Coast producers and has met with a notable lack of success.

EXHIBIT 3

OECD STUDY ON TRENDS IN STEEL INDUSTRY



Impacts of energy market developments on the steel industry

74th Session of the OECD Steel Committee

Paris, 1-2 July 2013

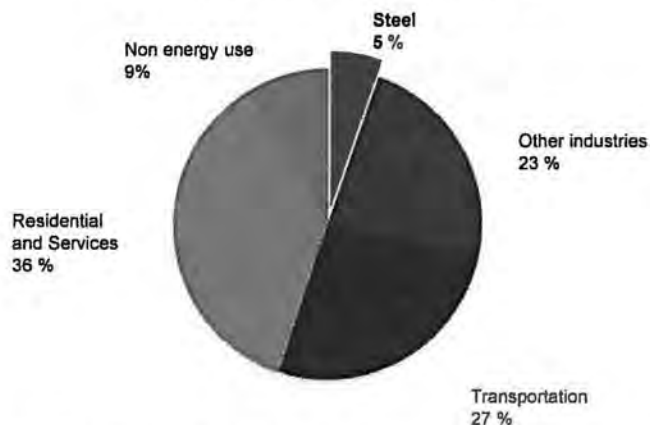
© Laplace Conseil 2013

Content of this presentation

- In 2012, the steel industry consumed about 5 % of all *primary* energy produced worldwide. The steel industry contributed to 7 % of all global CO₂ emissions due to a higher share of coal in the industry fuel mix.
- The steel industry has made great progress to reduce its energy consumption and its environmental impact. In the OECD, steel consumption per tonne of steel has been halved since 1975.
- More progress is technically possible, but will require substantial capital to modernize. The feasibility of these investments will require adequate pricing for the carbon avoided.
- Traditional integrated steel producers face the biggest challenges as new low carbon technologies favour modern minimills, hence social and regional adjustments by integrated mills are also likely, leading to resistance to change.
- Energy production, transformation and transportation require large quantities of steel that represents 12 % of total steel output.
- Improvements in steel quality leads to major economies in consuming industries that far outweighs the energy needed to produce that steel

In 2012, the steel industry consumed about 5% of all primary energy produced

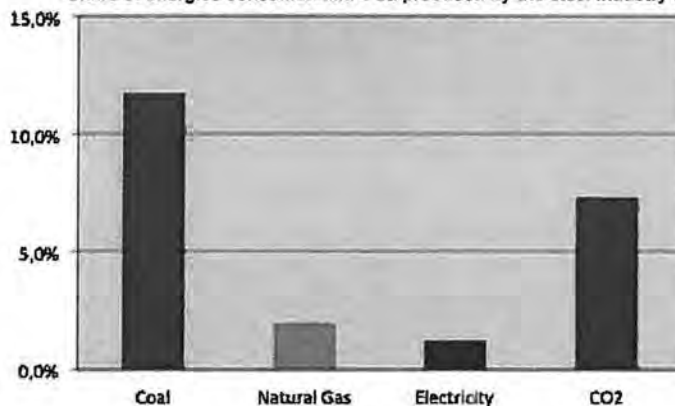
Repartition of the World Energy produced (%)*



* Assume an equal repartition of the energy losses from primary energy production to final energy consumption
Source : IEA, WorldSteel, BP Energy statistics, World Coal association, Midrex, Laplace Conseil analysis

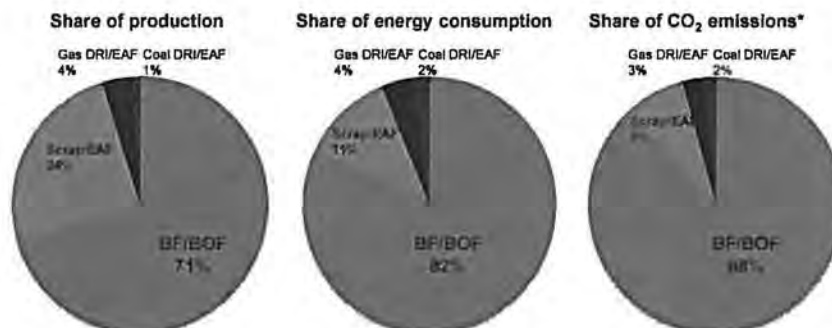
The steel industry consumed 11% of all hard coal produced and generated 7 % of all CO₂

Share of energies consumed and CO2 produced by the steel Industry in 2012



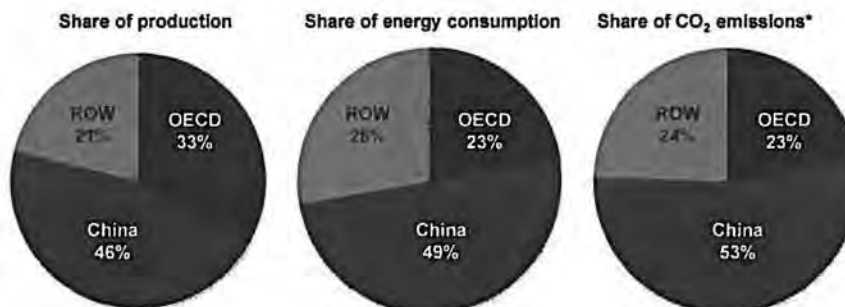
Source : IEA, WorldSteel, BP Energy statistics, World Coal association, Midrex, Laplace Conseil analysis

The integrated sector (BF/BOF) represents 71% of world production, 82% of energy and 88% of CO₂



* Includes share of CO₂ from electricity needed, assume same mix of primary energies for electricity production
Source : IEA, WorldSteel, BP Energy statistics, World Coal association, Midrex, Laplace conseil analysis

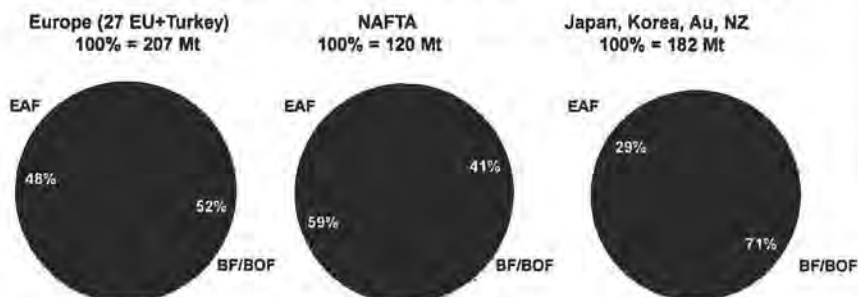
OECD accounts for 33% of steel production but only 23% of energy consumption and CO₂ emissions



* This is primarily due to a higher share of scrap recycling in EAF and also to somewhat better efficiency
Source : IEA, WorldSteel, BP Energy statistics, World Coal association, Midrex, Laplace conseil analysis

NAFTA mills have switched to EAF for 59% of their production, while Asian mills for only 29%

Breakdown of OECD crude steel production by process BF/BOF vs EAF (%)



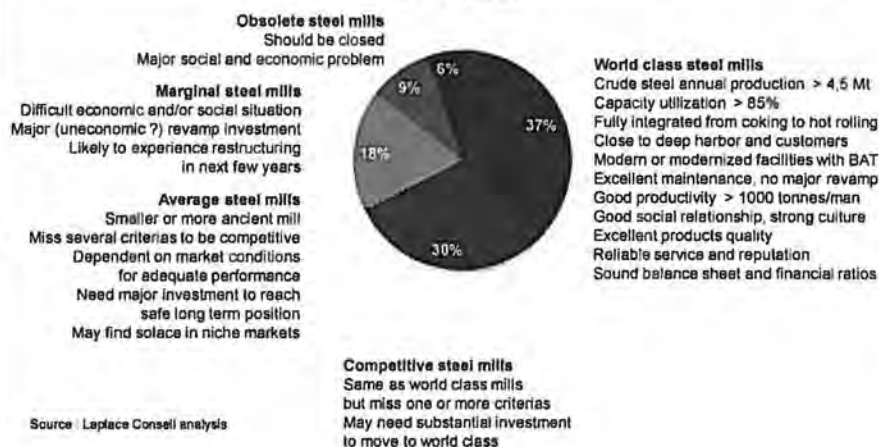
Source : Worldsteel, Laplace Conseil analysis

Social, economic and political reasons explain the differences in minimill production share.

- In NAFTA, where competition is most intense and industrial policy not favored, new EAF mills, union free, relentlessly push back the integrated mills and will continue to gain share, currently at 59%. Minimills competitive advantage will be further enhanced by the discovery of low priced shale gas that allow economic production of DRI to complement scrap and dilute scrap impurities.
- In Europe, the situation is more contrasted: In Northern Europe, large historic integrated mills have succeeded to limit minimill growth to 30%, but in Southern Europe of more recent industrialization, minimills command a leading share of 72%. Central Europe (only 40% EAF) is facing the toughest challenge with many Comecon era integrated plants that need major modernization
- In Japan, Korea and Chinese Taipei, integrated mills effectively own or control most EAF producers and contain their growth at 31% of total production.

Despite intense restructuring, one third of OECD integrated producers are still not fully competitive

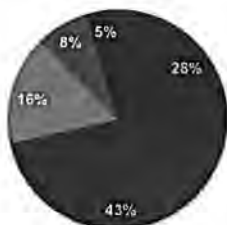
Breakdown of Crude steel production by integrated BF/BOF OECD Producers (%)
100% = 286 Mt



The Asian integrated mills are the most modern

Breakdown of crude steel production by integrated BF/BOF OECD Producers (%)

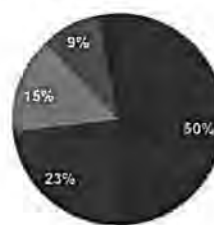
Europe (27 EU+Turkey)
100% = 108 Mt



NAFTA
100% = 49 Mt



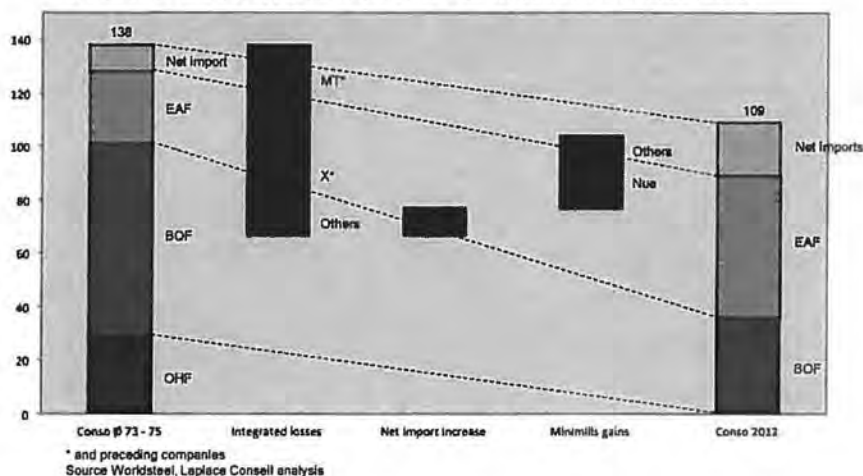
Japan, Korea, Au, NZ
100% = 130 Mt



Source : Laplace Consett analysis

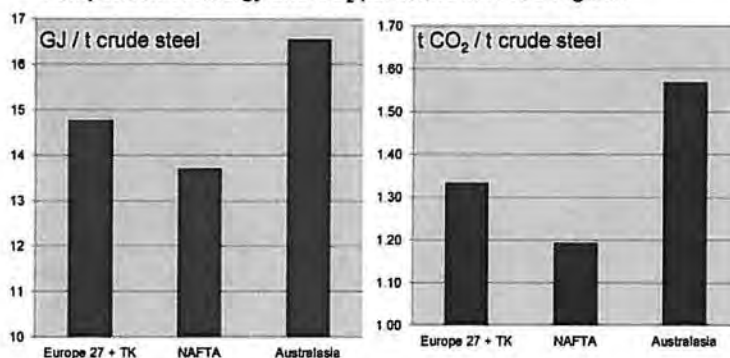
In the USA, the entry of minimills accelerated the decline of integrated mills much more than imports

Evolution of market supply in the USA since 1974 (Mt of crude steel equivalent)



Thanks to its higher share of EAF, NAFTA has the lowest energy consumption and CO₂ emissions

Comparison of Energy and CO₂ per tonne in OECD regions

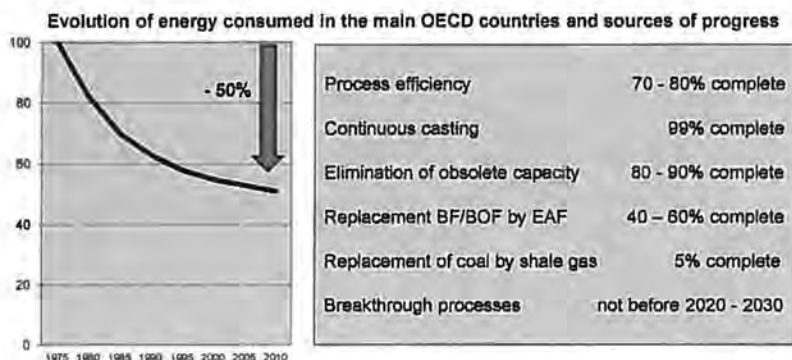


Source : IEA, WorldSteel, BP Energy statistics, World Coal association, Midrex, Laplace conseil analysis

Reducing energy consumption and CO₂ emissions is vital for the industry, but progress will be difficult

1. Improving energy efficiency of existing plants
 - + Indispensable to keep plant competitive and maintain jobs
 - Most « low hanging fruits » already captured
 - Increasing pay-back and financial constraints ; dependent on carbon price
2. Replacing BF/BOF production by scrap/EAF production
 - + Most efficient method; Proven technology, growing share of possible products
 - Imply closing BF/BOF capacity with large job losses and cleanup cost
 - Availability of suitable scrap in question; steel quality consideration
3. Replacing coal energy with (shale) gas energy
 - + Reduce CO₂ by 40% with DRI as substitute for scrap
 - Necessitate cheap gas, only available in OPEC countries and USA
 - Imply closing BF/BOF capacity with large job losses and cleanup cost
4. Medium to long term options
 - CCS : not yet fully proven; dependent on high carbon price; local acceptability
 - Ulcoss, Finex, other new processes : not yet proven; necessitate CCS

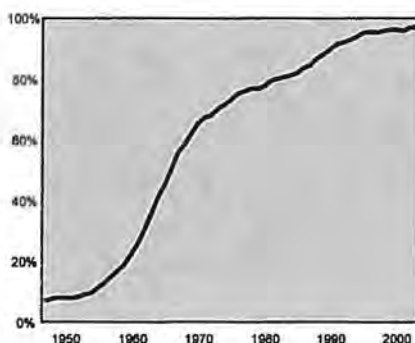
In OECD, energy consumption has been halved since 1975. Main sources of progress are caught



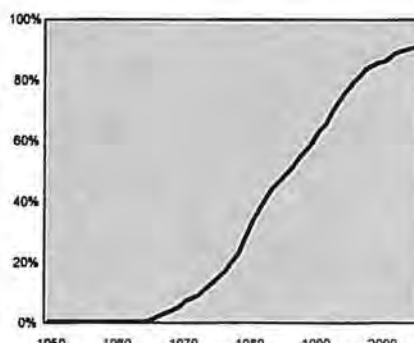
Source : IEA, WorldSteel, BP Energy statistics, World Coal association, Midrex, Laplace conseil analysis

Crude steel production is now almost exclusively produced via EAF or BOF and continuously cast

BOF + EAF crude steel production
(% world total production)



Continuous casting evolution rate
(% world crude steel production)



Source: WorldSteel, Laplace Conseil analysis

Several energy saving technologies are currently implemented in the OECD steel industry

- | | |
|---|-------------------|
| • Coke dry quenching | 10% introduced |
| • Sinter plant cooler heat recovery | 20% introduced |
| • BF Top gas recovery turbine | 45% introduced |
| • BF Pellet ratio optimization | 8% introduced |
| • BF Injection of H ₂ rich gas | 2% introduced |
| • BF Top gas recycling | under development |
| • BOF Gas recovery | 25% introduced |
| • Semi hot charging in reheating furnaces | 35% introduced |

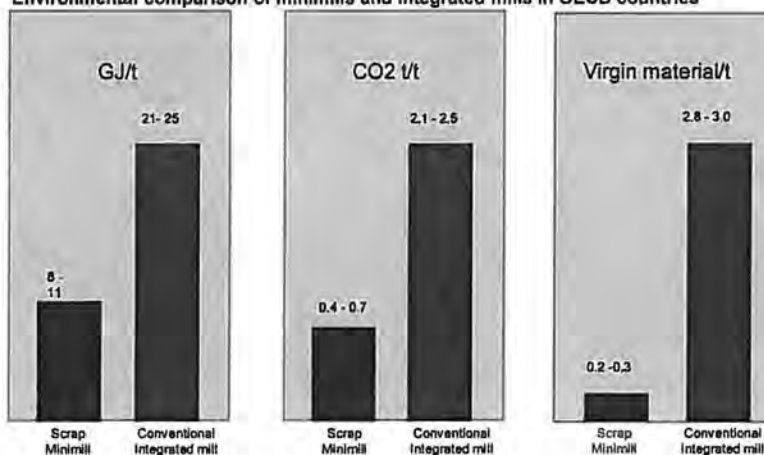
Source: BCG Eurofer report, Laplace Conseil analysis for other OECD regions

Recycling scrap in EAF's is the most efficient available technology, not just for energy.

- + Steel like all metals is indefinitely recyclable without loss of properties. Steel is not « consumed » but « used » over and over again.
- + The energy needed to melt scrap represent 40% of the energy and 30% of CO₂ to smelt iron ore in a modern BF/BOF integrated mill.
- + In addition, capital cost per tonne of capacity is 60 to 70% lower; maintenance costs are decreased in the same proportion.
- + Labor productivity is twice as high and smaller size of mill usually leads to better social relationships and more flexible production schedule
- + Innovative « minimills » have pioneered thin slab, thin strip and near net shape casting, further enhancing the EAF competitiveness.
- In mature OECD markets, EAF growth can only occur at the expense of incumbent BF/BOF plants, leading to large job losses and financial distress of the integrated mills. Hence several objections to more EAF.

The environmental advantages of scrap recycling over traditional BF/BOF smelting are important

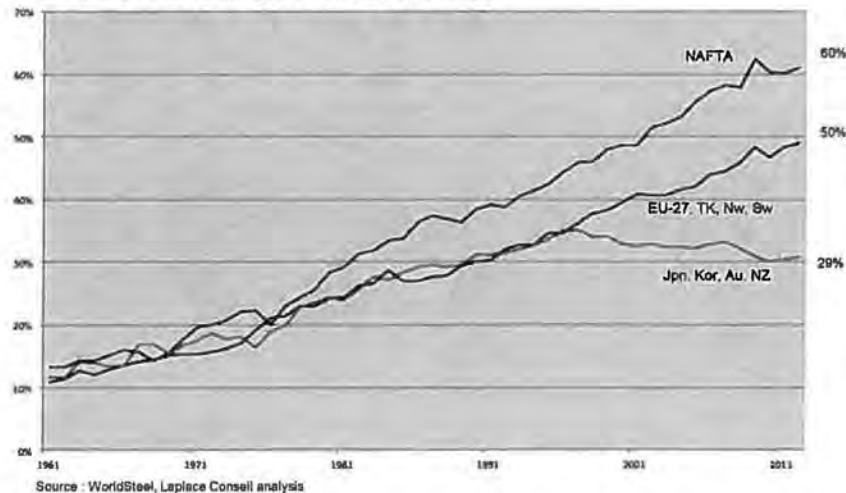
Environmental comparison of minimills and integrated mills in OECD countries



Source : Industry data, Laplace Consult estimates

For many decades, the share of EAF steel has grown steadily in Europe and NAFTA

EAF share in crude steel production, by region (%)

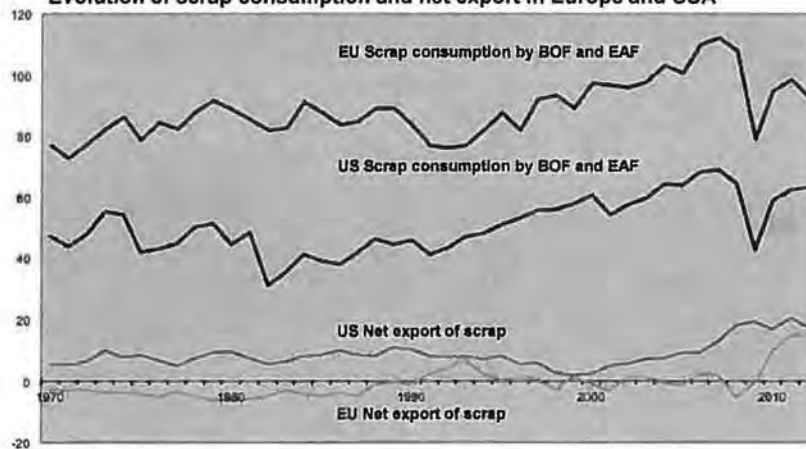


Is there enough good quality scrap to increase EAF share ?

- In the past 50 years, scrap collection has kept pace with scrap demand, but recycling rate can never reach 100% so there is a limit.
 - Home scrap (recycled within the plant has been reduced dramatically with the introduction of continuous casting.
 - Prompt scrap (new scrap from downstream processing industries are highly sought after since their origin can be traced), but industry also reduce arising.
 - End of life scrap (after steel containing products or structure are decommissioned or thrown away) is collected by a constantly evolving recycling industry, but some steel has a very long useful life (bridges) or are hard to collect (reinforcing steel)
- Scrap quality is decreasing; high quality steel cannot be made that way
 - Old scrap is polluted by copper unsuitable for deep-drawing high qualities
 - Today, 100% of long products and 70 – 80% of flat products can be made with scrap
 - Scrap impurities can be diluted with pig iron or DRI.
- Scrap exports limit availability for domestic producers
 - All three OECD regions are net exporters of scrap for many decades

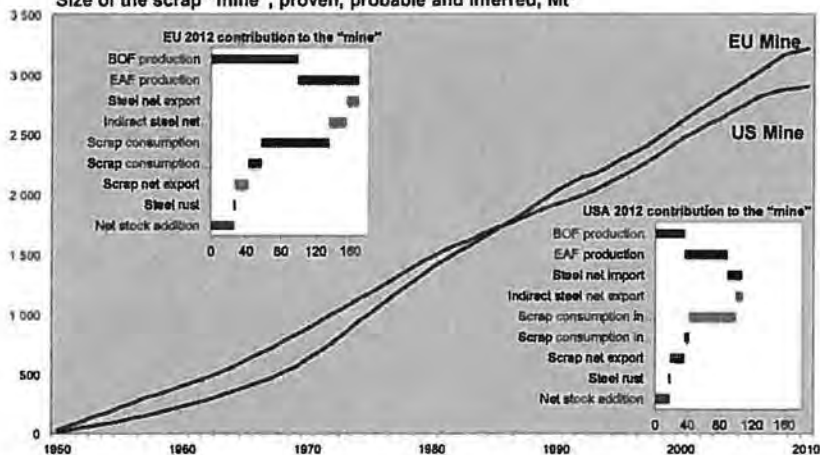
USA was always a large scrap exporter; EU started to export significant quantities after 2009.

Evolution of scrap consumption and net export in Europe and USA



The EU and US scrap "mines" each have a growing proven and probable reserve of 3 billion tonnes

Size of the scrap "mine", proven, probable and inferred, Mt*



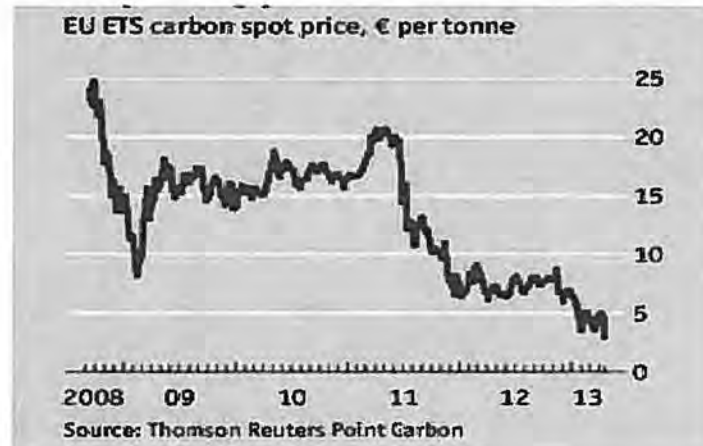
Low priced shale gas is creating an entirely new perspective for the NAFTA steel industry

- The reduction of iron ore into iron needs either CO or H₂ as reductant
- Coal (coke) is the traditional reducing agent in blast furnace
- Natural gas can replace coal in Direct Reduction Process (DRI)
- Energy efficiency of the two processes is similar, but CO₂ emissions are significantly lower with natural gas.
- DRI has been produced for a long time in gas rich OPEC countries and is now available in NAFTA region thanks to shale gas production.
- 10 DRI projects are currently under consideration in the US and the first will start in a few month time.
- Considering the overall cost and quality advantage of DRI/EAF process as well as the dynamism of new steel entrants, we expect that half the NAFTA BF/BOF will be replaced in the next 15 years.
- In Europe, gas prices are unlikely to fall in the medium term, so DRI will not be produced soon but will be imported to substitute BF/BOF production. A first project has been announced recently.

Concerns for the Climate Change has prompted the EU to sponsor an emission trading system

- In 2012, the EU steel industry has accounted for 5% of all EU emissions. Emissions have been reduced by 14% since 1990.
- This is due to a 4% reduction in specific emissions (T CO₂ / T steel) by the integrated industry and a 32% reduction by the minimill sector coupled with an increase from 28% to 49% of the minimill share of production.
- While there is still progress to be made to reduce specific emissions, it is generally accepted that many plants are using best available technologies (BAT) and that further improvements are hard to justify on economic term, especially with the current low value for the carbon offset. In short, the ETS faces difficulties in inducing further improvement in the steel industry while generating concerns for accelerating delocalization of the industry.
- The best opportunity to further reduce the carbon footprint of the industry is to accelerate the switch from BF/BOF to Scrap/EAF.
- This structural change would of course create major social disruptions and has sparked a lively debate on ETS impact, but also about scrap availability and quality, carbon leakage, scrap export restriction, etc.

The economic crisis in Europe has led to over capacity in the carbon market and falling prices



While steel is energy intensive, it is also a major supplier to the energy industry

Consumption of steel by energy industries (Mt)

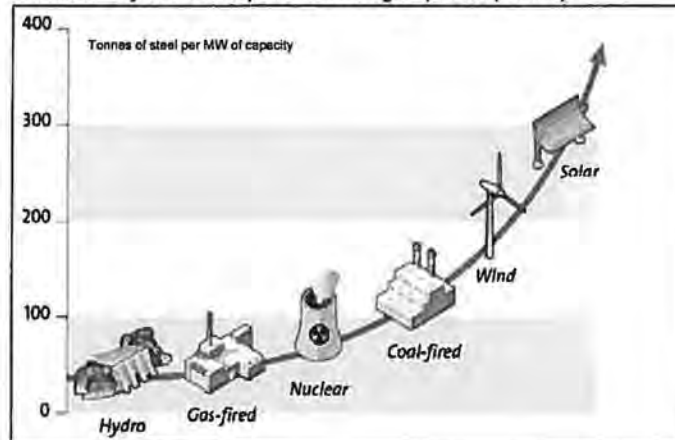
Fuel type	Exploration & Production	Transport to market	Power plant construction	Refining & distribution	Electricity distribution
Oil	25	15	-	5	10
Gas	20	40	5	-	
Coal	10	15	16	-	
Hydro	4	-	4	-	
Nuclear	-	1	2	-	
Wind	-	-	5	-	
Renewable	-	-	1	-	
Total	59	71	33	5	10

178 MT that is 12 % of total finished steel production

Source : Worldsteel, Eurofer, Leplace Conseil analysis & estimates

Wind and solar are the most steel intensive technologies for power generation

Steel intensity of different power technologies (tonnes per MW)

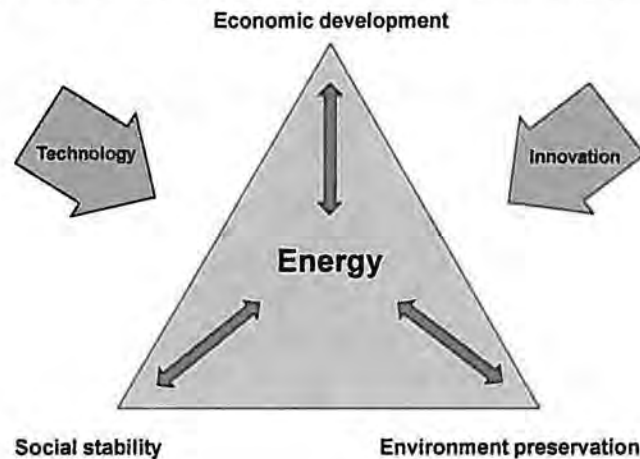


Source: Albanese et al.

Finally, Steel is a major contributor to downstream energy savings

- Higher quality and strength of modern steel allow for the construction of more efficient applications that will use less energy compared to actual applications. Hence, sustained R&D effort in steel is essential to increase the use of these new steel qualities.
- Example of new steels that reduce steel energy consumption :
 - High temperature resisting steel to improve performance of fossil fuel power plants.
 - Replacement of fossil fuel by onshore and offshore wind turbine
 - More efficient electric sheet to improve efficiency of transformers and motors
 - Stronger steel and laser welded blanks allows for weight reduction in cars and trucks and for increased fuel efficiency
 - Combined heat and power generation in households and industry

Conclusions : Energy is at the crossroad of the three dimensions of society evolution. Technology and innovation are the key to future progress



Thank you for your attention



LAPLACE CONSEIL

Metal and mining Consultant

www.laplaceconseil.com

EXHIBIT 4

**DANIEL R. PEARSON, “GLOBAL STEEL OVERCAPACITY: TRADE
REMEDY CURE IS WORSE THAN THE DISEASE,” CATO INSTITUTE
FREE TRADE BULLETIN NO. 66, APRIL 11, 2016**

FREE TRADE BULLETIN NO. 66

Global Steel Overcapacity: Trade Remedy “Cure” Is Worse than the “Disease”

By Daniel R. Pearson

April 11, 2016

Antidumping and countervailing duty (AD/CVD) measures are unable to fix the low-price problem afflicting U.S. steel producers because they amount to no more than a band-aid that can't heal the wound.

Worse, such trade remedy measures do great harm to manufacturing companies by making steel in the United States higher in price than in most of the rest of the world. This tends to make downstream manufacturers less competitive, thus encouraging imports of steel-containing products from other countries.

A better approach would be to take advantage of an underlying economic reality: because the U.S. steel-consuming sector is so much more economically significant than the steel-producing sector, low-priced steel imports provide a substantial net benefit to the U.S. economy. China's policies encourage the export of steel at artificially low prices, which has the effect of transferring wealth from China to the United States. The United States should change the dynamic of the debate by encouraging China to continue transferring wealth by selling all the low-priced steel it possibly can in this country. That approach is likely to get the attention of Chinese policymakers and hasten the downsizing and restructuring that is so badly needed in that country's steel sector.

In addition, U.S. statutes should be reformed to specify that AD/CVD duties would enter into effect only when economic analysis indicates that they would improve economic welfare in the United States. Yes, low-priced steel imports

may be unfair to U.S. steel producers. But the United States should avoid responding to this unfairness with policies that are even more unfair because they impose much larger costs on the steel-consuming sector than any benefits that might accrue to steel producers.

[Continue to full version >](#)



HERBERT A. STIEFEL CENTER FOR TRADE POLICY STUDIES

Free Trade Bulletin

No. 84 • April 11, 2014

Global Steel Overcapacity: Trade Remedy "Cure" Is Worse than the "Disease"

by Daniel R. Foxen

Summary

Antidumping and countervailing duty (AD/CVD) measures are unable to fix the low-price problem afflicting U.S. steel producers because they cannot do more than a band-aid that can't hold the wound. Worse, such trade remedy measures do great harm to manufacturing companies by making steel in the United States higher in price than in most of the rest of the world. This tends to make downstream manufacturers less competitive, thus encouraging imports of steel-consuming products from other countries.

A better approach would be to take advantage of an underlying economic reality: Because the U.S. steel-consuming sector is so much more economically significant than the steel-producing sector, low-priced steel imports provide a substantial net benefit to the U.S. economy. China's policies encourage the export of steel at artificially low prices, which has the effect of transferring wealth from China to the United States. The United States should change the dynamics of the debate by encouraging China to continue transferring wealth by selling all the low-priced steel it possibly can in this country. That approach is likely to get the attention of Chinese policymakers and lessen the animosity and recrimination that is so badly needed in that country's steel sector.

In addition, U.S. courts should be referred to specify that AD/CVD duties would enter into effect only when economic analysis indicates that they would improve economic welfare in the United States. Yes, low-priced steel imports may be "bad" to U.S. steel producers. But the United States should avoid responding to this industry's self-interest with policies that are even more unfair because they impose much larger costs on the steel-consuming sector than any benefits that might accrue to steel producers.

Daniel R. Foxen is a senior fellow at the Cato Institute.
Herbert A. Stiefel Center for Trade Policy Studies

China's Steel Overcapacity Can Benefit the United States

China's "socialist market economy" has been driven far too much by socialist planning and not enough by the actual marketplace. Decisions at various levels of government within China have encouraged undisciplined investments in steel capacity, which have led to a large gap between China's ability to produce steel and the demand for it. Because much of the production increase has been generated by government policies, it is clear that China's steel exports aren't really "free." However, a lot of things in life aren't free—it's just necessary to make the best of them.

In the question of imports to policymakers should be: What policy response would allow the United States to make the best of these tough circumstances, preferably turning them to America's advantage?

It is helpful to start by reviewing some realities of the political economy of China's steel market. Many Chinese and many more would have been built if all of those resources had been subject to the market pressures of a fully open and competitive economy. Creating a genuine reason for an export surplus has not been an important objective for officials that are almost as heavily influenced by government. As a consequence, overcapacity has been added for which there is no effective demand, either in China or overseas. Estimates of overcapacity worldwide (most of which is in China) range in excess of 600 million metric tons, equivalent to more than a third of annual global steel output. (See Figure 1 and Table 1.) Some of that capacity may close in the coming years, perhaps without ever having been needed profitably.

In the near term, however, China appears to be doubling up to use the steel investments largely by making a second wave decision—that is, exporting more steel at a loss instead of just shutting them down. This is not the best decision because it uses resources inefficiently. It also creates political complications for other countries, including the United States. However, the economics of the situation can

Downloads

B PDF (350.34 KB)

China's Steel Overcapacity Can Benefit the United States

China's socialist market economy has been driven far too much by socialist planning and not enough by the actual marketplace. Decisions at various levels of government within China have encouraged undisciplined investments in steel capacity, which have led to a large gap between China's ability to produce steel and the demand for it. Because much of the production increase has been

generated by government policies, it is clear that China's steel exports aren't really fair. However, a lot of things in life aren't fair — it's just necessary to make the best of them.

So the question of interest to policymakers should be: What policy response would allow the United States to make the best of those unfair circumstances, preferably turning them to America's advantage?

It is helpful to start by reviewing some realities of the political economy of China's steel market. Many Chinese steel mills never would have been built at all if those investors had been subject to the market pressures of a fully open and competitive economy. Earning a positive return on invested capital has not been an important objective for mills that are owned or heavily influenced by governments. As a consequence, capacity has been added for which there is no effective demand, either in China or overseas. Estimates of over capacity worldwide (most of which is in China) range in excess of 600 million metric tons,¹ equivalent to more than a third of annual global steel output.² (See Figure 1 and Table 1.) Some of that capacity may close in the coming years, perhaps without ever having been operated profitably.

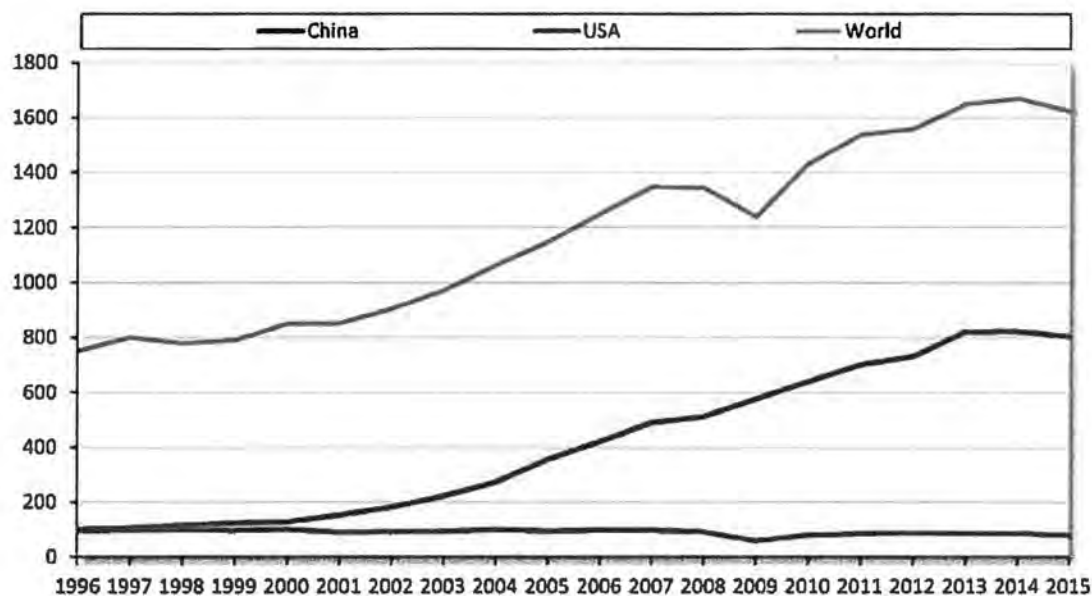
In the near term, however, China appears to be dealing with its unwise steel investments largely by making a second unwise decision — that is, operating many mills at a loss instead of just shutting them down. This is bad for China because it uses resources inefficiently. It also creates political complications for other countries, including the United States. However, the economics of the situation can work to America's benefit. Since China is selling steel for less than it would be worth in an economy guided solely by market forces, U.S. steel consumers are getting a bargain. China's decision to run its steel mills at negative rates of return means, in essence, that China is helping to increase the competitiveness of U.S. manufacturers that use steel as an input. In terms of the underlying economics, China takes the losses and the United States reaps the gains. What's not to like about those circumstances?

Table 1. Largest Steel Producing Countries, Million Metric Tons

Rank	Country	2015	2014	% Change
1	China	803.8	822.8	-2.3
2	Japan	105.2	110.7	-5.0
3	India	89.6	87.3	2.6
4	U.S.	78.9	88.2	-10.5
5	Russia	71.1	71.5	-0.6
6	South Korea	59.7	71.5	-16.5
7	Germany	42.7	42.9	-0.5
8	Brazil	33.2	33.9	-2.1
9	Turkey	31.5	34.0	-7.4
10	Ukraine	22.9	27.2	-15.8
11	Italy	22.0	23.7	-7.2
12	Taiwan, China	21.5	23.2	-7.3
13	Mexico	18.3	19.0	-3.7
14	Iran	16.1	16.3	-1.2
15	France	15.0	16.1	-6.8
16	Spain	14.9	14.2	4.9
17	Canada	12.5	12.7	-1.6
18	UK	10.9	12.1	-9.9
19	Poland	9.1	8.6	5.8
20	Austria	7.7	7.9	-2.5

Source: World Steel Association.

Figure 1. Crude Steel Production, 1996-2015, Million Metric Tons



Source: World Steel Association.

Trade Remedies Make the Situation Worse

Yes, domestic U.S. steel producers are exposed to unfairly low-priced steel and are understandably unhappy. Their traditional response has been to seek relief from troublesome imports, primarily by filing antidumping and countervailing duty (AD/CVD) petitions. There are two reasons that this approach does not serve the best overall interests of the United States.

One is that today's steel market for commodity products is so far out of balance that trade remedy measures simply can't bring the U.S. industry back to profitability. The global supply of commodity steel products is so large that prices are low worldwide. No matter how many trade remedy band-aids are placed on that wound, they won't raise U.S. prices sufficiently to stop the financial bleeding.

The other shortcoming of AD/CVD orders is that — even if they could provide some help to U.S. steel manufacturers — they would do great harm to downstream U.S. firms that use steel as an input. True, U.S. steel producers employ tens of thousands of people. But steel production adds far less value to the U.S. economy and employs far fewer people than do downstream manufacturers.

Data from the Bureau of Economic Analysis (BEA) at the Department of Commerce indicate that value added by [primary metal manufacturing] amounted to \$59.7 billion in 2014.³ (Note: Primary metal manufacturing [NAICS 331] includes nonferrous metals, such as copper, aluminum, magnesium, lead, tin, silver, and gold, so is much broader than the steel industry.) Downstream manufacturers that utilize steel as an input generate value added of \$990 billion, more than 16 times larger than primary metal industries. The disparity in employment also is more than 16 times greater. Primary metal manufacturing employed 399,000 people in 2014.⁴ Downstream manufacturers employed 6.5 million. (Employment by U.S. steel producers is somewhere in the neighborhood of 100,000.)

The point is not that steel production is a small and insignificant industry, because clearly it is not. Rather, the point is that the problems of the steel industry need to be kept in perspective. It would be a poor policy choice to attempt to protect steel producers in ways that do much greater harm to steel users.

One of the sad realities is that AD/CVD orders can make the United States a relatively high-priced island in a world awash with lower-priced steel. Not having access to competitively priced inputs can lead quickly to sales losses for companies that manufacture goods containing steel. Overseas firms that benefit from lower costs will be able to export products to the United States and undersell U.S. manufacturers. So imposing trade remedies is a great way to reduce the economic welfare of the United States, thus making this country poorer.

One example might be Carrier, the company that recently announced it would shift manufacturing air conditioners from two plants in Indiana to Monterrey, Mexico. This decision, which will lead to the loss of 2100 jobs, has inspired commentary in the presidential campaign. The company's official statement does not attribute the change specifically to higher U.S. prices for key inputs covered by AD/CVD orders. However, the statement does say, "This move is intended to address ... ongoing cost and pricing pressures."⁵ It seems likely that some of those cost pressures relate to U.S. trade remedies, 19 of which restrict imports of various steel products from China. (Not all of those steel products would be used in the manufacture of air conditioners.) Other AD/CVD orders apply to imports of copper tubing, which is an important component of air conditioning systems, as well as aluminum extrusions. If the United States wishes to create a more favorable business climate for manufacturers, a good start would be to revoke AD/CVD orders that raise the costs of their components. These are costs that Carrier largely can avoid by moving operations to Mexico.⁵

A Better Approach

What should be done instead of using trade remedies? U.S. policymakers should take advantage of fundamental economics. China's decision to export steel for less than it is worth has the effect of transferring wealth from China to the Unit-

ed States. As a practical matter, the best way to encourage China to downsize and restructure its industry would be to reframe the debate by communicating the following message to the Chinese government:

Thank you for transferring so much wealth from China to the United States by selling low-priced steel! Please continue doing it! Is China willing to sign ten-year contracts guaranteeing that wealth transfers will continue?

By radically changing the terms of the discussion, this approach has a decent prospect for getting the Chinese quickly to rethink what they have been doing. The current U.S. approach is to complain to them about how much their exports are hurting American steel producers. Instead, that argument should be turned on its head by thanking them for helping to strengthen the competitiveness of the much larger U.S. steel-consuming sector.

Adopting that strategy is not only the right thing to do based on economics, it also would tend to get the attention of Chinese policymakers in a genuinely constructive way. China's senior leaders may find it challenging to explain to their people why they are continuing to allow below-cost steel to be sent overseas to the great benefit of the United States and other countries. Temporarily maintaining employment in Chinese steel mills may be nice, but at the cost of subsidizing undeserving Americans? That's probably not a winning political argument, even in China.

Implications for U.S. Steel Producers

Would removing all AD/CVD restrictions against steel imports sound the death knell for the U.S. steel industry? Fortunately, no. Steel producers understand that their markets tend to be cyclical. When prices are at cyclical lows, many U.S. steel companies experience financial losses. This is not a new phenomenon. Experience in previous periods of low prices indicates that capacity utilization rates for the industry as a whole tend to decline. Some mills producing commodity products may close for a few months, perhaps longer. There may be re-

structuring or consolidation among firms. These changes — especially in combination with industry downsizing and restructuring in China and other countries — would lead relatively promptly to restoring a balance between steel supply and demand that would allow profitable operation of U.S. mills.

It likely would be preferable to both employees and stockholders of steel companies to get past the bottom of the cycle as quickly as possible. There would be little joy from a prolonged downturn that could be expected in response to an ongoing series of AD/CVD orders imposed in a vain attempt to protect the U.S. steel industry from adverse market circumstances. Continuing on the traditional trade-remedy path likely would encourage Chinese leaders to resist reforms. Why should they suffer political costs to change policies in order to make the United States happy? By shifting the dynamic and encouraging China to continue exporting a large quantity of low-priced steel, the United States has a far better chance to get China to make badly needed adjustments in its industrial policies.

It is important to understand that the nature of the U.S. marketplace also provides some degree of protection to domestic steel companies, especially those producing high-quality and specialty steels. High-end items are more difficult to produce and are higher in price than commodity grades. The trend in recent decades has been for the U.S. steel industry to rely less on the sale of commodity products, instead moving toward manufacture of higher-value grades of steel. Specialty steels are required by customers for certain well-defined uses. Such customers will only use steel that has passed qualification tests in advance, so tend to have long-term relationships with suppliers. Manufacturers with exacting requirements for their steel inputs often are reluctant to attempt to qualify producers that previously have not been business partners, especially if those potential suppliers are located far away in other countries. Manufacturers find it somewhat comforting to have major suppliers located relatively nearby so that transportation logistics are not excessively complicated. In other words, realities of producer-customer relationships provide the U.S. steel industry with partial insulation from overseas competition.

Reform Trade Remedy Statutes

U.S. steel producers may not be comfortable with an open-market approach. The challenge to them is to outline an alternative policy that would do a better job of improving U.S. economic welfare. It is doubtful they can do so. Certainly it would be difficult for the U.S. steel industry to make a compelling argument that their economic interests are somehow more important than those of companies that require steel as an input for their value-added manufacturing processes.

The optimal policy response would be to reform U.S. trade remedy statutes by adding a new requirement: AD/CVD duties only should be imposed if economic analysis indicates that doing so would increase economic welfare in this country. This would be an elaboration of the "public interest" test applied by some other nations as they consider whether to impose AD/CVD measures.

Fortunately, adding such a requirement to U.S. law would not pose a substantial administrative burden. Economists on the staff of the U.S. International Trade Commission already have access to relevant data in the injury phase of AD/CVD investigations. They also have the necessary analytic tools and experience to provide this analysis. The statute should be changed to instruct ITC commissioners to consider the broad economic welfare effects of proposed AD/CVD duties and to vote in the affirmative only when those duties will redound to the net benefit of the United States.

People on both sides of this issue should be able to agree that the U.S. government should avoid policy responses that do more harm to the economy than any harm that could be done by unfairly priced imports. It is important to ensure that the policy "cure" isn't worse than the "disease" of low-priced steel. The goal should be to pursue policies that serve the best overall interests of the United States.

Notes

1. Notes "Tata Steel: No, Thank You," *The Economist*, April 2, 2016, [www.economist.com/node/21695872/](http://www.economist.com/node/21695872).

2. [Monthly Crude Steel Production], World Steel Association, January 25, 2016, https://www.worldsteel.org/dms/InternetDocumentList/steels/2015/Crude-steel-production-Jan-Dec-2015-vs-2014_/document/Crude%20steel%20production%20Jan-Dec%202015%20vs%202014.pdf.

3. [Value Added by Industry], Bureau of Economic Analysis, U.S. Department of Commerce, November 5, 2015, <http://www.bea.gov/industry/print.cfm?id=928DEDAE7553EBE540634807A5540C6A1C7978C144702974BD43F0538F>

4. [Full-Time and Part-Time Employees by Industry], Bureau of Economic Analysis, U.S. Department of Commerce, August 6, 2015, <http://www.bea.gov/industry/print.cfm?id=718A9A5150C52C20743F8882F711BA94B63DFA6A263656FABBCE94FA5A8705C8CF5AFBD927E63BB81584B114DE4F013CDD922DCFADAA9BE5CF8972E98CFDA979>.

(Steel consuming manufacturers are: fabricated metal products; machinery; computer and electronic products; electrical equipment, appliances and components; motor vehicles, bodies and trailers, and parts; other transportation equipment; furniture and related products; and miscellaneous manufacturing.)

5. Carrier, [Carrier to Relocate Indianapolis Manufacturing Operations], news release, March 2, 2016, <https://www.carrier.com/carrier/en/us/news/statement/>.

6. Daniel Ikenson, [Economic Self-Flagellation: How U.S. Antidumping Policy Subverts the National Export Initiative], Cato Institute, May 31, 2011, <http://www.cato.org/publications/trade-policy-analysis/economic-self-flagellation-how-us-antidumping-policy-subverts-national-export-initiative>. (Pages 14-17 provide examples of damage done by antidumping measures to U.S. firms using magnesium and hot-rolled carbon steel.)



Daniel R. Pearson is a senior fellow at the Cato Institute's Herbert A. Stiefel Center for Trade Policy Studies.



This work by Cato Institute is licensed under a Creative Commons Attribution-NonCommercial-ShareAlike 3.0 Unported License.

Printed From Cato.org