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VIA EMAIL

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Brad Botwin
Director, Industrial Studies, Office of Technology Evaluation
U.S. Department of Commerce
1401 Constitution Avenue NW, Room 1093
Washington, DC 20230

**Comments of Metals Service Center Institute (“MSCI”)
Concerning the Section 232 National Security Investigation of
Imports of Aluminum DOC 2017-09328**

Dear Mr. Botwin,

The Metals Service Center Institute (“MSCI”) respectfully submits the following comments concerning the 232 National Security Investigation of Imports of Aluminum.

I. Who We Are

MSCI is a U.S. trade association representing more than 300 member companies that operate in more than 1,200 business locations across North America. Our membership is very diverse, consisting of primary metals producers, metals service centers, and others with a vested interest in the industrial metals supply chain. The industry, including primary producers and metals service centers, employs more than 400,000 people paying more than \$30 billion in wages and generating more than \$180 billion of economic impact to the United States economy. Metals service centers supply the aluminum and metals requirements of an estimated 300,000 downstream manufacturers and fabricators. However, our member companies are faced with unfair foreign trade practices that put our entire industry at risk. For example, of the eight

aluminum smelters based in the U.S. at the beginning of 2016, seven have now either shutdown, reduced production, or are idled.¹

Collectively, service centers represent an important outlet for domestic aluminum mills, purchasing at least 1,848 million pounds in 2015 and 1,768 million pounds in 2016 of sheet, plate, foil and extruded products. Service centers cut, fold, shape, polish and further process aluminum purchased from mills and then sell these processed aluminum products directly to manufacturers, fabricators, machine shops and others in the aluminum supply chain.

Given the position of service centers within the aluminum and metals distribution chain, MSCI believes its interests mirror the “national interest.” Aluminum service centers, as the “middlemen” in that chain, are an important barometer of the health of the entire industry. Service centers purchase both domestically and foreign produced aluminum for processing and ultimately downstream shipment to the manufacturing base.

Service centers will suffer economic harm if the domestic mills collapse due to unfair trade practices and other abuses. Service centers *and* the downstream U.S. manufacturing base require a strong and viable U.S. production base. Like the country as a whole, the service center industry requires thoughtful trade policy initiatives that avoid the binary or sterile choices of the past. A secure nation requires a healthy U.S. economy. Accordingly, a healthy service center industry, needs a competitive domestic aluminum sector *and* a competitive domestic industrial manufacturing base in the broadest sense to ensure its ability to respond to national security requirements.

II. Presidential Memoranda Response

In responding to the President’s memorandum to determine the effects on the national security of imports of aluminum, MSCI intends to respond to the following five areas called for in the *Federal Register*:

¹ The White House, Fact Sheet, President Donald J. Trump Stands up for American-Made Aluminum, Addressing Steel Excess Capacity and Its Impacts, April 27, 2017. <https://www.whitehouse.gov/the-press-office/2017/04/27/president-donald-j-trump-stands-american-made-aluminum>.

- A. Quantity of aluminum or other circumstances related to the importation of aluminum;
- B. The impact of foreign competition on the economic welfare of the aluminum industry;
- C. The displacement of any domestic aluminum causing substantial unemployment, decrease in the revenues of government, loss of investment or specialized skills and productive capacity, or other serious effects;
- D. Relevant factors that are causing or will cause a weakening of our national economy; and
- E. Any other relevant factors.

III. The Problem: Global Aluminum Overcapacity

As President Donald Trump’s April 27th memo stated, “Core industries such as steel, aluminum, vehicles, aircraft, shipbuilding, and semiconductors are critical elements of our manufacturing and defense industrial bases, which we must defend against unfair trade practices and other abuses. In the case of aluminum, both the United States and global markets for aluminum products are distorted by large volumes of excess capacity much of which results from foreign government subsidies and other unfair practices. Efforts to work with other countries to reduce excess global overcapacity have not succeeded.”²

The global aluminum industry today is confronting significant challenges as a result of two major factors: (1) the growing disjunction between global aluminum-making capacity and global aluminum demand, and (2) the substantial undervaluation of the Chinese currency. The inevitable result of these structural problems is increased unfair trade practices, including foreign dumping and predatory pricing, which have caused unsustainable cost structures and loss of market share and employment in the U.S. domestic aluminum industry. For example, as the Trump Administration has noted, there were eight aluminum smelters based in the U.S. at the beginning of 2016, by the end of April 2017 seven of the eight had either shutdown, reduced

² The White House, Presidential Memorandum for the Secretary of Commerce, April 27, 2017, <https://www.whitehouse.gov/the-press-office/2017/04/27/presidential-memorandum-secretary-commerce> .

production, or were idled.³ That means 87 percent of U.S. based smelters have been forced to scale down their operations, likely due in part to these unfair trade practices.

The imbalance between capacity and demand has been fueled in large part by the intentional actions of certain foreign governments, particularly China, whose economies are either centrally managed or free market in name only. The U.S.-China Economic and Security Review Commission has succinctly summarized the problem as follows:

Strong Chinese government support for its domestic aluminum sector has created vast overproduction, lowering global prices and squeezing the profitability of U.S. and other foreign aluminum firms. U.S. and other global aluminum companies have restructured and cut back production to minimize financial losses, leaving the United States with only one aluminum smelter operating at full capacity in 2017.⁴

The causes of the current conditions are not a mystery. The disjunction between capacity and demand has been fueled in large part by the intentional actions of foreign governments. As noted in the 2016 U.S. – China Economic and Security Review Commission Annual Report to Congress:

The Chinese government is guilty of stoking the current global commodity glut, with Beijing’s preferential treatment of industrial producers distorting markets for products like steel, coal, and aluminum. These industries receive critical financial support from state banks, allowing them to overproduce even as global demand has fallen in recent years. During the Commission’s 2016 trip to China, Chinese officials told the Commission that cutting capacity is politically difficult for the Chinese government because it risks creating a surge in unemployment and a sharp deceleration in growth.⁵

In particular, China has, through various anti-competitive mechanisms such as massive state-sponsored subsidies, substantially increased its domestic aluminum industry in the last several years. These include, for example, direct grants and loan interest subsidies,⁶ preferential

³ The White House, Fact Sheet, President Donald J. Trump Stands up for American-Made Aluminum, Addressing Steel Excess Capacity and Its Impacts, April 27, 2017. <https://www.whitehouse.gov/the-press-office/2017/04/27/president-donald-j-trump-stands-american-made-aluminum>.

⁴ U.S.-China Economic and Security Review Commission, Monthly Analysis of U.S.-China Trade Data, Feb. 7, 2017, https://www.uscc.gov/sites/default/files/trade_bulletins/February%202017%20Trade%20Bulletin.pdf.

⁵ U.S.-China Economic and Security Review Commission, 2016 Annual Report to Congress, November 2016, page 103, https://www.uscc.gov/Annual_Reports/2016-annual-report-congress.

⁶ *Forbes*, Lessons From The Aluminum Industry: The Hidden Cost Of China’s Cheap Solar, March 29, 2016, <http://www.forbes.com/sites/williampentland/2016/03/29/lessons-from-the-aluminum-industry-the-hidden-cost-of-chinas-cheap-solar/#34ce84e55e2a>. “China’s government has been subsidizing aluminum smelters through direct grants, interest free loans and other ‘incentive’ mechanisms.” See also http://www.gov.cn/zwgk/2012-0719/content_2186858.htm.

tax treatment,⁷ provision of electricity, raw materials, and inputs for less than adequate remuneration,⁸ and inadequate enforcement of health, safety, environmental, and customs requirements and anti-trust/anti-competitive prohibitions.

As a result, China's share of the world primary aluminum market rose from 10% in 2000 to a stunning 55.03% in April 2017,⁹ representing a compound annual growth rate of almost 20%. *Id.* In contrast, the rest of the world's compound annual growth rate was basically stagnant.¹⁰ China's 55% share of the world aluminum market is even greater than its share of the global steel market,¹¹ and gives China unique and unprecedented market power so dominant that China has the ability to behave independently of competitive and free market forces. Not surprisingly, China is *exercising* that dominant market power, fueled by the dramatic (and subsidized) expansion of its domestic production capacity, to capture global market share through unfair trade practices, including foreign dumping on the global market, all to the detriment of plants and workers in free market countries such as the United States.

China's subsidies have resulted in substantial increases in its (primary) aluminum production capacity during a time of stagnant—and negative—growth in aluminum consumption, when free market forces would instead dictate industry restructuring and consolidation. In 2013, the Boston Consulting Group observed:

[T]he industry's crisis cannot be traced back to an unexpected drop in demand caused by the global economic downturn or to sudden, surprising changes in the upstream or

⁷ See, e.g., American Iron and Steel Institute, Report On Market Research Into The Peoples Republic Of China Steel Industry Part 1 – Final Report, Chapter 6.1 at 97, June 30, 2016,

<http://www.steel.org/~media/Files/AISI/Reports/Steel-Industry-Coalition-Full-Final-Report-06302016>. “Starting 1 May 2015 ... the tax rate for aluminum materials was reduced to zero, according to Notice of the Customs Tariff commission of the State Council on the Adjustment of Export Tariffs on Certain Products.” See also: http://www.gov.cn/xinwen/2015-04/23/content_2852170.htm.

⁸ *Forbes*, Lessons From The Aluminum Industry: The Hidden Cost Of China's Cheap Solar, March 29, 2016, <http://www.forbes.com/sites/williampentland/2016/03/29/lessons-from-the-aluminum-industry-the-hidden-cost-of-chinas-cheap-solar/#34ce84e55e2a>. “The Chinese government has bankrolled its aluminum industry by subsidizing energy, which has kept high-cost smelters in business despite falling aluminum prices.”

⁹ World Aluminum, Primary Aluminum Production, May 22, 2017, <http://www.world-aluminium.org/statistics/>.

¹⁰ World Aluminum, Primary Aluminum Production, May 22, 2017, <http://www.world-aluminium.org/statistics/#linegraph>.

¹¹ World Steel Association, Monthly Crude Steel Production, May 23, 2017, <https://www.worldsteel.org/en/dam/jcr:44ae2d3d-62ff-4868-9f60-e17a43e75092/Crude+steel+production+April+2017.pdf> (stating China's crude steel production for January to April 2017 as 273,870 out of total world production of 550,841 thousand tons, which is approximately 49.7%).

downstream segments of the value chain. Instead, the crisis arose from the supply side, driven by China's strategy to increase its capacity for producing primary aluminum.¹²

With China's investment in new primary aluminum capacity continuing to grow, worldwide excess capacity in the aluminum sector will, if left unaddressed, continue to increase.

Indeed,

[M]onthly production of primary aluminum in China doubled between January 2011 and July 2015 and continues to grow, despite a severe drop in global aluminum prices during the same period. Large new facilities are being built with government support, including through energy subsidies, as China's primary aluminum production accounted for 54 percent of global production from January through October 2016. As a consequence, China's aluminum excess capacity is contributing to a severe decline in global aluminum prices, harming U.S. plants and workers.¹³

The Chinese government has promised to reduce overproduction, but has so far not made good on those promises. While there has been a recent slight downturn in the amount of Chinese aluminum being exported, it is unclear if this trend will continue and the amount of the decrease is such that China's aluminum production is still operating at significant overcapacity. As Norsk Hydro and Century Aluminum indicated in their 2016 earnings calls the Chinese can choose to restart their currently idle smelters which would allow them to quickly reverse any minor decrease in their aluminum production.¹⁴ Furthermore, as noted above, China's overcapacity is quite large, and a minimal reduction in production does not materially reduce the global excess production capacity.

According to the U.S.-China Economic and Security Review Commission:

Thus far, Beijing has not met its own production cut targets for steel, aluminum, or coal. ... Because many provincial governments fear mass unemployment as a result of reduced industrial production, they have been slow to implement the central government's reduction requirements. ... Asia-based financial services firm Nomura estimates that while Chinese producers have closed nearly 3 million metric tons of annual aluminum-producing capacity since 2010, they had added another 17 million metric tons as of November 2015. In 2016, many of China's aluminum smelters, which had cut output to

¹² Thomas Bradtke, et al., Boston Consulting Group, What Caused The Aluminum Industry's Crisis, June 24, 2013.

¹³ Office of the U.S. Trade Representative, 2016 Report to Congress On China's WTO Compliance, January 2017, Page 13-14. <https://ustr.gov/sites/default/files/2016-China-Report-to-Congress.pdf>.

¹⁴ Mark O'Hara, *Why Are Chinese Aluminum Exports Subdued in 2016?*, Market Realist, Aug. 16, 2016, <http://marketrealist.com/2016/08/why-are-chinese-aluminum-exports-subdued-in-2016/>.

stem losses from falling prices at the end of 2015, are planning to increase production by 1.4 million metric tons from 2015 levels, including producing around 800,000 additional metric tons in the first half of 2016.¹⁵

China's investment in new capacity is also driving its exports of semi-fabricated aluminum products. As *Reuters* reported, China exported 380,000 tons of aluminum in semi-fabricated form in April 2017. That was the highest monthly total since November 2015 and brought the year-to-date tally to 1.33 million tons, a two percent increase over the same period in 2016.¹⁶

A. Recent Determinations – Antidumping and Countervailing Duties

The International Trade Administration (“ITA”) of the U.S. Department of Commerce and the U.S. International Trade Commission (“ITC”) have specifically determined, and reaffirmed on several occasions, that China is increasing its dominant market power by subsidizing expansion of its production capacity, which in turn has led to China dumping aluminum products on the global market (including aluminum extrusions defined as shapes and forms, produced by an extrusion process, made from aluminum alloys having metallic elements corresponding to the alloy series designations published by the Aluminum Association commencing with the numbers 1, 3, and 6 (or proprietary equivalents or other certifying body equivalents.))

In 2011, the ITA issued an antidumping duty order on certain aluminum extrusions from China, based on its final determination in the less-than-fair-value (LTFV) investigation. *See* Aluminum Extrusions from the People's Republic of China: Antidumping Duty Order, 76 Fed. Reg. 30650 (May 26, 2011). In that order, the Department found dumping margins for aluminum extrusions from China in the range of 33.28% to 33.79% (weighted-average). *Id.* Since the issuance of that order, the Department has completed three administrative reviews. As a result of the most recent administrative review, which covered the period May 1, 2013 through April 30,

¹⁵ U.S.-China Economic And Security Review Commission, USCC 2016 Annual Report, https://www.uscc.gov/sites/default/files/annual_reports/2016%20Annual%20Report%20to%20Congress.pdf

¹⁶ Andy Home, *Reuters*, China's Rising Aluminum Exports Add Fuel to the Trade Fire, May 23, 2017, <https://www.reuters.com/article/us-china-aluminium-ahome-idUSKBN18J2CO>.

2014, the Department found much higher—indeed, huge—dumping margins for aluminum extrusions from China -- 86.01% (weighted-average).¹⁷

On April 1, 2016, the ITA published the notice of initiation of the first “sunset review” of the antidumping order, pursuant to section 751(c) of the Tariff Act 1930, as amended, to determine whether revocation of the order would be likely to lead to continuation or recurrence of Chinese dumping. The Department determined that there is a likelihood of continuation or recurrence of Chinese dumping if the order is revoked, and that “the magnitude of the dumping margins likely to prevail would be weighted-average dumping margins up to 33.28%.¹⁸

Also in 2011, the Department issued a countervailing duty order on aluminum extrusions from China. *See* Aluminum Extrusions from the People's Republic of China: Countervailing Duty Order, 76 Fed. Reg. 30653 (May 26, 2011). In that order, the Department determined net countervailable subsidy rates ranging from 4.89% to 374.15%. *Id.*, as amended at 79 Fed. Reg. 13039 (Mar. 7, 2014). Since the issuance of that order, the Department completed three administrative reviews. As a result of the most recent administrative review, which covered the period May 1, 2013 through April 30, 2014, the Department determined net countervailable subsidy rates ranging from 28.01% to 187.86%.¹⁹

On April 1, 2016, the Department published the notice of initiation of the first “sunset review” of the countervailing duty order, to determine whether revocation of the order would be likely to lead to continuation or recurrence of a countervailable subsidy.²⁰ As a result of that review, the Department determined that there is a likelihood of continuation or recurrence of countervailable subsidies if the order is revoked because dozens of subsidy programs found countervailable during the investigation and subsequent administrative reviews continue to exist. The Department found that revocation of the Order would likely lead to continuation or recurrence of countervailable subsidies ranging from 12.05% to as much as 374.15%, unsustainably high rates by any standard.²¹

¹⁷ 80 Fed. Reg. 75060, 75063 (Dec. 1, 2015).

¹⁸ ITC Decision Memorandum (July 29, 2016), at 15, <http://enforcement.trade.gov/frn/summary/prc/2016-18649-1.pdf>. *See also* 80 Fed. Reg. 51855, 51856 (August 5, 2016).

¹⁹ 81 Fed. Reg. 15238 (Mar. 22, 2016).

²⁰ 80 Fed. Reg. 18829 (April 1, 2016).

²¹ 81 Fed. Reg. 51858, 51860 (Aug. 5, 2016).

IV. The Impact of Foreign Competition on the Economic Welfare of the Aluminum & Downstream Manufacturing Industry

As President Trump noted in his memorandum, “The artificially low prices caused by excess capacity and unfairly traded imports suppress profits in the American aluminum industry, which discourages long-term investment in the industry and hinders efforts by American aluminum producers to research and develop new and better grades of aluminum. If the present situation continues, it may place the American aluminum industry at risk by undermining the ability of American aluminum producers to continue investment, research, and development, and by reducing or eliminating the jobs needed to maintain a pool of skilled workers essential for the continued development of advanced aluminum manufacturing.”²²

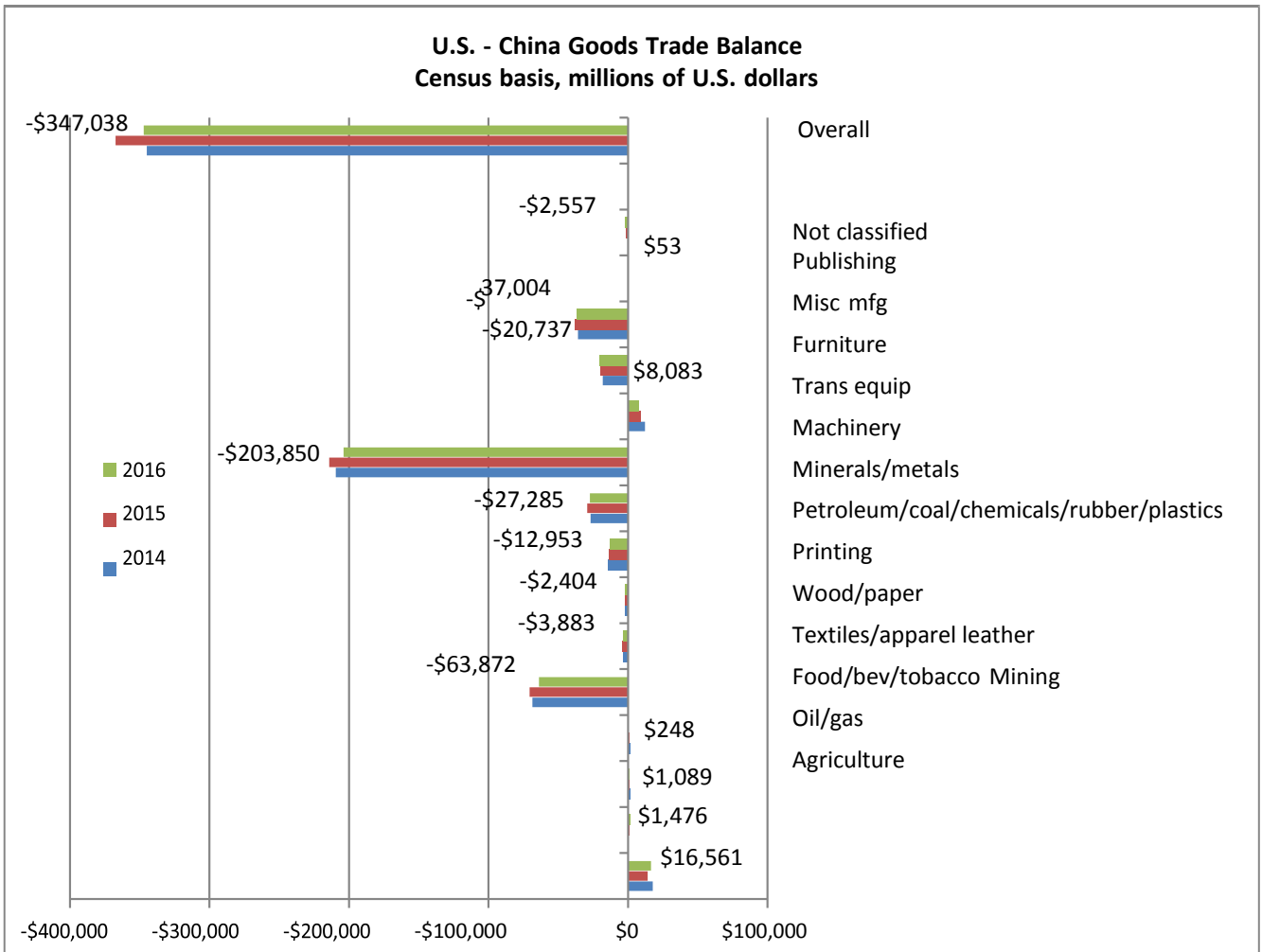
As AISI noted in its *Comments Regarding Causes of Significant Trade Deficits for 2016*, “trade distortions caused by Chinese government policies contribute to the very large bilateral trade deficit that the United States consistently runs with China, and have caused injury to U.S. manufacturing industries and their workers.²³ For example, “[b]etween 2001 and 2011 alone, growing trade deficits reduced the incomes of directly impacted workers by \$37 billion per year, and growing competition with imports from China and other low wage countries reduced the wages of all non-college graduates by \$180 billion per year.”²⁴ The United States ran a goods trade deficit of \$347 billion in 2016. As shown in the following chart, the United States runs a trade deficit in most manufacturing categories.²⁵ These trade imbalances negatively impact the U.S. Aluminum industry with direct metals imports but also by significant imports of manufactured parts and components produced using aluminum.

²² The White House, Presidential Memorandum for the Secretary of Commerce, April 27, 2017, <https://www.whitehouse.gov/the-press-office/2017/04/27/presidential-memorandum-secretary-commerce>.

²³ American Iron and Steel Institute, *Comments Regarding Causes of Significant Trade Deficits for 2016*, DOC-2017-0003, page 3.

²⁴ Lukas Brun, Duke University’s Center on Globalization, Governance & Competitiveness *Overcapacity in Steel: China’s Role in a Global Problem*, September 2016, page 18.

²⁵ American Iron and Steel Institute, *Comments Regarding Causes of Significant Trade Deficits for 2016*, DOC-2017-0003, page 3.



A. Service Center Shipments

The decline of service center shipments, leaves no question that the U.S. aluminum industry and demand for aluminum has suffered from “excess capacity and unfairly traded imports.” As the chart in Exhibit 1 shows, aluminum shipments from MSCI member companies in 2016 were only 80% of peak shipments before the 2008 great recession. While service center shipments are slowly recovering, they still have not returned to pre-2008 recession levels.

While shipments have recovered somewhat in recent years, current levels have not reached, or even approached, the levels prior to the 2008 recession. The fact that shipments from metals service centers have not approached pre-recession levels speaks volumes about the impact of excess capacity in China on the U.S. aluminum industry.

B. Aluminum Production Decline, Job Loss

Similarly, as this Administration has noted, the United States aluminum production industry has been injured by unfair global trade practices. For example, in 2016 American aluminum production fell by 47 percent as aluminum imports increased by 18 percent.²⁶ As a result of this loss of production seven of the eight aluminum smelters based in the U.S. at the beginning of 2016 have now shutdown, reduced their production or have become idle.²⁷ These negative changes come on the heels of two incredible increases in Chinese imports: (1) a 183 percent increase of Chinese imports of semi-fabricated aluminum and (2) the growth of Chinese aluminum foil imports from zero percent to 22 percent of the market.²⁸ All of these factors have led to a reduction in U.S. jobs. Indeed, as the White House points out, “employment in the aluminum industry fell by nearly 13 percent from 2015 to 2016.”²⁹

C. Fabricated Metal Products Job Loss

The fabricated metal products industry has likewise been one of the industries hit the hardest by China’s unfair trade practices. As America’s Trade Policy noted,

[j]ob loss or displacement by industry is directly related to trade flows by industry, as shown in Table 3.10 The growing trade deficit with China eliminated 2,557,100 manufacturing jobs between 2001 and 2015, nearly three-fourths (74.3 percent) of the total....Other hard-hit industries included ... fabricated metal products (161,800, or 4.7 percent) ...³⁰

V. Circumvention

It is important to note that these job losses and plant closures are not due to the U.S.’s inability to produce aluminum and aluminum products competitively on a level global playing field. China and other countries are unfairly subsidizing industrial metal through a variety of

²⁶ The White House, Fact Sheet, President Donald J. Trump Stands up for American-Made Aluminum, Addressing Steel Excess Capacity and Its Impacts, April 27, 2017. <https://www.whitehouse.gov/the-press-office/2017/04/27/president-donald-j-trump-stands-american-made-aluminum>. <http://trade.gov/press/press-releases/2016/steel-overcapacity-factsheet-041316.pdf>.

²⁷ *Id.*

²⁸ *Id.*

²⁹ *Id.*

³⁰ Robert E. Scott, America’s Trade Policy, Growth In U.S.–China Trade Deficit Between 2001 And 2015 Cost 3.4 Million Jobs: Here’s How To Rebalance Trade And Rebuild American Manufacturing, Feb. 9, 2017. <http://americatradepolicy.com/growth-in-u-s-china-trade-deficit-between-2001-and-2015-cost-3-4-million-jobs/#.WR5X3xRfn9o>.

mechanisms. The U.S. government, in an attempt to correct these actions, has *rightfully* imposed tariffs on various metals from countries that it has deemed to be unfairly subsidizing its metal exports to the U.S. However, there is growing evidence that, in an attempt to circumvent those rightfully imposed duties, the Chinese and others are simply processing that same aluminum into aluminum parts. As *The Wall Street Journal* noted last November, the U.S. Commerce Department has found that Chinese producers have begun “employing new methods to sell aluminum in the U.S. after the tariffs were imposed, indicating they were designed to evade trade barriers.”³¹

These countries cannot be allowed to continue to circumvent U.S. rules and regulations when it comes to exporting goods into the United States. As the U.S.-China Economic and Security Review Commission has noted:

These [antidumping and countervailing duty] cases have had limited success. In May 2011, DOC imposed antidumping and countervailing duties on U.S. imports of Chinese aluminum extrusions.[] However, some Chinese companies circumvented these duties by transshipping production through a third country or improper labeling.[] In October 2015, the trade association Aluminum Extruders Council filed a petition with DOC against Zhongwang Holdings Ltd., China’s second largest producer of aluminum extrusions, for systematically and illegally evading duties on aluminum extrusions.[]

Chinese companies are also avoiding Chinese government regulations to boost exports. While China’s Ministry of Finance applies a 15 percent export duty on aluminum exports, it provides a value-added tax refund for semi-fabricated aluminum products. China’s Ministry of Finance sought to use the value-added tax refund in order to incentivize higher value- added production, but instead, some Chinese firms have sought to circumvent the 15 percent export duty on aluminum and earn the 13 percent value-added tax refund by transshipping or mislabeling exports.[] In a letter to the U.S. Trade Representative in September 2015, the Aluminum Association wrote that improper labeling of exports “create[s] an unlevel playing field for aluminum producers in North America and around the world, and lead to distortions in the marketplace that have ripple effects across the entire industry.”³²

³¹ Scott Patterson and John W. Miller, *The Wall Street Journal*, U.S. Says Aluminum Exports From Chinese Firm Evaded Restrictions, Nov. 8, 2016, <https://www.wsj.com/articles/u-s-commerce-department-issues-preliminary-ruling-on-aluminum-dumping-investigation-1478608869>

³² U.S.-China Economic and Security Review Commission, Monthly Analysis of U.S.-China Trade Data, Nov. 4, 2015, page 14, https://www.uscc.gov/sites/default/files/trade_bulletins/February%202017%20Trade%20Bulletin.pdf. (Citations omitted).

In order to close this loophole, U.S. trade policy should provide the same relief for domestic producers that are downstream in the supply chain as it currently does for upstream domestic producers when foreign countries unfairly subsidize their products. If the U.S. does not address this problem now it will only get worse.

The inescapable conclusion is that something more than classic, free market forces are at work in the global aluminum market, in ways that have harmed U.S. producers and manufacturers, the aluminum service center industry and U.S. workers.

Excess capacity in China – whether in the steel industry or other industries like aluminum or soda ash – hurts U.S. industries and workers not only because of direct exports from China to the United States, but because lower global prices and a glut of supply make it difficult for even the most competitive producers to remain viable.³³

VI. National Security Concerns

As the U.S.-China Economic and Security Review Commission noted in their 2016 annual report, reduced profits and mass layoffs, although incredibly serious, are not the only consequences of the massive influx of Chinese metals into the United States.

The need for reform is particularly pressing in China’s heavy industries, where years of government subsidies have created over- capacity and market distortions. China’s industrial capacity, for instance, has suppressed global commodity prices and hindered global industrial activity. Rampant overcapacity also poses a national security risk to the United States, as cheap Chinese steel and finished aluminum product imports threaten to hollow out the domestic industries and weaken the national defense industrial base.³⁴

A May 2017 *Foreign Policy* article said the U.S. aluminum industry is “genuinely threatened” by Chinese overcapacity. The article explained:

A glut of cheap Chinese aluminum has done more than hollow out that industry; it may also actually be jeopardizing national security. Since China joined the World Trade Organization (WTO) in 2001, cheap Chinese aluminum has flooded American markets, closing factories and putting people out of work. The number of aluminum smelters in the United States has fallen from 23 to five in that time. Eight smelters have either shut down or scaled back operations since 2015, and about 3,500 aluminum jobs have

³³ Office of the U.S. Trade Representative, 2016 Report to Congress On China’s WTO Compliance, January 2017, Page 14. <https://ustr.gov/sites/default/files/2016-China-Report-to-Congress.pdf>.

³⁴ U.S.-China Economic and Security Review Commission, 2016 Annual Report to Congress, page 92. https://www.uscc.gov/Annual_Reports/2016-annual-report-congress.

disappeared in the last 18 months alone. A bigger worry, however, is national security. High purity aluminum is used to make certain kinds of jets, such as Boeing's F-18 and Lockheed Martin's F-35, as well as armored vehicles. But the United States now has just one domestic manufacturer of high purity aluminum left — Century Aluminum's Hawesville, Ky. plant, which is currently operating at 40 percent capacity amid dropping prices. The prospects for importing high purity aluminum, from a geopolitical risk standpoint, aren't friendly; only a few smelters in the world produce it, and those are located mostly in Russia, the Middle East, and China.³⁵

Given the importance of the aluminum industry in the U.S., MSCI believes that the health of the U.S. domestic aluminum industry is critical to not only the entire U.S. manufacturing sector but also to the broader U.S. economy as a whole, and that the problems posed by foreign government-sponsored capacity expansion demand a strong response from the U.S. government.

VII. Careful Balancing Act

The causes of global excess capacity and the massive influx of Chinese metals into the United States must be addressed to ensure a thriving domestic industrial metals manufacturing industry, a healthy American economy and a secure nation. As the Secretary of Commerce conducts his investigation, however, consideration must also be given to the consequences of any new trade policy. In particular, careful deliberation should be given to:

- A. The economic impact of global overcapacity on the entire domestic metals supply chain, including potential impacts on industrial metals jobs effects and vulnerability to downstream manufacturers;
- B. Transition times and implementation rules to any new policy;
- C. Availability of domestic metals to meet U.S. national security needs as well as general industrial and consumer demand; and
- D. Trade flows under current free trade agreements, i.e. NAFTA.

³⁵ Bethany Allen-Ebrahimian, *Foreign Policy*, Cheap Chinese Aluminum Is a National Security Threat, May 8, 2017, <http://foreignpolicy.com/2017/05/08/cheap-chinese-aluminum-is-a-national-security-threat/>.

A. The Economic Impact of Global Overcapacity on the Entire Domestic Metals Supply Chain, Jobs and Vulnerability to Downstream Manufacturers

It is clear that increasing levels of aluminum-containing finished goods and components are being manufactured abroad and imported back into this country. Because of this, U.S. trade policy must consider these effects on the downstream manufactures and supply chain.

As previously noted, aluminum service centers purchase both domestic and foreign aluminum for further processing and sale to manufacturers and other downstream markets. Simply increasing the price of imported aluminum, through special tariffs or otherwise, will inevitably increase the input costs of U.S. manufactured aluminum products, potentially making important segments of the U.S. manufacturing base less competitive in the global economy. To the extent that foreign aluminum, otherwise subject to higher duties, is used in the foreign manufacture of finished products or components that compete with U.S. manufactured products, the U.S. manufacturing base will be further compromised and U.S. manufacturing jobs put at continued risk. U.S. aluminum policy in these circumstances thus requires careful balancing.

B. Integrated Supply Chains and Trade Flows Under Current Free Trade Agreements, like NAFTA

MSCI is a strong proponent of free and fair trade. But foreign government policies that distort markets—such as subsidies that promote new capacity or delay the closure of unneeded existing capacity, and currency manipulation—undermine free and fair trade by circumventing the basic rules of the marketplace. The U.S. government has attempted to ensure free and fair trade through its membership and participation in the World Trade Organization and by entering into various multilateral, bilateral, and regional trade agreements to establish the rules of international commerce. MSCI has generally and strongly supported these agreements. However, the effectiveness of trade agreements in promoting free and fair trade depends on vigorous monitoring of each party's compliance and prompt and vigorous enforcement against violators. To facilitate expanded trade and commerce, the United States government must redouble its commitment and efforts to enforce its trade agreements and laws.

Similarly, because of the benefits of free trade that is executed across a level playing field, well-established, fully-integrated, market driven trading relationships have been established and now allow for free and fair trade with many FTA partners, such as Canada and

Mexico. The Department of Commerce and the Administration should take care not to upset the U.S.'s aluminum trade relationship with these countries. As noted in the NAM's recent comments to the DOC, the "U.S. manufacturing workforce depends upon exports for their jobs and nearly half of all U.S. manufactured goods exports are sold just to the 20 countries that have reduced or eliminated most barriers through free trade agreements (FTAs) with the United States, even though those countries represent just ten percent of the global economy. Put another way, those 20 countries buy nearly eight times more U.S. manufactured goods per capita than the rest of the world. Trade with these countries overall is relatively balanced."³⁶

NAFTA has contributed mightily to the economies of the U.S., Canada and Mexico and certainly to the U.S. industrial metals supply chain. MSCI represents industrial metals supply chain members and their interests in all three countries. In the case of North American trade, U.S., Canadian and Mexican manufacturers are, in fact, well-integrated, with about 54 percent of U.S. trade with Canada and Mexico occurring between related parties.³⁷ Moreover, about 48 percent of U.S. manufactured goods imports from Canada and 40 percent of U.S. manufactured goods imports from Mexico were categorized as intermediate goods, parts and components in 2015.³⁸ Trade in these intermediate goods has helped manufacturers in the United States improve their global competitiveness and grow domestic manufacturing with end products sold both in the United States and overseas. In the transportation sector (including automobiles, automobile parts, and aircraft equipment and parts), 72 percent of U.S. trade with Canada and Mexico is between related parties, demonstrating the degree to which the industry's NAFTA supply chain is integrated.³⁹

Our annual trade with Canada now totals nearly \$630 billion and our annual trade with Mexico now totals nearly \$580 billion according to the most recent USTR estimates.⁴⁰ Together,

³⁶ National Association of Manufacturers, *Comments on Administration Report on Significant Trade Deficits*, May 10, 2017, page 14, 18-36, <http://documents.nam.org/IEA/2017-05-10%20NAM%20Submission%20on%20Trade%20Deficit%20Review.pdf>.

³⁷ NAM analysis of data reported by the U.S. Department of Commerce, accessed at <https://www.census.gov/programs-surveys/trade/data/tables/relatedparty.html>.

³⁸ Data accessed in OECD.Stat Database, Bilateral Trade in Goods by Industry and End-Use, accessed at <http://www.oecd.org/trade/bilateraltradingoodsbyindustryandend-usecategory.htm>.

³⁹ NAM analysis of data reported by the U.S. Department of Commerce, accessed at <https://www.census.gov/programs-surveys/trade/data/tables/relatedparty.html>.

⁴⁰ *Canada*, U.S. Trade Representative <https://ustr.gov/countries-regions/americas/canada>; *Mexico*, U.S. Trade Representative <https://ustr.gov/countries-regions/americas/mexico>.

Canada and Mexico purchase more manufactured goods from the United States than the next ten foreign countries combined.

Both countries are essential, integrated players in the North American industrial metals supply chains for energy production and supplies, commercial construction and infrastructure projects, and motor vehicles, among other products.

In the metals service industry, the overall trading relationship with Mexico is robust. Mexico is the United States' third largest overall goods trading partner and its second largest destination for manufactured goods exports.

In comments submitted to the U.S. Trade Representative on NAFTA renegotiation, the Aluminum Association noted:

The robust, fair, and rules-based trade of aluminum and aluminum products within the NAFTA trading region has played a vital role in the strength and competitiveness of our industry. Since 2011, U.S. aluminum exports to the rest of the world have declined by almost 19 percent, while exports to Canada and Mexico have increased by 9 percent. Over the same period, U.S. aluminum imports from our NAFTA trading partners have increased by 13 percent, and represented more than 50 percent of all aluminum imports in 2016. More than 50 percent of all aluminum flowing into or out of the United States in 2016 either originated from, or was destined for, one of our NAFTA trading partners. Based on this crucial intra-NAFTA trading relationship, maintaining NAFTA's duty-free treatment of aluminum products and the free flow of metal among the NAFTA countries is critical to the continued success of our industry.⁴¹

C. Transition Time

For the purposes of this investigation it is critical that should the Administration find that aluminum imports threaten national defense the U.S. industry is given the time it needs to invest in and establish necessary domestic production capability, jobs and human resources, products, raw materials and other supplies and services essential to meet national defense, industrial and consumer demand. As noted above, unfair trading policies have significantly lowered the U.S.'s aluminum production capabilities. This means that it would be incredibly difficult for U.S.

⁴¹ Aluminum Association, *Comments of The Aluminum Association on Negotiating Objectives to Modernize the North American Free Trade Agreement*, June 12, 2017, http://www.aluminum.org/sites/default/files/Aluminum%20Assoc%20NAFTA%20comments%20to%20USTR_FIN%20AL.pdf

manufacturers to quickly increase production in the wake of any changes in trade policy. It will take time for the industry to rebuild what has been lost. MSCI would ask that the Administration take this consideration into account when determining how quickly to impose any form of relief.

Further, it is critical that U.S. policy makers consider the impact of any changes to U.S. trade policy on all segments of the industrial metals supply chain - aluminum producers, service centers and downstream U.S. markets and manufacturers — if severe and unintended economic impacts to the U.S. economy are to be avoided.

As an example, a chief driver of the health of U.S. aluminum service centers is successfully managing inventory, cash flows and liquidity. As the middlemen of the industrial metals supply chain, a major and primary function of services centers is maintaining and distributing the right aluminum inventory to downstream fabricators and manufacturers at the right time. Any changes to U.S. trade law must consider appropriate transition rules and periods for aluminum service centers to be able to effectively maintain appropriate inventory quantities and types to respond to the shifting market demands and thus perform their critical role in the supply chain.

D. Availability of Domestic Metals to Meet U.S. National Security Needs as well as General Industrial and Consumer Demand

Consideration in this investigation must include a studied review of the availability of domestic materials to meet both U.S. national security needs as well as that of the industrial and consumer demand. Some aluminum grades are a) not produced in the U.S or b) are not available in sufficient quantities to meet existing demand. Restricting availability of these materials could result in forced material substitution for metal components produced by U.S. manufacturers. Material substitution often requires product testing/qualification/safety evaluations, and other important research and development phases before commercial production is approved. This qualification time could result in increased imports of components and manufactured parts utilizing foreign produced aluminum, again compromising the U.S. manufacturing base.

VIII. MSCI Requests

A. Monitor Imports

MSCI respectfully requests that the Department of Commerce, the United States Trade Representative, and/or the International Trade Commission monitor and provide public reports on imports of substrate metals that are subject to tariffs, as well as imports of downstream products that are produced from those substrate metals that are subject to tariffs. If companies are diverting substrate metals for importation into the United States in order to circumvent tariffs that were imposed to remedy dumping or state subsidies, then consider additional mechanisms beyond those that are already in place to provide relief to the domestic downstream supply chain.

B. Maintain the Integrity of Current Metals Industry Trade Flows with NAFTA Partners

While MSCI applauds the Trump Administration's decision to take action in combating aluminum imports from countries that utilize unfair trade practices, it is important that any actions taken in this area are carefully weighed to ensure they will not upset the U.S.'s current trade flow with key countries, particularly Canada and Mexico. As seen above, the U.S. metal industry currently has a very healthy and mutually beneficial trading relationship with our NAFTA partners. MSCI would recommend that any change in U.S. trade policy, including any new rules or regulations, be formulated to avoid damaging this relationship. In particular, MSCI requests that metal imports from our NAFTA partners, Canada and Mexico, should be expressly excluded from any trade penalties as a result of this investigation, provided there is no evidence that China is taking advantage of this policy to circumvent any trade penalties rightfully imposed on their products. If it is determined that China is taking advantage of the exemption for Canadian and Mexican products, MSCI recommends the administration take further action to target those products specifically, while leaving the overall frame work of our mutually beneficial trade flow with our NAFTA partners in place.

C. All Changes made as a Result of this Investigation should be Clear, Transparent, and Timely

Finally, MSCI respectfully requests that any changes made to U.S. trade policy as a result of this investigation are well defined and transparent. Clear communication with U.S. industry is

vital to ensuring that the U.S. aluminum industry is ready and able to meet the manufacturing needs of the American people as well as the needs of our trade partners. As noted above, the Administration should be sure that any new rules and regulations that would lower aluminum imports into the United States, are implemented in a manner that allows for the required corresponding ramp up in U.S. production. In particular, we would suggest that the Administration keep U.S. manufacturers apprised of any policy changes through public notices and guidance issued by the appropriate governmental agencies. As each change is implemented there should be an individual or office designated as the point of contact for that change that industry members can go to with questions or concerns regarding that change. Finally, MSCI respectfully requests that the Administration continue communicating with industry leaders and other actors after any new rules or regulations are implemented in order to monitor the real world impact of the changes.

Respectfully submitted,

M. Robert Weidner, III
President and CEO

Richard A. Robinson
Chairman

Total MSCI Steel Shipments - SA

