

## EXAMPLES OF POLICIES AND PRACTICES CONTRIBUTING TO THE GLOBAL EXCESS CAPACITY CRISIS

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The steel industry is emblematic of unreasonable government intervention in economic outcomes for political and strategic objectives. Interventionist policies by governments around the world have driven a buildup of excess steel production capacity that has become an existential threat to market-oriented producers, as well as a perennial source of tension in the international trading system. Because China is the largest source of global excess steel capacity, the crisis is frequently mischaracterized as “just a China problem.” This misconception is an impediment both to finding a durable global solution in the long term, and to ensuring that market-oriented producers have the stability they need to survive the crisis in the short term.

Numerous countries, including but not limited to China, contribute to global overcapacity through state interventions that commonly include: the provision of low-cost inputs, subsidized loans and equity infusions, grants, tax breaks, support for acquisition of overseas raw materials, export restraints on domestically produced raw materials, state-led debt restructuring and other corporate reorganizations, local content requirements, transnational subsidies for establishing third-country operations, and other measures that forestall the exit of inefficient capacity.<sup>1</sup> The following is a catalog of representative examples of government policies in countries other than China that contribute to persistent global steel overcapacity. Until policies like these are addressed, market-oriented steel producers will remain under threat unless adequate interim measures remain in place to safeguard their viability.

### SOUTH KOREA

- South Korea is a key contributor to the global steel overcapacity crisis, and the government of Korea engages in a range of unfair and distortive practices to prop up its uneconomic steel producers and propel harmful steel exports.
- The World Steel Association reports that South Korea produced 71.4 million metric tons of crude steel in 2019, making it the world’s sixth-largest steel producer.<sup>2</sup> South Korea produced only slightly less crude steel than the United States, at 87.8 million metric tons, even though Korea has less than one-sixth the population of the United States. Korea’s steel production is heavily focused on exports. In 2019, over 40% of Korea’s steel production was exported.<sup>3</sup>

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<sup>1</sup> See, e.g., *Barriers to Exit in the Steel Sector*, OECD Science, Technology and Industry Policy Papers no. 93 (Oct. 2020); *Comments Regarding Foreign Trade Barriers to U.S. Exports for 2021*, American Iron and Steel Institute (Oct. 29, 2020).

<sup>2</sup> World Steel Association, *Steel Statistical Yearbook: 2020 concise version* at Table 1.

<sup>3</sup> *Id.* at Tables 1 and 29.

Indeed, Korea has become a lead exporter of steel products for the oil and gas industry—such as oil country tubular goods—even though it has no domestic oil and gas exploration. Overall, Korea was the world’s third largest exporter of steel in 2019, behind only China and Japan.<sup>4</sup>

- Korea has maintained and expanded its domestic steel capacity despite already producing substantially more steel than it can consume. According to the OECD, Korea’s capacity grew from 59.2 million metric tons in 2008 to 81.6 million metric tons in 2019.<sup>5</sup> As a result, Korea had more than 10 million metric tons of unused capacity in 2019. In addition, Korea serves as a major conduit for unfairly traded steel from China to the U.S. market. In 2019, Korea imported more than 1.5 million metric tons of hot-rolled coil from China,<sup>6</sup> which is a key input for further processed pipe and tube products that are then exported by Korean producers. Furthermore, in 2019, the U.S. Department of Commerce found that Korean hot-rolled steel that was finished in Vietnam and then exported to the United States circumvented AD and CVD orders.<sup>7</sup>
- The Korean steel industry’s capacity expansions, excess production, and massive exports have all been supported by unfair and distortive government subsidies. The WTO reports that the government of Korea has provided significant direct financial support to its steel industry over 10 years to upgrade the competitiveness of its steel industry and to support R&D efforts. This government support accounted for approximately 60% of total R&D costs in the sector during the period examined.<sup>8</sup> The United States has reached preliminary or final CVD determinations on an array of steel products from Korea, including: (1) corrosion-resistant steel; (2) cold-rolled steel; (3) hot-rolled steel; (4) carbon and alloy cut-to-length steel plate; (5) large diameter welded pipe; and (6) seamless standard, line, and pressure pipe.<sup>9</sup> The government subsidies that were found to benefit Korean steel producers include preferential loans from government banks, export loans, equity infusions, tax exemptions, grants, and the provision of electricity for less-than-adequate remuneration.<sup>10</sup>
- Korean steel producers also collaborate through Chaebols, and Korean pipe producers have been found guilty of colluding to fix prices.<sup>11</sup> Finally, the U.S. Department of the Treasury has

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<sup>4</sup> *Id.* at Table 29.

<sup>5</sup> OECD, Domestic Steelmaking Capacity Database.

<sup>6</sup> UN Comtrade data for HS 7208.

<sup>7</sup> *See Certain Cold-Rolled Steel Flat Products From the Republic of Korea: Affirmative Final Determinations of Circumvention of the Antidumping Duty and Countervailing Duty Orders*, 84 Fed. Reg. 70,934 (Dep’t Commerce Dec. 26, 2019). *See also Certain Corrosion-Resistant Steel Products From the Republic of Korea: Affirmative Final Determinations of Anti-Circumvention Inquiries on the Antidumping Duty and Countervailing Duty Orders*, 84 Fed. Reg. 70,948 (Dep’t Commerce Dec. 26, 2019).

<sup>8</sup> Republic of Korea, Trade Policy Review (2016), WT/TPR/346 at 131.

<sup>9</sup> U.S. International Trade Commission, *Antidumping and Countervailing Duty Orders in Place*, available at [www.usitc.gov](http://www.usitc.gov). *See also Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe from the Republic of Korea: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Determination With Final Antidumping Duty Determination*, 85 Fed. Reg. 80,024 (Dep’t Commerce Dec. 11, 2020) and accompanying Preliminary Decision Memorandum.

<sup>10</sup> *See id.*

<sup>11</sup> Don Yanchunas, “S. Korean pipe producers fixed prices: US mills,” *American Metal Market* (July 12, 2018).

kept Korea on its “monitoring list” for persistently undervaluing its currency, another unfair practice that makes Korean steel artificially cheap on world markets.<sup>12</sup> The Korean steel market is so distorted by these policies that the U.S. Department of Commerce has repeatedly found that prices for steel inputs in Korea cannot be relied upon in its dumping calculations.<sup>13</sup>

- The Korean steel industry also engages in systematic dumping of its products in markets around the world. The United States currently has 26 AD and CVD orders on steel products from Korea.<sup>14</sup> Worldwide, there are 112 AD and CVD orders on base metals and articles of base metal (primarily steel) from Korea—more than any other country except China.<sup>15</sup>
- In short, the Korean steel industry’s substantial excess capacity, uneconomic production, and massive exports are driven by an array of market- and trade-distorting policies, including government subsidies, reliance on unfairly traded Chinese steel inputs, currency undervaluation, and persistent dumping by Korean producers in the United States and markets around the world.

## JAPAN

- Japan has one of the world’s largest steel industries. In 2019, it produced 99.3 million MT of crude steel, trailing only China and India in this regard.<sup>16</sup> Even a small portion of that production could have severe and harmful impacts on American steel producers.
- Japan has decades of experience in the U.S. market, and has historically been one of our largest sources of imports. In the early years of the last decade, U.S. imports of steel from Japan surged, rising from 1.3 million MT in 2010 to 2.4 million MT in 2014.<sup>17</sup> Imports declined somewhat after new AD duties were imposed on certain products from Japan. But in 2016—the last full year before the Section 232 investigation began—the United States imported 1.9 million MT of steel products from Japan, making it the fifth-largest source of steel imports in that year.<sup>18</sup>

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<sup>12</sup> U.S. Department of the Treasury, *Macroeconomic and Foreign Exchange Policies of Major Trading Partners of the United States* (December 2020) at 30 – 32.

<sup>13</sup> See, e.g., *Welded Line Pipe From the Republic of Korea: Final Results of Antidumping Duty Administrative Review; 2017-2018*, 85 Fed. Reg. 76,517 (Dep’t Commerce Nov. 30, 2020) and accompanying Issues and Decision Memorandum.

<sup>14</sup> U.S. International Trade Commission, *Antidumping and Countervailing Duty Orders in Place*, available at [www.usitc.gov](http://www.usitc.gov).

<sup>15</sup> World Trade Organization, *Anti-dumping Sectoral Distribution of Measures: by Exporter 01/01/1995 - 31/12/2019*. See also World Trade Organization, *Countervailing Sectoral Distribution of Measures: by Exporter 01/01/1995 - 30/06/2020*.

<sup>16</sup> Worldsteel Association, *Steel Statistical Yearbook: 2020 concise version* at 1-2, available at <https://worldsteel.org>.

<sup>17</sup> Data taken from U.S. Steel Import Monitor, available at <https://trade.gov/data-visualization/sima-import-monitor>.

<sup>18</sup> *Id.*

- Japan has a long history of trading unfairly in the United States and causing material injury to the domestic industry. There are 14 separate AD orders on steel imports from Japan, some of which go back decades. Japanese steel products covered by AD orders include: prestressed concrete steel wire strand (1978), carbon steel butt-weld pipe fittings (1987), clad steel plate (1996), stainless steel wire rod (1998), stainless steel sheet and strip (1999), large diameter seamless pipe (2000), small diameter seamless pipe (2000), tin mill products (2000), welded large diameter pipe (2001), non-oriented electrical steel (2014), cold-rolled steel (2016), hot-rolled steel (2016), carbon and alloy steel cut-to-length plate (2017), and steel concrete reinforcing bar (2017).<sup>19</sup> In every one of these investigations, the U.S. government found that imports from Japan were traded unfairly and that those same imports caused or threatened material injury to the domestic industry.
- Japan’s steel industry is heavily reliant on exports. In 2019, Japan exported 33.8 million MT of steel products to the rest of the world—approximately one-third of its total production—while it imported only 8.7 million MT.<sup>20</sup>
- These facts help to explain why imports from Japan have attacked the U.S. market so many times—Japanese production far exceeds demand in the home market, and Japanese producers are forced to export or cut production.
- In 2019, even with Section 232 tariffs in place, the United States imported more than 1.1 million MT of steel products from Japan.<sup>21</sup> Given all of the facts above, any revocation of those tariffs will certainly trigger a new surge of exports from Japan into the U.S. market.

## VIETNAM

- At a time when many policymakers were concerned about excess steelmaking capacity worldwide, Vietnamese steel production was surging. Between 2015 and 2019, Vietnam’s production of crude steel more than tripled, rising from 5.6 million MT to 17.5 million MT.<sup>22</sup>
- The rapid growth in Vietnam’s steel industry is driven by government intervention and support, including cooperation with the Chinese government’s efforts to shift excess production capacity into third markets and to evade trade remedy orders on exports of steel directly from China. For example, over 25 million metric tons of projected new steel production capacity in Vietnam is funded by the Chinese steel industry.<sup>23</sup>
- Vietnam is also used by producers in other countries to avoid U.S. trade laws. For example, in December 2019 the U.S. Department of Commerce announced *five affirmative final AD*

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<sup>19</sup> See U.S. International Trade Commission, “AD/CVD Orders in Place,” available at <https://www.usitc.gov>.

<sup>20</sup> See “Steel Imports and Exports 2019,” *The Japan Iron and Steel Federation*, available at <https://jisf.or.jp/en/statistics/port/index.html>.

<sup>21</sup> See U.S. Steel Import Monitor, available at <https://trade.gov/data-visualization/sima-import-monitor>.

<sup>22</sup> Worldsteel Association, *Steel Statistical Yearbook: 2020 concise version* at 2, available at <https://worldsteel.org>.

<sup>23</sup> The ASEAN Steel Industry Situation, Presentation by Yeoh Wee Jin, Secretary General, South East Asia Iron and Steel Institute, The Global Forum on Steel Excess Capacity, OECD, March 17, 2020, and 2020 GFSEC Ministerial Report, Global Forum on Steel Excess Capacity.

***and countervailing duty (CVD) circumvention determinations.*** These cases involved steel products that are produced in Korea and Taiwan, shipped to Vietnam for minor processing, and then exported to the United States as corrosion-resistant steel products or cold-rolled steel. These actions took place in circumvention of existing orders designed to stop unfair trade from Korea and Taiwan.<sup>24</sup> Only a few months later—in May 2020—Commerce initiated ***another circumvention inquiry*** due to concerns about stainless steel products from China that are completed in Vietnam and exported to the United States.<sup>25</sup>

- The Vietnamese government supports domestic production by intervening in the market for raw materials. Vietnam imposes a 15% tax on coking coal exports; a 40% tax on iron ore exports; and a 22% tax on nickel, cobalt, aluminum, lead, and zinc ores and concentrates.
- The rapid buildup of steel production and exports has also been driven by the Vietnamese central bank’s manipulation of the Vietnamese dong’s exchange rate. The U.S. Trade Representative recently determined that “Vietnam manages its exchange rate with an interest in achieving certain economic goals,” that this has “contributed to undervaluation of the exchange rate,” and that Vietnam’s currency manipulation practices have contributed to “substantial current account and trade imbalances.”
- The increase of steel production in Vietnam led to a tremendous surge of shipments from that country to the United States. As recently as 2010, the United States imported only 39,525 MT of steel products from Vietnam. By 2015, that figure had increased to 201,570 MT. By 2018, it had increased to 1.0 million MT,<sup>26</sup> and it declined only after Section 232 tariffs were imposed.
- Not surprisingly, Vietnam already faces numerous AD and CVD orders on its shipments of steel (and downstream products made from steel) to the United States. The U.S. government has already imposed relief on the following products from Vietnam: steel wire hangers (2013), welded stainless pressure pipe (2014), oil country tubular goods (2014), steel nails (2015).<sup>27</sup>
- In short, Vietnam is rapidly building a significant steel industry, this industry has already been used to attack the U.S. market with unfairly traded steel, and Vietnam has served as a base for companies seeking to evade U.S. trade laws. Under these circumstances, U.S. policymakers should resist calls to give steel producers in Vietnam unfettered access to the U.S. market.

## INDONESIA

- In the early 2000s, American steel producers brought and won a series of trade cases against dumped and subsidized imports from Indonesia. There were a number of examples of unfair

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<sup>24</sup> Press Release, “U.S. Department of Commerce Announces Five Affirmative Circumvention Determinations on Steel Products from Vietnam,” U.S. Department of Commerce (Dec. 16, 2019), available at <https://commerce.gov/news/press-releases/2019/12/us-department-commerce-announces-five-affirmative-final-circumvention>.

<sup>25</sup> Press Release, “U.S. Department of Commerce Self-Initiates Circumvention Inquiry Involving Exports Of Stainless Steel Sheet And Strip Completed In Vietnam,” International Trade Administration (May 12, 2020), available at <https://trade.gov/press-release/us-department-commerce-self-initiates-circumvention-inquiry-involving-exports>.

<sup>26</sup> See U.S. Steel Import Monitor, available at <https://trade.gov/data-visualization/sima-import-monitor>.

<sup>27</sup> See U.S. International Trade Commission, “AD/CVD Orders in Place,” available at <https://www.usitc.gov>.

trade from Indonesia causing material injury to the U.S. industry. To this day, the United States maintains trade relief on imports from Indonesia of carbon steel plate (order imposed 2000), steel concrete reinforcing bar (2001), hot-rolled carbon steel flat products (2001), and carbon steel wire rod (2002).<sup>28</sup>

- Indonesia’s steel industry is dominated by the state-owned and heavily subsidized Krakatau Steel, which was recently bailed out by government-directed restructuring after accumulating losses of nearly \$212 million in 2019.<sup>29</sup> The U.S. Commerce Department has also found that Indonesian steel companies have benefited from subsidies like equity infusions and subsidized raw materials, along with local content requirements.<sup>30</sup>
- The Indonesian government has also welcomed transnational subsidies in the form of government-supported investments from Chinese steel producers. Investment by the Chinese steel industry in new and significant production capacity in Indonesia is endemic across the entire Indonesian industry. Nearly 10 million metric tons of projected new steel production capacity in Indonesia is funded by the Chinese steel industry.<sup>31</sup>
- As a result, Indonesian crude steel production has grown dramatically in recent years, from 4.9 million MT in 2015 to 7.8 million in 2019.<sup>32</sup> Indonesian production of stainless steel is a major concern. Tsingshan Holding Group, headquartered in Wenzhou, China,<sup>33</sup> is the world’s largest producer of stainless steel.<sup>34</sup> In mid-2017, Tsingshan began production at a new stainless steel complex in Indonesia. This facility opened with a capacity of 2 million MT per year, but in 2018 that increased to 3 million MT per year.<sup>35</sup> Tsingshan unfairly benefits from the fact that

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<sup>28</sup> *See id.*

<sup>29</sup> Anthony Iswara, *Krakatau Steel Restructures Record \$2 Billion Debt to Stave Off Bankruptcy*, Jakarta Post (Jan. 29, 2020).

<sup>30</sup> *Certain Cut-to-Length Carbon-Quality Steel Plate from Indonesia*, 64 Fed. Reg. 40,457, 40,462 (Dep’t Commerce July 26, 1999).

<sup>31</sup> The ASEAN Steel Industry Situation, Presentation by Yeoh Wee Jin ,Secretary General, South East Asia Iron and Steel Institute, The Global Forum on Steel Excess Capacity, OECD, March 17, 2020 and 2020 GFSEC Ministerial Report, Global Forum on Steel Excess Capacity.

<sup>32</sup> Worldsteel Association, *Steel Statistical Yearbook: 2020 concise version* at 2, available at <https://worldsteel.org>.

<sup>33</sup> *See* “About Us: Group Introduction,” Tsingshan Group, available at <https://tssgroup.com/cn/en/about-us/group/>.

<sup>34</sup> *See* Mai Nguyen, Tom Daly, “Tsingshan’s stainless steel order book fills as China rebounds, traders load up,” *Reuters* (May 20, 2020), available at <https://reuters.com/article/us-tsingshan-stainless-steel-china-analy/tsingshans-stainless-steel-order-book-fills-as-china-rebounds-traders-load-up-idUSKBN22W12Q>.

<sup>35</sup> “Tsingshan Indonesia shakes up stainless steel markets in South East Asia,” *Wood Mackenzie* (July 15, 2019), available at <https://woodmac.com/press-releases/tsingshan-indonesia-shakes-up-stainless-steel-markets-in-south-east-asia/> (“Tsingshan Indonesia shakes up stainless steel markets”).

Indonesia—the world’s largest producer of nickel<sup>36</sup> (a critical component of stainless steel)—banned exports of that product in October 2019.<sup>37</sup>

- By mid-2019, Tsingshan’s operations in Indonesia had already disrupted markets for stainless steel across East Asia.<sup>38</sup> In October 2020, the European Union announced that it would impose tariffs on hot-rolled stainless steel coils from China, Indonesia, and Taiwan after determining that they were sold at artificially low prices.<sup>39</sup>
- Stainless steel from Indonesia also threatens American producers. From 2015 to 2018, U.S. imports of stainless steel from Indonesia surged from only 3,732 MT to 56,865 MT.<sup>40</sup> Since that time, Section 232 duties have helped to restrain these shipments. But they will certainly surge again if given the opportunity.

## RUSSIAN FEDERATION

- The Russian government uses an array of unfair and distortive practices to support its domestic steel industry and drive exports, fueling the global overcapacity crisis in steel. The World Steel Association reports that Russia produced 71.9 million metric tons of crude steel in 2019, making it the world’s fifth-largest steel producer.<sup>41</sup> Russia’s steel production is heavily export-oriented—over 40% of Russian steel production was exported in 2019.<sup>42</sup> Overall, Russia was the world’s fourth-largest exporter of steel in 2019, behind only China, Japan, and Korea.<sup>43</sup>
- Russia continues to expand its steel industry despite existing excess capacity and production. Russia had 13.6 million metric tons of unused capacity in 2019,<sup>44</sup> and the amount has likely grown since then. Russian steelmaker Tulachermet-Steel installed a blast furnace with 1.5 million metric tons of capacity in 2019, Russian producer NLMK expanded the capacity of the blast furnace at its Lipetsk mill by 1.5 million metric tons in 2020, and Usolye-Sibirskoye increased its electric arc furnace capacity by 120,000 metric tons in 2020.<sup>45</sup>

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<sup>36</sup> Priscila Barrera, “10 Top Nickel-Producing Countries,” *Investing News* (July 21, 2020), available at <https://investingnews.com/daily/resource-investing/base-metals-investing/nickel-investing/top-nickel-producing-countries/>.

<sup>37</sup> Viriya Singgih, Eko Listiyorini, and Martin Ritchie, “Indonesia Suspends Nickel Ore Exports With Immediate Effect,” *Bloomberg* (Oct. 28, 2019), available at <https://bloomberg.com/news/articles/2019-10-28/indonesia-bans-nickel-ore-exports-with-immediate-effect>.

<sup>38</sup> Tsingshan Indonesia shakes up stainless steel markets.

<sup>39</sup> “EU imposes import duties on China, Indonesia, Taiwan stainless steel,” *Reuters* (Oct. 7, 2020), available at <https://reuters.com/article/us-eu-trade-steel/eu-imposes-import-duties-on-china-indonesia-taiwan-stainless-steel-idUSKBN26S1R4>.

<sup>40</sup> See U.S. Steel Import Monitor, available at <https://trade.gov/data-visualization/sima-import-monitor>.

<sup>41</sup> World Steel Association, *Steel Statistical Yearbook: 2020 concise version* at Table 1.

<sup>42</sup> *Id.* at Tables 1 and 29.

<sup>43</sup> *Id.* at Table 29.

<sup>44</sup> OECD, Domestic Steelmaking Capacity Database.

<sup>45</sup> OECD, *Latest Developments in Steelmaking Capacity* (2020) at 16 and 26.

- The Russian steel industry’s capacity expansions, excess production, and massive exports have all been supported by unfair and distortive government policies. The Russian Government imposes export duties on natural gas and steel scrap, lowering energy and input prices for Russian steel producers.<sup>46</sup> USTR has noted that state-controlled Gazprom has a monopoly on exports of Russian natural gas and charges higher prices for exports than for sales to domestic customers, effectively subsidizing Russian steel producers.<sup>47</sup> USTR also reports that state-owned and state-controlled banks have provided preferential loans to steel producers in Russia.<sup>48</sup> In a preliminary CVD determination on seamless pipe from Russia, the Department of Commerce found that Russian producers benefited from artificially low natural gas prices, grants, tax incentives, and preferential lending from state-controlled banks.<sup>49</sup>
- The Russian steel industry also engages in widespread dumping of its products in markets around the world. The United States currently has three AD measures on steel products from Russia.<sup>50</sup> Worldwide, there are 72 AD orders on base metals and articles of base metal (primarily steel) from Russia—more than any other country except China and Korea.<sup>51</sup>

## BRAZIL

- According to data published by the OECD and the World Steel Association, Brazil’s steel industry has significant excess capacity and is heavily export dependent. Specifically, in 2019, the OECD reported that Brazil had 50.7 million metric tons of steelmaking capacity, but a domestic market of only 20.6 million metric tons.<sup>52</sup> Thus, Brazil’s production capacity is almost two and half times the size of its domestic market. Further, according to the OECD, Brazil’s exports in 2019 totaled 13.3 million metric tons, equal to 65% of its domestic market. Thus, Brazil’s steel industry is very export-oriented.
- Nor is Brazil’s overcapacity a recent or unusual situation. According to data published by the World Steel Association, Brazil’s steel production has exceeded its domestic demand every year since 2009, and the extent of the overcapacity has worsened over time.<sup>53</sup> Brazilian steel

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<sup>46</sup> Russian Federation, Trade Policy Review (2016), WT/TPR/S/345 at 67 and 135.

<sup>47</sup> USTR, *2020 National Trade Estimate Report on Foreign Trade Barriers* (2020) at 425.

<sup>48</sup> *Id.*

<sup>49</sup> *See Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe From the Russian Federation: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Determination With Final Antidumping Duty Determination*, 85 Fed. Reg. 80,007 (Dep’t Commerce Dec. 11, 2020) and accompanying Preliminary Decision Memorandum.

<sup>50</sup> U.S. International Trade Commission, *Antidumping and Countervailing Duty Orders in Place*, available at [www.usitc.gov](http://www.usitc.gov) (listing orders or suspended investigations on hot-rolled steel, carbon steel plate, and steel wire rod).

<sup>51</sup> World Trade Organization, *Anti-dumping Sectoral Distribution of Measures: by Exporter 01/01/1995 - 31/12/2019*.

<sup>52</sup> OECD Steelmaking Capacity Database, available at [https://stats.oecd.org/Index.aspx?datasetcode=STI\\_STEEL\\_MAKINGCAPACITY](https://stats.oecd.org/Index.aspx?datasetcode=STI_STEEL_MAKINGCAPACITY).

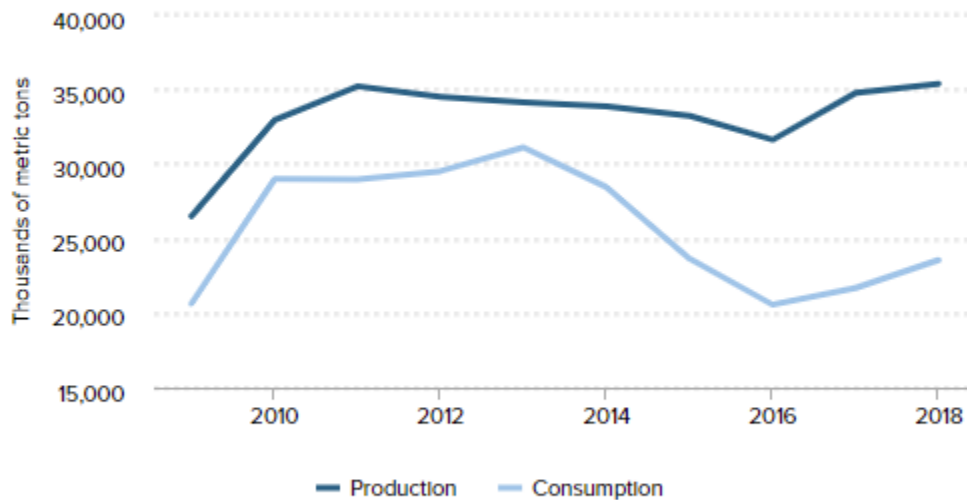
<sup>53</sup> Steel Statistical Yearbook 2019, World Steel Association.



production was equivalent to 118% of domestic consumption over the 2009-13 period but increased to 145% over the 2014-18 period and was 150% in 2018.

## Overcapacity in Brazil has more than doubled since 2009

Brazil steel production and consumption, 2009–2018



**Notes:** Production is total production of crude steel. Consumption is apparent steel use (raw steel equivalent).

**Source:** *Steel Statistical Yearbook 2019: Concise Version* from the World Steel Association.

- USTR has determined that the Brazilian government provides subsidies that enable Brazilian producers to add what would otherwise be uneconomic, unviable production capacity.<sup>54</sup> USTR’s findings are corroborated by the CVD determinations made by the Department of Commerce for several specific types of steel products.
- Imports from Brazil are subject to 18 AD and CVD investigations. Specifically imports of butt-weld pipe fittings, welded non-alloy steel pipe, carbon steel plate, stainless steel wire rod, stainless steel bar, stainless pipe, hot-rolled flat-rolled carbon steel, carbon and alloy steel wire rod, prestressed concrete steel wire strand, cold-rolled steel, hot-rolled steel flat products, and carbon and alloy steel cut-to-length plates are all subject to anti-dumping duties. Imports of carbon steel plate, hot-rolled flat-rolled carbon quality steel products, carbon and alloy steel wire rod, cold-rolled steel flat products, hot-rolled steel flat products and carbon and alloy steel cut-to-length plate are all additionally subject to countervailing duties.
- In addition to subsidies, the Brazilian government supports excess capacity by protecting the steel industry from foreign competition. In 2012, Brazil increased import tariffs on steel

<sup>54</sup> National Trade Estimate Report, 2019, Office of the U.S. Trade Representative.

products from 12% to 25%.<sup>55</sup> Strict local content requirements apply to state bank funding for projects in steel consuming industries like wind tower production and oil and gas exploration.<sup>56</sup>

## NETHERLANDS

- The Dutch steel industry is among the top 15 largest exporters in the world and is extremely export dependent.<sup>57</sup> The U.S. market is already a top-five export market for the Dutch industry.<sup>58</sup> In 2020, the Netherlands was the 11<sup>th</sup> largest source of steel imports into the United States. Additionally, the Netherlands has become a major source of steel transshipment. According to data from the OECD, in 2019, the Netherlands' steel production capacity totaled 7.8 million metric tons, but exports from the Netherlands totaled 10.1 million metric tons, thus exports exceed domestic production by 30%.<sup>59</sup> The Netherlands' domestic demand in 2019 was only 4.7 million metric tons, or only 60% of domestic production and only 47% of total exports.<sup>60</sup>
- Nor is the Netherlands export dependency a new development. According to data from the World Steel Association, production capacity has exceeded domestic demand in the Netherlands by at least 13% every year since 2009.<sup>61</sup> According to data from the U.S. Department of Commerce, the Netherlands has maintained a trade surplus in steel products since at least 2005.<sup>62</sup> Additional data from the Department of Commerce shows that exports as a share of domestic production have exceeded 137% every year over the 2009-18 period. Between 2016 and 2018 (the most recent data available), exports as a share of domestic production averaged 161%.<sup>63</sup>
- Further, the Dutch steel industry has a long history of exporting dumped steel products to the United States. Imports of cold-rolled and hot-rolled steel are currently subject to AD orders in the United States. Steel exports from the EU market are subject to a total of 70 different AD, CVD and safeguard orders in the United States and other countries, including Canada, Mexico, South Korea and Australia.<sup>64</sup> The widespread application of these trade measures

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<sup>55</sup> *Brazil Seeks Higher Import Duties on Steel*, CRU Steel News Weekly (Sept. 7, 2012).

<sup>56</sup> Office of the U.S. Trade Representative, *2018 National Trade Estimate Report on Foreign Trade Barriers* at 57; Jeff Flick, *Brazil's ANP Approves Revised Local Content Rules, Appeases Shipbuilders*, S&P Global (April 12, 2018).

<sup>57</sup> Steel Exports Report: Netherlands, International Trade Administration, June 2019.

<sup>58</sup> *Id.*

<sup>59</sup> 2020 World Steel in Figures, World Steel Association; and OECD Steelmaking Capacity Database, available at [https://stats.oecd.org/Index.aspx?datasetcode=STI\\_STEEL\\_MAKINGCAPACITY](https://stats.oecd.org/Index.aspx?datasetcode=STI_STEEL_MAKINGCAPACITY)

<sup>60</sup> *Id.*

<sup>61</sup> Steel Statistical Yearbook 2019, World Steel Association.

<sup>62</sup> Steel Exports Report: Netherlands, International Trade Administration, June 2019.

<sup>63</sup> Steel Exports Report: Netherlands, International Trade Administration, June 2019.

<sup>64</sup> See European Commission, *Actions against exports from the EU*, available at <https://trade.ec.europa.eu/actions-against-eu-exporters/cases/>.

demonstrates broad recognition that steel exports from the EU market threaten the viability of domestic steel producers.

- Additionally, the Dutch industry has begun to receive investment from Chinese steel companies. In 2020, Jingye Group (which is controlled by a former member of the Chinese Communist Party) purchased the Dutch assets of British Steel.<sup>65</sup> Investment by Chinese companies in the Dutch steel industry could exacerbate the industry’s history of dumping steel into the U.S. market. Further, the recently announced investment agreement between China and the EU threatens to make European countries an even more attractive venue for transshipment of Chinese steel and to displace steel produced in the EU, which would then be diverted to the U.S. market. This agreement provides no restrictions or limits on further Chinese investment in the EU steel market and provides no protections against circumvention and transshipment.<sup>66</sup>

## GERMANY

- Germany is among the top-10 steel-producing countries in the world. The German industry has significant overcapacity and is extremely export dependent. The German industry targets the U.S. market with significant volumes of dumped imports of steel products. The United States is among the top 10 export markets for the German steel industry.<sup>67</sup> Germany is among the top 10 sources of steel imports into the United States.
- Germany is currently subject to four different U.S. AD orders on imports of stainless steel kegs, cut-to-length plate, non-oriented electrical steel, and seamless pipe. Steel exports from the EU market are subject to a total of 70 different AD, CVD, and safeguard orders in the United States and other countries, including Canada, Mexico, South Korea and Australia.<sup>68</sup> The widespread application of these trade measures demonstrates broad recognition that steel exports from the EU market threaten the viability of U.S. steel producers.
- According to data from the OECD, in 2019 Germany’s steel production capacity exceeded its domestic demand by nearly 150%.<sup>69</sup> Further, Germany’s actual steel production has averaged 103% of German domestic demand over the 2009-18 period.<sup>70</sup> The German steel industry is also heavily export dependent. According to data from the U.S. Department of Commerce,

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<sup>65</sup> Rob Davies, “British Steel takeover: Jingye promises ‘new chapter’ for industry,” *The Guardian* (March 3, 2020), available at <https://www.theguardian.com/business/2020/mar/03/british-steel-takeover-jingye-promises-new-chapter-for-industry>.

<sup>66</sup> EU-China Comprehensive Agreement on Investment, available at [https://ec.europa.eu/commission/presscorner/detail/en/FS\\_20\\_2544](https://ec.europa.eu/commission/presscorner/detail/en/FS_20_2544).

<sup>67</sup> Steel Exports Report: Germany, International Trade Administration, May 2019.

<sup>68</sup> See European Commission, Actions against exports from the EU, available at <https://trade.ec.europa.eu/actions-against-eu-exporters/cases/>.

<sup>69</sup> 2020 World Steel in Figures, World Steel Association; and OECD Steelmaking Capacity Database, available at [https://stats.oecd.org/Index.aspx?datasetcode=STI\\_STEEL\\_MAKINGCAPACITY](https://stats.oecd.org/Index.aspx?datasetcode=STI_STEEL_MAKINGCAPACITY).

<sup>70</sup> Steel Statistical Yearbook 2019, World Steel Association.

exports as a share of production have exceeded 56% every year between 2009 and 2018 (the most recent available data). Over the 2016-18 period, exports averaged 60.2% of production.<sup>71</sup>

- The recently announced investment agreement between China and the EU threatens to make European countries an even more attractive venue for transshipment of Chinese steel and to displace steel produced in the EU, which would then be diverted to the U.S. market. This agreement provides no restrictions or limits on further Chinese investment in the EU steel market, and provides no protections against circumvention and transshipment.<sup>72</sup>

## UNITED KINGDOM

- As one of the top 20 steel-exporting countries in the world, the United Kingdom is a significant steel-producing country that exports significant volumes of steel to the United States.<sup>73</sup> Further, the UK steel industry is being transformed through investments by Chinese steel companies, including state-owned and state-supported Chinese steel companies. In 2019, according to data from the OECD, the UK industry's production capacity exceeded the UK's demand for steel by nearly 20%.<sup>74</sup> The UK industry has consistently been heavily export dependent, with exports consistently accounting for over 60% of the UK industry's production.<sup>75</sup> The United States has consistently been among the top 10 export markets for the UK steel industry.
- In 2020, Chinese steel companies acquired major portions of the UK industry, with the Jingye Group (which is controlled by a former member of the Chinese Communist Party) acquiring British Steel and Ceder Holdings acquiring Stemcor.<sup>76</sup> Jingye has publicly announced major expansions in steel production.<sup>77</sup> Significant investment in the UK industry by Chinese companies may exacerbate the long history of the UK industry exporting dumped steel products to the United States. Imports of hot-rolled and cold-rolled steel from the UK are currently subject to AD orders in the United States.

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<sup>71</sup> Steel Exports Report: Germany, International Trade Administration, May 2019.

<sup>72</sup> EU-China Comprehensive Agreement on Investment, available at [https://ec.europa.eu/commission/presscorner/detail/en/FS\\_20\\_2544](https://ec.europa.eu/commission/presscorner/detail/en/FS_20_2544).

<sup>73</sup> Steel Exports Report: United Kingdom, Global Steel Trade Monitor, U.S. International Trade Administration, February 2017.

<sup>74</sup> 2020 World Steel in Figures, World Steel Association; and OECD Steelmaking Capacity Database, available at [https://stats.oecd.org/Index.aspx?datasetcode=STI\\_STEEL\\_MAKINGCAPACITY](https://stats.oecd.org/Index.aspx?datasetcode=STI_STEEL_MAKINGCAPACITY)

<sup>75</sup> Steel Exports Report: United Kingdom, Global Steel Trade Monitor, U.S. International Trade Administration, February 2017.

<sup>76</sup> Rob Davies, "British Steel takeover: Jingye promises 'new chapter' for industry," The Guardian (March 3, 2020), available at <https://www.theguardian.com/business/2020/mar/03/british-steel-takeover-jingye-promises-new-chapter-for-industry>.

<sup>77</sup> "Jingye acquires British Steel; to expand with EAF on Teesside," (March 9, 2020), available at [www.steelbb.com/?PageID=164&article\\_id=187053](http://www.steelbb.com/?PageID=164&article_id=187053).

## ITALY

- According to the World Steel Association, the Italian steel industry was the 11<sup>th</sup> largest in terms of crude steel production as of 2019, at approximately 23 million metric tons.<sup>78</sup> Italy's largest steel producer is the state-owned ArcelorMittal Italia, formerly ILVA, which has the capacity to produce around 11 million metric tons per year.<sup>79</sup>
- The ArcelorMittal Italia facility remains in operation only because of aggressive intervention by the Italian government. While the Italian government has intervened for decades in support of ILVA, the most recent example originated in 2015, when the company was declared insolvent by an Italian bankruptcy court.
- Rather than permitting liquidation or purely commercial resolution of ILVA's debt crisis, the Italian government stepped in to support ILVA in a manner that the European Commission determined was in violation of EU rules against state aid. Specifically, in April 2015, the Italian Ministry of Economy and Finance guaranteed a €400 million loan from a consortium of lenders at an interest rate of 3.12%.<sup>80</sup> In December 2015, the Italian government provided ILVA with an additional €300 million loan via ministerial decree at an interest rate of Euribor 6 months plus 300 basis points.<sup>81</sup>
- In addition to providing financial support to keep ILVA afloat, the Italian government has been extensively involved in ArcelorMittal's subsequent acquisition. ArcelorMittal backed out of its first agreement to acquire ILVA because the Italian government threatened to revoke a grant of immunity from liability for severe environmental damage related to the ILVA facilities.
- The Italian government intervened again however, and ArcelorMittal agreed to proceed with its investment in ILVA only following a massive injection of state capital. Specifically, Italy's National Agency for Inward Investment and Economic Development agreed to immediately inject €400 million to acquire 50% of the ArcelorMittal Italia enterprise. It also agreed to a subsequent investment of €680 million by 2022 to acquire majority control. ILVA, in other words, was effectively nationalized rather than allowed to liquidate or scale back its loss-making operations.<sup>82</sup>
- The deal also included future subsidies for operations and facilities upgrades to ramp up production to 8 million metric tons per year by 2025. These subsidies include support for

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<sup>78</sup> World Steel Association, *World Steel in Figures (2020)* at 9.

<sup>79</sup> *ArcelorMittal Italia at Lowest-Ever Output, Sources Say Future in Doubt*, S&P Global Platts (May 22, 2020).

<sup>80</sup> EC Decision C(2017) 8391 (Dec. 21, 2017) at 7.

<sup>81</sup> *Id.* at 9.

<sup>82</sup> *ArcelorMittal Signs Deal to Suspend Plans to Exit ILVA Steelworks*, Reuters (March 4, 2020); *State-Owned Invitalia Inks Deal with ArcelorMittal to Take Control of ILVA*, Reuters (Dec. 11, 2020).

investment in a 2.5 million metric-ton-per-year electric arc furnace and government-funded employment support.<sup>83</sup>

## CANADA

- Canada is by far the single largest source of steel exports to the United States. In every year from 2010 to 2019 (the last full year for which data is available), the United States imported at least 5 million metric tons (MT) of steel products from Canada.<sup>84</sup>
- Through November 2020, the United States imported 18.7 million MT of steel products.<sup>85</sup> Of that total, 4.3 million MT—or 23.1%—came from Canada.
- Canadian steelmakers have benefited from significant government support.
  - In June 2018, the Canadian government established a fund of up to C\$2 billion to assist the Canadian steel industry. This includes up to C\$1.7 billion in financing assistance to support the installation of new production equipment.<sup>86</sup> The Canadian government has also used its Strategic Innovation Fund to provide significant subsidies to Canadian Steel producers.
  - Stelco, Inc., a major steel producer in Canada, has gone into bankruptcy twice in this century. Both bankruptcies involved significant Canadian government support, including nearly C\$200 million (U.S.\$156.4) in low-interest loans and cancellation or reduction of tax and pension liabilities.<sup>87</sup> In August 2019, after Stelco emerged from its second bankruptcy, the government of Canada announced funding for Stelco from its Strategic Innovation Fund: a C\$49.9 million (U.S.\$37.5 million) investment in Stelco to support a project “that will create 75 jobs and maintain 2,200 more in Ontario.”<sup>88</sup>

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<sup>83</sup> Brian Taylor, *ArcelorMittal Italian Partnership Back on Track*, Recycling Today (Dec. 11, 2020).

<sup>84</sup> Data taken from U.S. Steel Import Monitor, available at <https://trade.gov/data-visualization/sima-import-monitor>.

<sup>85</sup> *Id.*

<sup>86</sup> Support for Canadian steel and aluminum workers and industry, Global Affairs Canada, Government of Canada.

<sup>87</sup> Stelco went into bankruptcy in 2004. “Stelco granted bankruptcy protection,” *The Globe and Mail* (Jan. 29, 2004), available at <https://www.theglobeandmail.com/report-on-business/stelco-granted-bankruptcy-protection/article20427345/>. After being purchased by U.S. Steel, the Stelco facilities again suffered financial difficulties, and sought bankruptcy protection again in 2014. “A case of buyer’s remorse? What went wrong at U.S. Steel Canada,” *Financial Post* (Sept. 17, 2014), available at <https://financialpost.com/news/us-steel-canada-stelco>.

<sup>88</sup> Government of Canada News Release, “Minister Tassi announces investment to support almost 2,300 Canadian steel workers in southern Ontario,” (Aug. 14, 2019), available at <https://www.canada.ca/en/innovation-science-economic-development/news/2019/08/minister-tassi-announces-investment-to-support-almost-2300-canadian-steel-workers-in-southern-ontario.html>.

- Algoma Steel, Inc., another major Canadian steel producer, has been granted bankruptcy protection on three different occasions since the early 1990s.<sup>89</sup> In January 2019, the government of Canada and government of Ontario announced up to C\$150 million (U.S.\$113.4 million) in funding for Algoma.<sup>90</sup>
- Dofasco Steel received a grant from the Canadian government’s Strategic Innovation Fund of C\$49.9 million in November 2018.<sup>91</sup> This assistance was in addition to the financial assistance Dofasco received from the Ontario provincial government.<sup>92</sup>
- Evraz received C\$40 million (\$29.8 million) from the Canadian Government to support new capital expenditures in its OCTG mill in Regina, Saskatchewan.<sup>93</sup>
- Tenaris received a grant of C\$16 million from the Strategic Innovation Fund to support its seamless pipe mill in Sault Ste. Marie, Ontario.<sup>94</sup>
- Gerdau Ameristeel received a grant of C\$20 million from the Strategic Innovation Fund to support capital investment at two of its facilities.<sup>95</sup>
- Nova Tub received a grant of C\$14 million from the Strategic Innovation Fund to support capital investment in its Montreal tube plant to increase production capacity.<sup>96</sup>
- Canada has also been used as a staging ground for foreign producers looking to circumvent Section 232 tariffs on grain-oriented electrical steel (“GOES”). In April 2020, 25 members of Congress protested the fact that unfairly traded GOES was being shipped to Canada, undergoing minimal processing, and entering the U.S. market as downstream products that take sales from the domestic industry.<sup>97</sup>

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<sup>89</sup> Algoma underwent restructuring in the early 1990s, emerged from a second restructuring in 2002, and emerged from a third restructuring in December 2018. See <https://www.algoma.com/history>.

<sup>90</sup> Government of Canada, “Federal Support for Algoma Steel Inc.,” (Jan. 10, 2019), available at <https://www.canada.ca/en/innovation-science-economic-development/news/2019/01/federal-support-for-algoma-steel-inc.html>; see also Government of Ontario, “Ontario Protecting Steel Industry Jobs in Sault Ste. Marie,” (Jan. 10, 2019), available at <https://news.ontario.ca/mndmf/en/2019/01/ontario-protecting-steel-industry-jobs-in-sault-ste-marie.html>.

<sup>91</sup> Strategic Innovation Fund: \$40M for Steel and Aluminum Industry, [www.mentorworks.ca](http://www.mentorworks.ca), Nov. 8, 2018.

<sup>92</sup> Ontario Ministry of Economic Development, Job Creation and Trade, April 25, 2018.

<sup>93</sup> “Government to Invest C\$40 million in Canada’s Evraz mills,” *Steel Business Briefing*, March 7, 2019.

<sup>94</sup> “Canada to invest C\$36 million in Tenaris, Gerdau,” *Steel Business Briefing*, July 29, 2019.

<sup>95</sup> *Id.*

<sup>96</sup> “Canada invests C\$14 million in Nova Tub,” *Steel Business Briefing*, July 23, 2019.

<sup>97</sup> Letter from the Hon. Marcy Kaptur, the Hon. Mike Kelly, and 23 Other Members of Congress to President Donald J. Trump (April 15, 2020), available at <https://kelly.house.gov/sites/kelly.house.gov/files/documents/Kelly-Kaptur%20Electrical%20Steel%20Letter%20to%20President%20April%2015%202020.pdf>.

## MEXICO

- Mexico is a significant source of steel exports to the United States. In 2016, before the Section 232 investigation began, the United States imported 2.7 million MT of steel from Mexico. Only Canada, Brazil, and Korea shipped more steel to this country.<sup>98</sup>
- After the Section 232 investigation began, U.S. imports from Mexico surged—to 3.2 million MT in 2017, 3.5 million MT in 2018, and 3.4 million MT in 2019. Through the first 11 months of 2020, despite a global pandemic, the United States imported 2.8 million MT of steel from Mexico—more than any source except for Canada and Brazil.<sup>99</sup>
- Steel imports from Mexico have repeatedly been found to cause material injury to domestic producers. The United States currently maintains antidumping (“AD”) duty orders on the following products from Mexico: circular welded nonalloy steel pipe (order imposed in 1992), carbon steel wire rod (2002), prestressed concrete steel wire strand (2004), light-walled rectangular pipe and tube (2008), steel concrete reinforcing bar (2014), and heavy walled rectangular welded carbon steel pipes and tubes (2016).<sup>100</sup> Each of these orders resulted from U.S. government findings that imports from Mexico were traded unfairly, and that the unfairly traded imports caused or threatened material injury to the relevant U.S. industry.
- Like Canada, Mexico has been used as a staging ground for foreign producers looking to circumvent Section 232 tariffs on grain-oriented electrical steel (“GOES”).<sup>101</sup> Last year, the U.S. Department of Commerce self-initiated a Section 232 investigation covering imports of downstream products made from GOES. Cleveland-Cliffs Inc., which acquired AK Steel (the last remaining producer of GOES in North America) in 2020, has repeatedly made clear that unless something is done to address this problem, the future of electrical steel production in this country is at risk.<sup>102</sup>
- In May 2019, USTR announced an agreement with Canada and Mexico to remove Section 232 tariffs on steel. However, USTR emphasized that the “agreement provides for aggressive monitoring and a mechanism to prevent surges in imports of steel and aluminum.”<sup>103</sup> Import

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<sup>98</sup> Data taken from U.S. Steel Import Monitor, available at <https://trade.gov/data-visualization/sima-import-monitor>.

<sup>99</sup> *Id.*

<sup>100</sup> See U.S. International Trade Commission, “AD/CVD Orders in Place,” available at <https://www.usitc.gov>.

<sup>101</sup> Letter from the Hon. Marcy Kaptur, the Hon. Mike Kelly, and 23 Other Members of Congress to President Donald J. Trump (April 15, 2020), available at <https://kelly.house.gov/sites/kelly.house.gov/files/documents/Kelly-Kaptur%20Electrical%20Steel%20Letter%20to%20President%20April%2015%2C%202020.pdf>.

<sup>102</sup> See, e.g., David Lawder, “AK Steel buyer warns of plant closures without stronger U.S. import curbs,” *Reuters* (March 5, 2020), available at <https://reuters.com/article/us-usa-trade-steel/ak-steel-buyer-warns-of-plant-closures-without-stronger-u-s-import-curbs-idUSKBN20S2M3>.

<sup>103</sup> Office of the U.S. Trade Representative, “United States Announces Deal with Canada and Mexico to Lift Retaliatory Tariffs,” (May 17, 2019), available at <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2019/may/united-states-announces-deal-canada-and>. See also Office of the U.S. Trade Representative, “President Trump Continues to Protect America’s Steel-Dependent National Security” (Aug. 31, 2020) (discussing how USTR used this mechanism to address surges in imports of standard pipe, mechanical tubing, and semi-finished



surges in specific steel products would lead to the re-imposition of Section 232 tariffs.<sup>104</sup> This mechanism is critical to preventing further harm from imports.

- The rapid growth of imports from Mexico after the removal of the Section 232 remedies necessitated the imposition of monitoring regimes for imports of electrical steel, pipe, tube and semi-finished steel.<sup>105</sup>

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products from Mexico), available at <https://ustr.gov/about-us-policy-offices/press-office/press-releases/2020/august/president-trump-continues-protect-americas-steel-dependent-national-security>.

<sup>104</sup> *Id.*

<sup>105</sup> Office of the U.S. Trade Representative, “USTR Statement on Successful Conclusion of Steel Negotiations with Mexico,” (Nov. 5, 2020), available at <https://ustr.gov/about-us-policy-offices/press-office/press-releases/2020/november/ustr-statement-successful-conclusion-steel-negotiations-mexico>; Office of the U.S. Trade Representative, “President Trump Continues to Protect America’s Steel-Dependent National Security,” (Aug. 31, 2020), available at <https://ustr.gov/about-us-policy-offices/press-office/press-releases/2020/august/president-trump-continues-protect-americas-steel-dependent-national-security>.