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Obama Administration Files WTO Complaint on China's Subsidies to Aluminum Producers

Artificially cheap loans from banks and low-priced inputs for Chinese aluminum contribute to excess capacity, undercut American workers and businesses

United States urges China to reduce primary aluminum excess capacity, takes action to level the playing field

Aluminum challenge marks the 16th trade enforcement challenge the Obama Administration has launched at the WTO against China, and the 25th overall

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Washington, D.C. – United States Trade Representative Michael Froman announced today that the United States has launched a new trade enforcement complaint against the People's Republic of China at the World Trade Organization (WTO) concerning China's subsidies to certain producers of primary aluminum. This action follows numerous bilateral efforts by the Obama Administration to persuade China to take strong steps to address the excess capacity situation in its aluminum sector. The complaint filed today begins a process to address U.S. concerns that China's subsidies appear to have caused "serious prejudice" under WTO rules to U.S. interests by artificially expanding Chinese capacity, production and market share and causing a significant lowering in the global price for primary aluminum. Today's announcement marks the 16th trade enforcement challenge the Obama Administration has launched against China at the WTO.

"This latest challenge once again demonstrates the Obama Administration's unwavering commitment to ensuring a fair and level playing field for American workers and businesses," said United States Trade Representative Michael Froman. **"Artificially cheap loans from banks and low-priced inputs for Chinese aluminum are contributing to excess capacity and undercutting American workers and businesses. Today's action follows significant engagement by this Administration on excess capacity and demonstrates our commitment to hold China to its trade obligations. Our record of tough enforcement with China speaks for itself: When China cheats, we've been right there, securing recourse for our workers, farmers, ranchers and businesses. This is the 16th time we have taken action against China at the WTO, and we've won every challenge that has been decided."**

"President Obama and this Administration have fought to create jobs and grow the economy over the past eight years, and tough trade enforcement has been a central pillar of these efforts," said White House Deputy National Security Adviser for International Economics Wally Adeyemo. **"We have upgraded our toolkit and resources to address unfair imports that violate our trade laws, built an international coalition to address global overcapacity that hurts American workers, and worked vigorously to level the playing field by ensuring that our trading partners protect workers' rights and the environment."**

“When American aluminum workers and producers can compete on a level playing field, they will outcompete any other workers in the world, and today’s action will help level the playing field,” said Representative Dave Loebsack (D-IA), Co-Chair of the Congressional Aluminum Caucus. **“At a time when our economy is still struggling to recover, we have to do all we can to focus on preserving and protecting jobs here at home by working to stop the unfair practices by states like China. I will continue to fight against unfair and illegal trade practices to ensure lowans are competing on a level playing field.”**

“Southern Indiana has been directly impacted by unfair Chinese policies that have distorted the global market for aluminum, depressed prices, and devastated the competitiveness of American businesses. We lost an aluminum smelter that supported 600 Hoosier jobs as a consequence,” said Representative Larry Bucshon, M.D. (R-IN), Co-Chair of the Congressional Aluminum Caucus. **“As chair of the Congressional Aluminum Caucus, I’ve led efforts to put an end to these practices so the playing field is level for American companies and workers. I’m happy to see the administration taking action and remain committed to holding China accountable.”**

“We need strong rules and enforcement to ensure a level-playing field for U.S. businesses competing in the global market and I’m pleased to join Ambassador Froman in working to ensure we protect good-paying, middle-class jobs in the U.S. aluminum industry,” Representative Suzan DelBene (D-WA), Co-Chair of the Congressional Aluminum Caucus, said. **“We cannot allow the unfair practices of China to harm our economic growth – Americans’ livelihoods are at stake, including those in my district.”**

“I am encouraged by the trade enforcement action that the US Trade Representative (USTR) is taking against China at the World Trade Organization (WTO) today,” said Representative Bill Johnson (R-OH), Co-Chair of the Congressional Aluminum Caucus. **“The U.S. aluminum industry is a vital component of our domestic economy; therefore, we must ensure that an oversupply of Chinese aluminum does not negatively affect it. I look forward to working with the USTR as this complaint process moves forward.**

“I applaud Ambassador Froman’s action today. China’s unfair trade practices have hurt Pennsylvania’s hardworking aluminum workers that helped build our great country,” said Representative Mike Kelly (R-PA), Member of the Congressional Aluminum Caucus. **“The aluminum industry has flourished for more than a century, but today American smelters are being shuttered. Even though aluminum demand has increased in the United States, domestic production has plummeted. With unfair subsidies and state-controlled banks, China has quadrupled its aluminum exports over the past decade, which has flooded the world market and depressed prices. We must hold China accountable.”**

“China’s subsidies have done enormous damage to the U.S. and global aluminum industries,” said Michael Bless, President and Chief Executive Officer of Century Aluminum. **“Following a series of closures due to Chinese overcapacity, Century operates three of only five remaining smelters in the United States. USTR’s decision to challenge these unreasonable, illegal, and harmful subsidies is an important step towards a long-term solution for the global aluminum industry, and we are thankful for the Administration’s efforts on the industry’s behalf. We look forward to continuing this work in the coming months and years.”**

Background on WTO Consultation Request and Excess Capacity Efforts

On January 12, 2017, the United States requested WTO consultations with China concerning apparent subsidies that China provides to certain producers of primary aluminum in China. China appears to provide subsidies through artificially cheap loans from banks and through artificially low-priced inputs for aluminum production, such as coal, electricity, and alumina.

China’s apparent subsidies raise concerns that China is not acting consistently with its obligations under the WTO Agreement on *Subsidies and Countervailing Measures* (SCM Agreement). In particular, under Article 5(c) of the SCM Agreement, WTO Members have agreed that subsidies should not cause “serious prejudice” to the interests of other WTO Members. The United States is concerned that China’s subsidies appear to be causing or threatening to cause serious prejudice to the interests of the United States through displacement or impedance of U.S. imports into China and third country markets, significant price undercutting, price suppression, price depression or lost

sales in a given market, or through an increase in Chinese world market share.

Chronic overcapacity in China resulting from China's failure to transition to a market economy has been identified as a problem in a number of sectors. In this case, we are seeking to address one core aspect of this problem by challenging the use of subsidies that have generated overcapacity. This is one facet of state-sponsored industrial policy that has led to the overcapacity that has in turn resulted in price and other harmful effects manifested in the United States and other countries on businesses and working people in this important economic sector.

In particular, excess capacity and production in China's aluminum sector is contributing to lower global primary aluminum prices, to the detriment of U.S. primary aluminum producers. Despite sinking aluminum prices, China has been constantly building large new or expanded aluminum production facilities. From 2007-2015, Chinese primary aluminum production increased by approximately 154 percent and capacity increased by approximately 243 percent, while global prices fell by approximately 46 percent. Also during the same period, U.S. primary aluminum production decreased by approximately 37 percent and capacity decreased by approximately 46 percent, even though overall U.S. consumption increased. The number of U.S. aluminum smelters fell from 14 in 2011 to five in 2016, with only one operating at full capacity.

The United States has engaged with China to address subsidies and resulting excess capacity and production in the aluminum sector. At the November 2015 U.S.-China Joint Commission on Commerce and Trade (JCCT) meeting, China agreed to intensify discussions with the United States regarding excess capacity in the aluminum sector. Shortly after the June 2016 U.S.-China Security and Economic Dialogue meeting, where the United States continued to raise concerns about excess aluminum capacity, China's State Council issued guiding opinions on structural adjustment needed for China's non-ferrous metals industries, including the aluminum industry. Since then, while China has expressed a willingness to continue talking about the excess aluminum capacity situation, both when President Obama and President Xi met in Hangzhou, China, in September 2016 and at the November 2016 JCCT meeting, China has not been willing to take concrete steps to address it.

The United States has devoted many thousands of hours investigating the Chinese practices, identifying and reviewing the documents in building this complaint concerning an urgent problem for the United States and its businesses and workers. The massive effort that it has taken in this and other cases to investigate and develop the government measures and other commercial information to prepare for filing a request for consultations increasingly points out a transparency gap between the United States and other countries. This transparency gap effectively subjects more transparent systems, such as that of the United States, to a greater scrutiny as compared to age to more opaque systems in the context of WTO dispute settlement.

The Obama Administration's Trade Enforcement Record

Since President Obama was inaugurated in 2009, USTR has filed 25 enforcement complaints (including this one) at the World Trade Organization (WTO) – more than any other WTO Member. The United States has won every single one of those complaints that have been announced by the WTO so far. [READ MORE](#) about the Obama Administration's trade enforcement record.

- The Obama Administration has now brought 16 trade enforcement challenges against China, three against India, and several other complaints against a series of major economies including Indonesia, Argentina, the Philippines, and the European Union. To ensure the greatest economic benefits for American workers and exporters, the Obama Administration has used our trade enforcement actions to emphasize opening these large, strategic markets to which the United States exports a diverse array of products and services.
- Since 2016, in addition to announcing 5 new WTO complaints (including this one), the Obama Administration has announced 4 enforcement wins or favorable resolutions on key matters:
 - In December 2016, a WTO panel found that Indonesia's import barriers against U.S. agricultural products from beef to fruits and vegetables to poultry were against WTO rules. Those import barriers are limiting opportunities for American farmers, who nonetheless were able in 2015 to sell almost \$115 million of high-quality products to Indonesian consumers.

- In September 2016, a WTO compliance panel issued a report finding that the European Union, Germany, France, the United Kingdom, and Spain continue to breach WTO rules through subsidies the WTO previously found to have caused adverse effects to the United States. The compliance panel also found that these European governments further breached WTO rules by granting more than \$4 billion in new subsidized financing for the A350 XWB – causing tens of billions of dollars in additional adverse effects to the U.S. industry.
- In September 2016, the WTO Appellate Body agreed with a previous panel report finding that India's "localization" rules discriminate against U.S. solar cells and modules by requiring use of Indian products. American solar exports to India dropped 90 percent after the prohibited requirements took effect, and this victory will eliminate discrimination against American solar exports in a roughly \$1 billion market.
- In April 2016, China signed a Memorandum of Understanding with the United States in which China agreed to take specific actions that would remove all the WTO-inconsistent elements of its "Demonstration Bases-Common Service Platform" export subsidy program. Those prohibited export subsidies were being given to manufacturers and producers across seven economic sectors and dozens of sub-sectors located in more than one hundred and fifty industrial clusters throughout China.
- The Obama Administration has also broken new ground on the enforcement of agricultural market access including the challenge to China's TRQ administration and excessive domestic support for production of certain grains, cases against India's non-science-based measures on poultry and other products allegedly to protect against avian influenza (U.S. prevailed in 2015), Indonesia's import licensing regime on beef, poultry, and horticultural products (case pending), and China's unfair taxes on U.S. broiler chicken products (U.S. prevailed in 2014; compliance challenge pending).
- Enforcement extends far beyond formal disputes. The Obama Administration has opened markets for American workers, farmers, and businesses by taking tough stands to resolve unwarranted trade barriers with trading partners. For example, we have eliminated restrictions in 17 countries since January 2015, gaining additional market access for U.S. beef in Brazil, Colombia, Costa Rica, Egypt, Guatemala, Iraq, Lebanon, Macau, New Zealand, Peru, Philippines, Saint Lucia, Saudi Arabia, Singapore, South Africa, Ukraine, and Vietnam. As a result, U.S. beef exports have doubled. We also successfully engaged with the Philippines – including through the Special 301 process – to enhance protection of intellectual property rights. These and similar actions have helped expand exports and level the playing field for American goods and services.



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