

China Non-Market Economy Status Staff Briefing

Manufacturers for Trade Enforcement Coalition
July 11, 2016

Manufacturers for Trade Enforcement (MTE) Coalition

- 20 groups in the coalition, collectively employing over 1 million U.S. workers
- United on opposition to the automatic granting of market economy status for China at the end of 2016

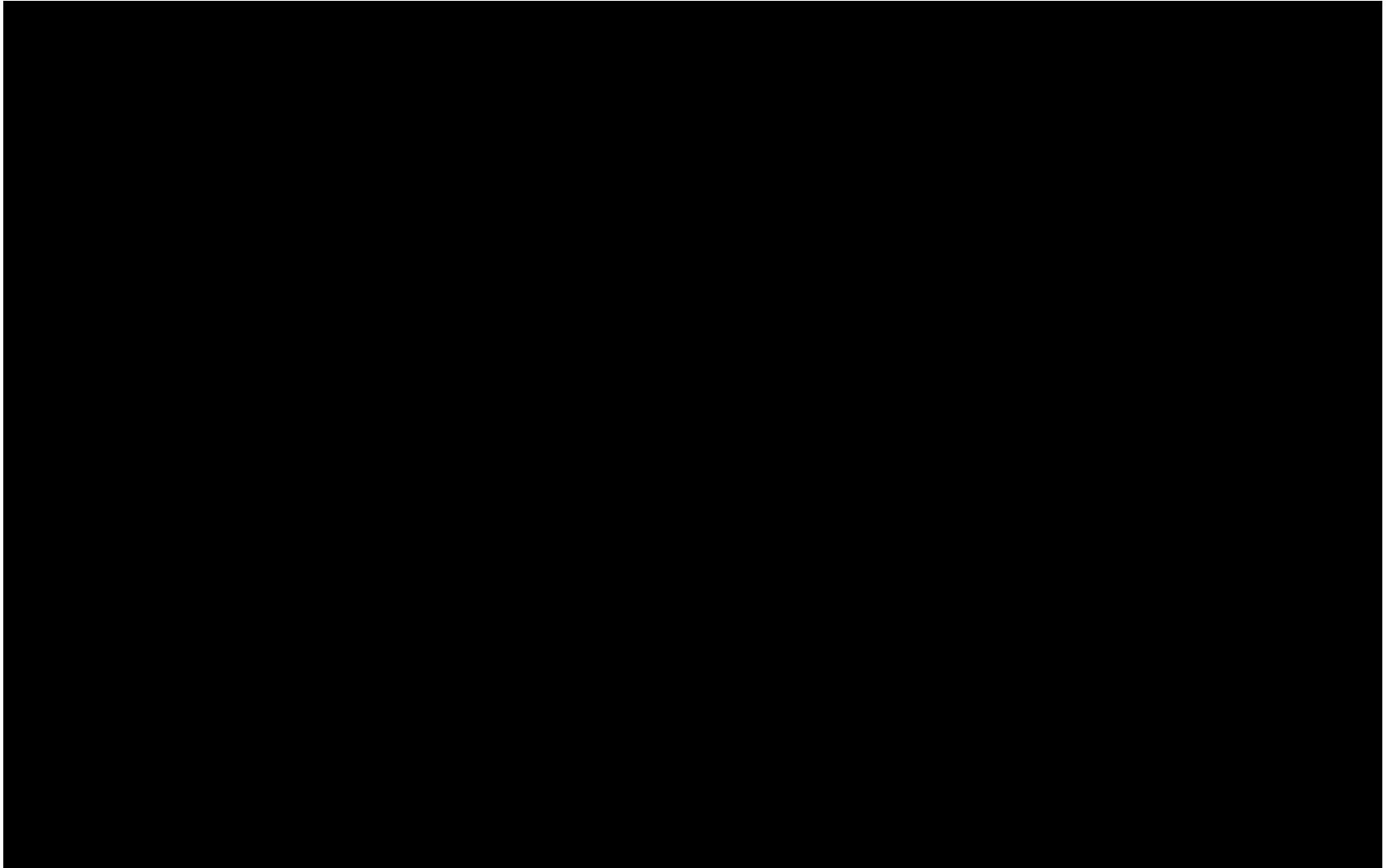
MTE Coalition Members



China and the Antidumping Laws

- The antidumping laws have been an essential tool for U.S. producers to address unfair trade
- To determine whether dumping has occurred, the investigating country will normally compare a producer's export prices to either its prices in its home market or to its cost of production
- When China joined the WTO in 2001, the parties recognized that Chinese government control over its economy makes the home market prices and costs of Chinese producers unreliable for making antidumping calculations
- China now claiming it must be treated as a market economy beginning in December 2016

Metal Miner on China 2016



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Section 15 of China's WTO Protocol

15(a) In determining price comparability under Article VI of the GATT 1994 and the Anti-Dumping Agreement, the importing WTO Member shall use either Chinese prices or costs for the industry under investigation or a methodology that is not based on a strict comparison with domestic prices or costs in China based on the following rules:

(i) If the producers under investigation can clearly show that market economy conditions prevail in the industry producing the like product with regard to the manufacture, production and sale of that product, the importing WTO Member shall use Chinese prices or costs for the industry under investigation in determining price comparability;

(ii) The importing WTO Member may use a methodology that is not based on a strict comparison with domestic prices or costs in China if the producers under investigation cannot clearly show that market economy conditions prevail in the industry producing the like product with regard to manufacture, production and sale of that product.

15(d) ... In any event, the provisions of subparagraph (a)(ii) shall expire 15 years after the date of accession. ...

The Plain Language of Section 15

- The plain language of the surviving portions of Section 15 allow WTO members to use something other than Chinese prices or costs, so long as Chinese producers have the opportunity to show that their industry operates under market economy conditions
 - If the Chinese producers can make this showing, then the WTO member must give market economy treatment to the industry
 - Otherwise, the WTO member can apply non-market economy treatment
- Any argument that China must automatically receive market economy treatment after 2016 is contradicted directly by the surviving language of Section 15
 - Section 16 (special safeguards) explicitly expired after 12 years, showing that the drafters knew how to terminate an entire article

The Purpose of Section 15

- The underlying purpose of Section 15 was to allow other WTO members to take into account in dumping investigations the fact that China was not in fact a market economy
 - Antidumping laws would otherwise be ineffective
- Requiring that other WTO members treat China as a market economy country in antidumping investigations when it is not would be directly contrary to this purpose
- This interpretation would reward China for failing to keep its other commitments in the Protocol
 - In Section 9 of the Protocol, China committed to allowing prices in every sector to be determined by market forces – something it admits it has not done

NME Statutory Factors

- (1) Extent to which the currency of the country is convertible into the currency of other countries
- (2) Extent to which wage rates in the country are determined by free bargaining between labor and management
- (3) Extent to which joint ventures or other investments by firms of other countries are permitted in the country
- (4) Extent of government ownership or control of the means of production
- (5) Extent of government control over the allocation of resources and over the price and output decisions of enterprises
- (6) Such other factors as the administering authority considers appropriate

China Subsidies

- Government equity infusions
- Government grants
- Provision of inputs for less than adequate remuneration
- Electricity for less than adequate remuneration
- Land for less than adequate remuneration
- Preferential lending through state-owned commercial and policy banks
- Preferential tax treatment
- VAT rebates and other export promotion measures

China is Not a Market Economy

- There is state control over many critical aspects of the Chinese economy, including key strategic industries
- Significant restrictions on foreign investment remain in place
- The Chinese financial system remains dominated by state-owned banks, and the stock and bond markets are dominated by State Owned Enterprises
- The Chinese currency remains controlled by the government and is undervalued to favor exports and discourage imports

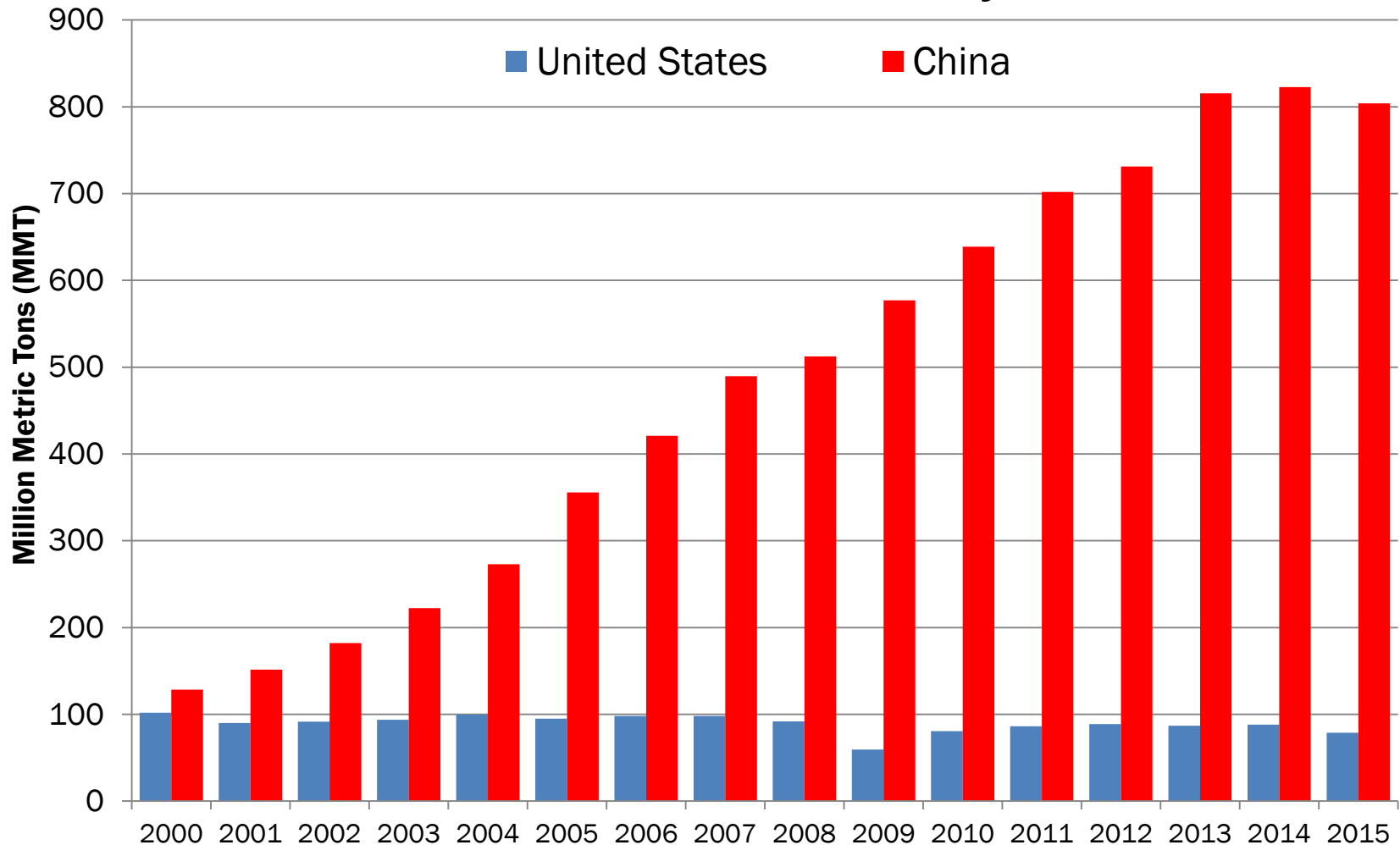
Impact of Granting China MES Status

NAFTA impacts would be:

- Antidumping laws would be less effective for remedying injury, as dumping margins would likely be zero/close to zero
- NAFTA steel imports would increase by \$17.4 billion while intra-NAFTA steel trade would fall
- NAFTA steel industry output would shrink by \$31.5 billion
- NAFTA economic welfare would decrease by \$42.5-\$68.5 billion
- Hundreds of thousands of lost jobs

China Steel Production Surging

Growth of Chinese Steel Industry vs. U.S.



Source: WorldSteel Association

China's Industrial Policies in Steel

- Steel and Iron Industry Development Policy (2005)
 - Direct subsidization of steel industry, restriction of foreign investment, grant of export credits
- Steel Adjustment and Revitalization Plan (2009)
 - Update to Steel Policy; direct and indirect government subsidization of industry
- 12th Five-Year Steel Plan (2011)
 - Maintains government ownership and direction, but avoids discussion of specific trade-distorting practices
- Steel Industry Adjustment Policy (2015)
 - Continuation of government control and direction over the Chinese steel industry

China: State Controlled Steel

9 out of Top 10 Producers are State-Owned

Firm	2014 Production (MMT)
Hebei Steel Group	47.1
Baosteel Group	43.3
Wuhan Steel Group	33.1
Shagang Group (Private)	35.3
Ansteel Group	34.3
Shougang Group	30.8
Shandong Steel Group	23.3
Tianjin Bohai Steel	18.5
Maanshan Steel	18.9
Benxi Steel	16.3
TOTAL	300.9

These two companies, alone, account for more steel than **the entire U.S. steel industry** shipped in 2014 (89.1 MMT)

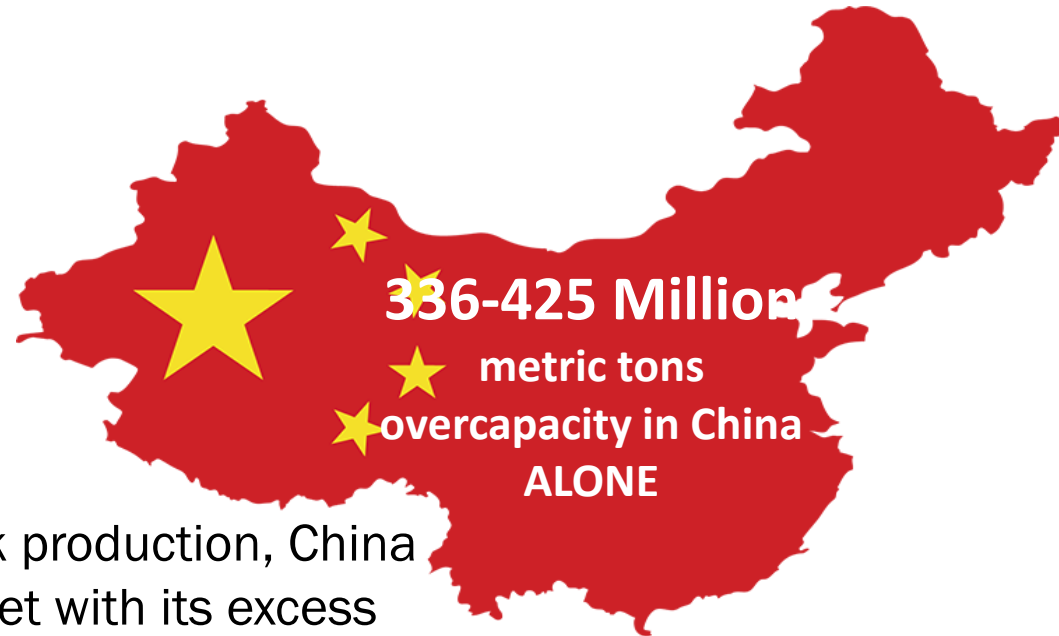


Source: National Bureau of Statistics/WorldSteel Association (WSA)

Global Steel Overcapacity

700
MILLION

metric tons of excess
global steel capacity



- Rather than cutting back production, China is flooding the U.S. market with its excess steel at below-market prices, harming U.S. producers and American workers
 - In 2015, China exported 112 million metric tons of steel to the world, a 20 percent increase over an already record-setting 2014

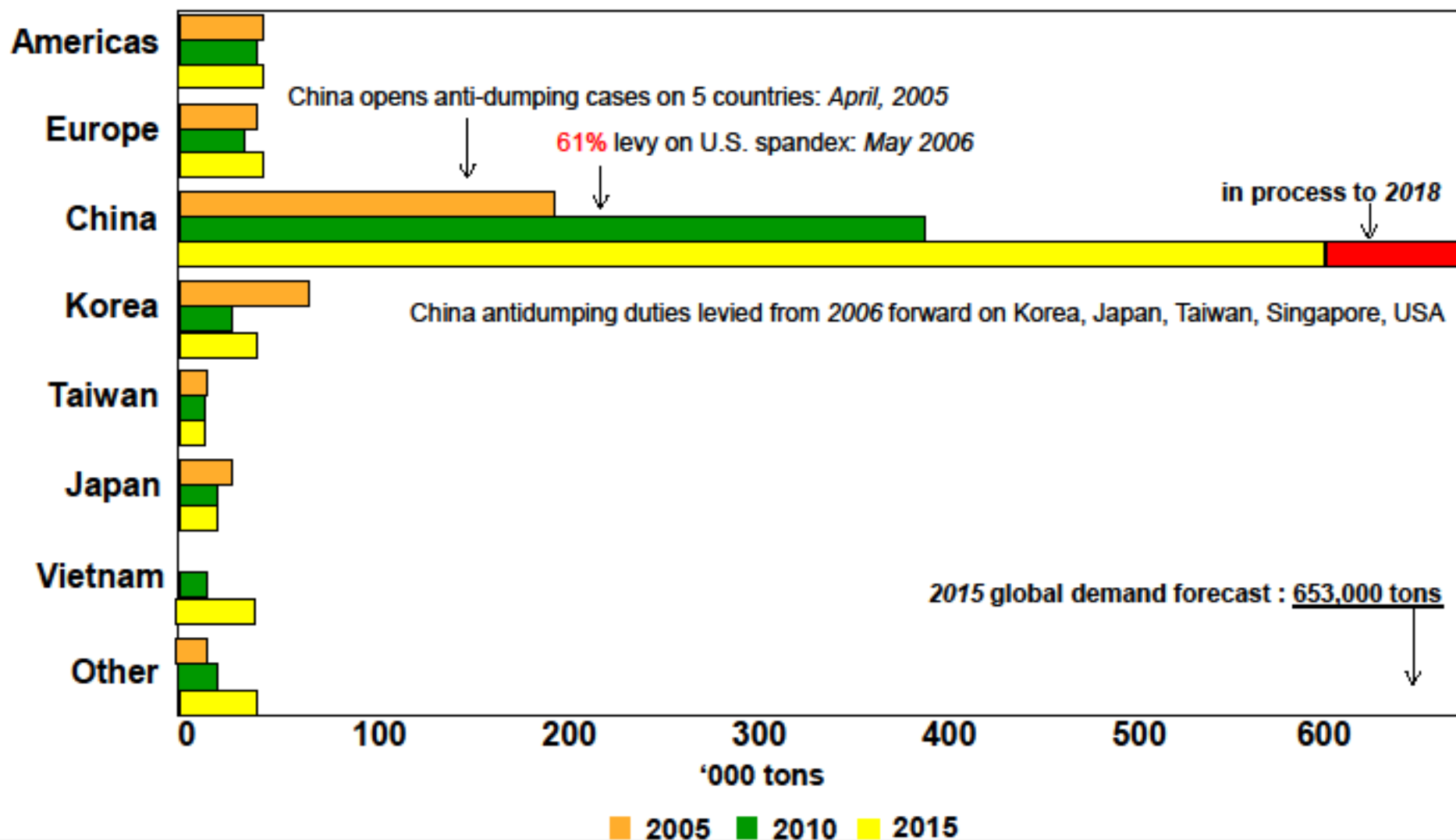
Securing binding commitments from China and other nations to reign in steelmaking overcapacity is critical to domestic producers' ability to compete for business

NME Status for China

Important to Sustain the Domestic Fiber industry

- **Polyester fiber:** largest U.S. industry segment
- 2006 **China** antidumping polyester staple fiber case found dumping at **4%** for two firms and a **44%** China-wide rate; sunset reviewed once, next in 2017
- **This helped the U.S. industry remain in operation**
- *Absent Commerce Department use of non-market economy dumping methodology* effective margins could be eliminated – and **thousands of U.S. jobs**

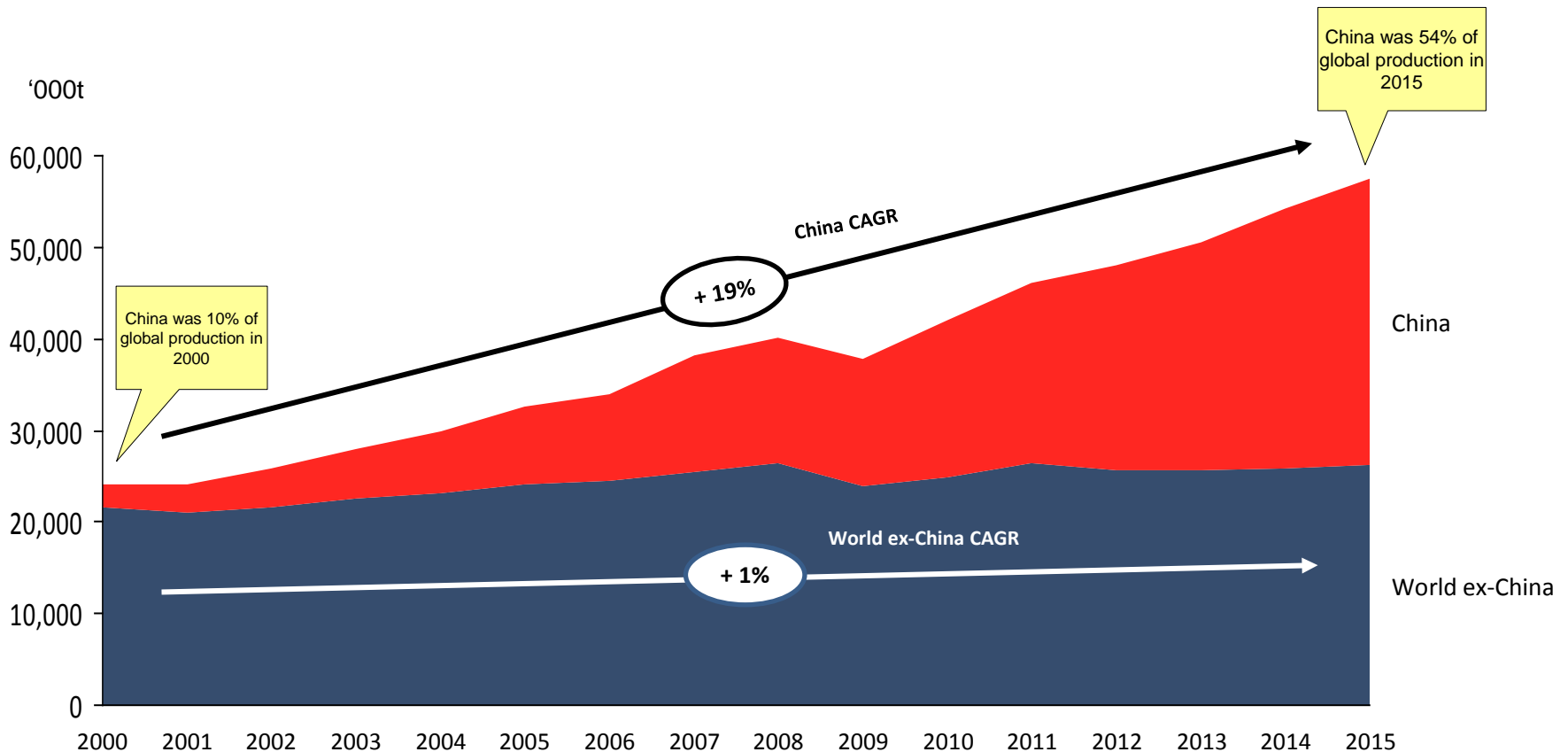
Spandex Capacities 2005 – 2015: *China v. the World*



Source: Opus Business Consultants, Harrogate, UK (notes added by AFMA)

Aluminum **production growth** has been in China since 2000

Primary Aluminum Production



Chinese aluminum production growth fueled by government subsidies

Lack of standard of national treatment of aluminum industry by Chinese government

The Chinese government offers a variety of direct and indirect incentives to domestic aluminum producers:

Direct subsidies

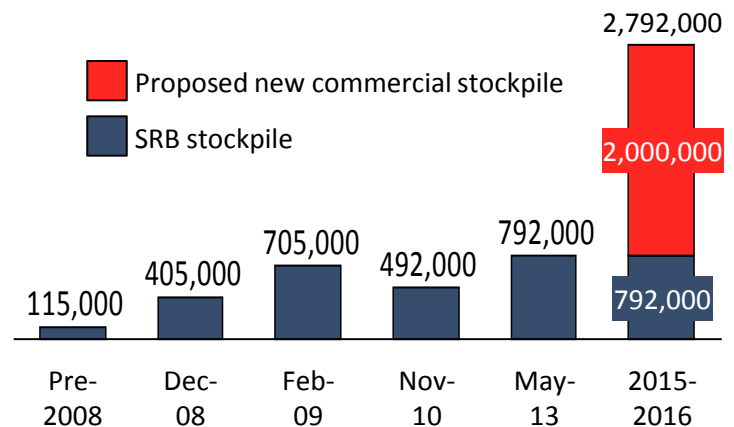
1. Government purchases of aluminum stocks
2. Raw material subsidies (discounted alumina pricing)
3. Favorable lending terms
4. Capital support and grants
5. Logistical support
6. Land and infrastructure
7. Energy subsidies (electricity, coal, mining)

Indirect Subsidies

1. Lack of enforcement of health, environmental and safety regulations
2. Lack of customs enforcement
3. Lack of enforcement of anti-trust/anti-competitive practices

Specific Subsidy Examples

China's Strategic Reserve Bureau (SRB) Stocks Over Time
(metric tons of aluminum)

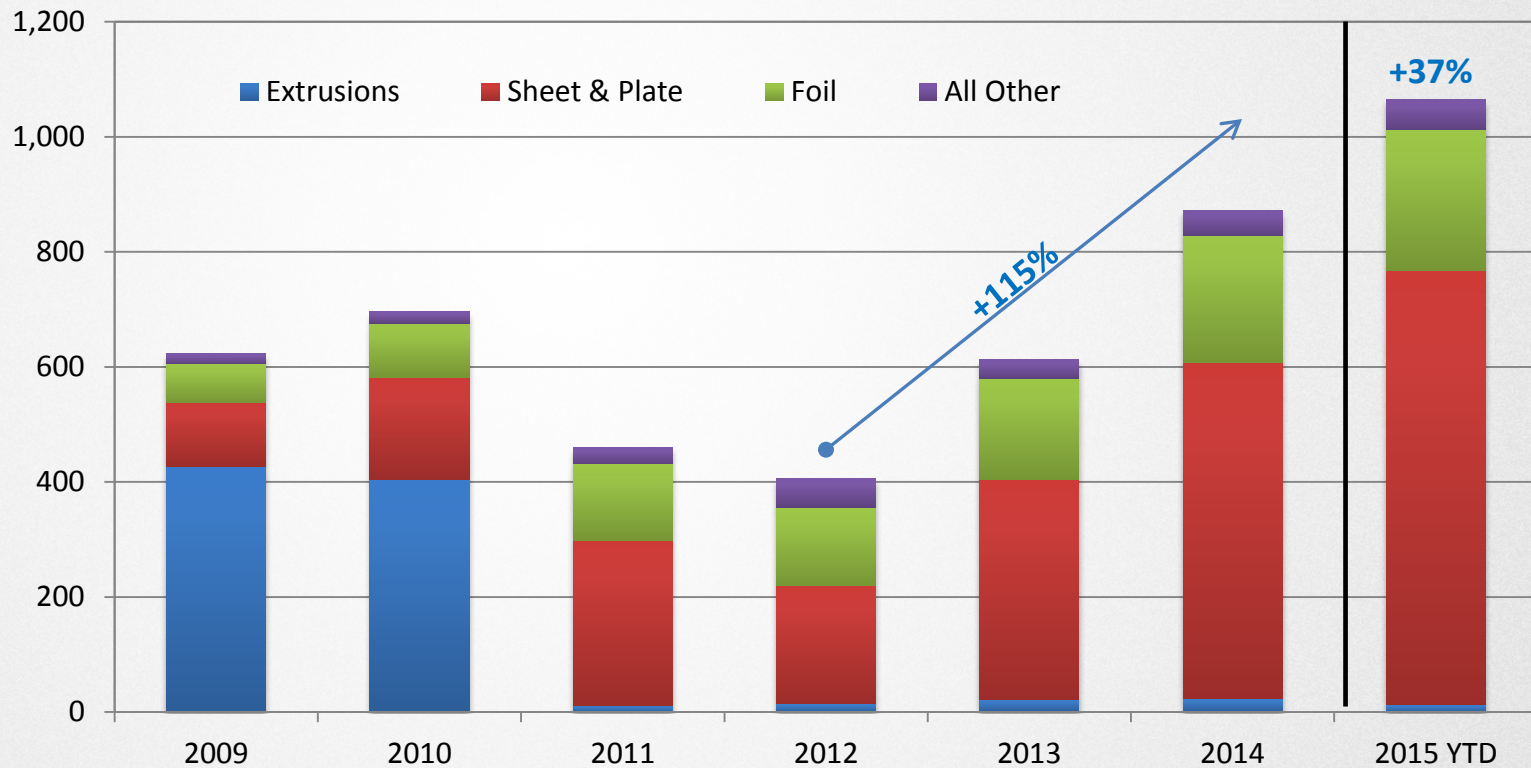


- New commercial stockpile to only open to select group of large producers
- Under proposal, firms would receive above market prices

Despite goals of keeping primary production in the country, China allows exports of 'fake semis' destined for re-melt to claim credits as 'value added products'

Chinese Aluminum Imports

U.S. Imports of Chinese Semifabricated Products (YTD=Nov.)
(Million Lbs)



U.S. Census Bureau

Impact of Granting China MES Status

U.S. economic impacts would be:

- Significant declines in economic welfare and GDP, as much as \$47 billion in the U.S.
- American steel imports would increase by \$13.3 billion and output would decline by \$21.1 billion
- America's \$12.1 billion Aluminum industry will lose access to vital trade enforcement tools as Chinese imports increase dramatically
- U.S. labor demand would decline as much as \$30 billion, meaning job losses of 400,000 to 600,000 workers in steel and other industries

What Comes Next

December 2016 – China will Expect to be recognized as a Market Economy by its trading partners

December 2016 – Dept. of Commerce may announce a decision on China's designation, or carry on with business as usual.

2017 – US, or other WTO member uses Non-Market rules in evaluation of Chinese exporter in an AD/CVD case – China will challenge that action at the WTO.

What We Can Do

- Encourage Department of Commerce to stay the course
- Apply the existing criteria
- Prepare for WTO challenge