

September 20, 2017

Mr. Edward Gresser
Chair, Trade Policy Staff Committee
Office of the U.S. Trade Representative
Via www.regulations.gov

Re: China's WTO Compliance; Docket No. USTR-2017-0011

Dear Mr. Gresser:

The Institute of Scrap Recycling Industries, Inc. (ISRI)¹, is pleased to submit this input on behalf of the U.S.-based scrap recycling industry in response to the Office of the U.S. Trade Representative's Notice for Public Comments on China's WTO Compliance. The recycling industry appreciates the opportunity to shed light on the evolving regulatory environment in China impacting scrap commodities imports into China.

ISRI and the U.S.-Based Scrap Recycling Industry

As the Voice of the Recycling Industry™, ISRI represents 1,300 processors, brokers and consumers of scrap materials, including ferrous and non-ferrous metals, paper, plastic, tire and rubber, glass, textiles and electronics. Among ISRI members are companies from 35 different countries, but North America – and especially the United States – makes up the vast majority of our membership. The scrap recycling industry's total economic impact in the United States is nearly \$117 billion, generating \$13.2 billion in federal, state and local tax revenue while supporting more than 530,000 jobs.

In 2016, the U.S. recycling industry processed more than 130 million metric tons of recyclables, including 4.9 million metric tons of aluminum scrap valued at nearly \$7 billion. As such, the U.S. scrap recycling industry is an environmental steward and an economic driver, and is vital to the health of both domestic and global manufacturing. In fact, the scrap recycling industry is often referred to as the first link in the manufacturing supply chain, making our industry dependent on a healthy domestic manufacturing base and access to global markets.

In any given year approximately 30% of the scrap processed within the United States is prepared for export to industrial consumers around the world that demand high quality scrap. There are

¹ ISRI is the "Voice of the Recycling Industry," promoting safe, economically sustainable and environmentally responsible recycling through networking, advocacy, and education.

150 export markets, but China, by far, is the largest consumer of U.S.-processed scrap, accounting for 40% of exports.

China Notifies WTO of Intent to Ban Scrap Imports

On July 18, 2017, the Chinese Government notified the WTO Technical Barriers to Trade (TBT) Committee (Docket No. GTBTNCHN1211) of its intent to update its *Catalogue of Solid Wastes Forbidden to Import into China* by the end of 2017 to include 24 additional categories of “solid wastes.” Among these categories is “HS 4707.90.00.90: Other, including unsorted waste and scrap” of paper and “HS 3915: Waste, parings and scrap, of plastics” from residential sources. Although the notification was a departure from past practice wherein China would announce regulatory changes affecting the industry only through internal, Chinese-language channels of communication. Unfortunately, the notification lacked sufficient information on the scope of the import restrictions and precise timing for its implementation. Additionally, it did not include a sufficient amount of time for public comment and for the global industry to adapt. Furthermore, to our knowledge, the final document has not been sent to the TBT Committee.

China Notifies WTO of Intent to Update Solid Waste Identification Standard

Also on July 18, 2017, the Chinese Government notified the WTO TBT Committee (Docket No. GTBTNCHN1212) of its intent to update its *Identification Standards for Solid Wastes General Rules* for entry into force on September 1, 2017. The notification allowed for a two week comment period, although a portion of that time was used to translate the document into English for analysis. The *Identification Standards* have been finalized, but the final version does not incorporate any comments provided by the industry. Furthermore, to our knowledge, the final document has not been sent to the TBT Committee.

China Announces its Intent to Update Technical Standards on Imported “Solid Wastes”

The Chinese Government announced on August 10 its intent to update the *Environmental Protection Standards for Imported Solid Wastes as Raw Materials (GB 16487.1-13)*. These are the technical quality standards by which imported “solid wastes as raw materials” (otherwise known in our industry as “scrap”) must comply to be allowed entry into China. A draft document of these changes was published on August 16 in Chinese and a deadline of August 25 was given for comments. Unfortunately, the length and technicality of the document meant it took over a week to translate into English. Thus, the industry was given an inadequate amount of time to fully review and analyze the proposed text, which also was not an official government translation (creating uncertainties if we are reviewing a proper interpretation of the draft revisions). Furthermore, these changes were not submitted through the WTO.

Implications for the U.S. Industry

The Chinese Government published a policy statement on July 27, 2017, that describes the purpose of these measures. They are part of a broader strategy by the Chinese Government to reform its “solid waste” import management system and to enhance recycling within China, both to support the Government’s environmental stewardship drive as specified in the 13th Five Year Plan. The policy statement outlines a schedule to prohibit nearly all scrap imports within two to three years and the development of a domestic recycling infrastructure within the same

timeframe to replace the materials no longer available for import. There are several implications for the U.S. industry:

1. U.S. Exports Impacted. Despite the short comment periods provided in these notices, ISRI submitted comments explaining the negative implications to U.S. industry that will result from the import restrictions and to ask specific questions about the scope of the regulations and the timing of their implementation. For recycled commodities such as recovered paper and fiber, plastic scrap, and copper scrap, China accounts for more than half of the world's total imports. Thus, any change in Chinese policy concerning the import of these commodities will be quickly felt around the world. This is particularly relevant to the U.S. recycling industry, as the United States is the largest scrap exporter and China is our largest trading partner. While exports move from the United States to more than 150 countries worldwide, China is the U.S. recycling industry's largest customer, accounting for 40% of exports. The WTO notification and the subsequent policy statement put this high quality trade in jeopardy, especially if scrap imports are drastically reduced – or completely prohibited, as by one interpretation.

Figures from the U.S. Census Bureau and the U.S. International Trade Commission (ITC) show that the United States exported 37 million metric tons of commodity grade scrap metal, paper and plastic commodities in 2016, worth \$16.5 billion.² Of that amount, China imported more than 16.2 million tons, valued at \$5.2 billion from the United States last year.³ This includes:

- Ferrous: 890,000 tons, \$661 million
- Copper: 670,000 tons, \$1.36 billion
- Aluminum: 692,000 tons, \$918 million
- Paper: 13.2 million tons, \$1.91 billion
- Plastics: 776,000 tons, \$282 million

ISRI estimates that, on a volume basis, approximately 18% of the above trade between the United States and China will be at risk and subject to the ban outlined under the July 18 Notification, or more than 2.9 million tons of specification-grade mixed paper and plastic scrap worth more than \$532 million annually. Further, there are rumors circulating throughout the global recycling industry that China plans on extending the ban to “mixed metals” (undefined) by the end of 2018. Any such ban on mixed metals will impact another significant percentage of exports from the United States to China, estimated to be worth hundreds of millions of dollars.

² Total volume of scrap processed within the United States in 2016 exceeded 129 million metric tons valued at more than \$54 billion.

³ This data is specific to mainland China and does not include exports from the United States into Hong Kong. Should the ban also impact exports into Hong Kong, an additional 783 million metric tons of scrap would be impacted, worth \$352.4 million.

2. Scrap is not Waste. Additionally, in China and in other countries, the terms “waste” and “solid waste” are inclusive of both trash and scrap, creating confusion and uncertainty within the U.S. and global recycling industry as to what materials are specifically intended to be included within the “solid waste” ban. In its July 27 statement the Government of China repeatedly states its intent to “comprehensively prohibit entry of foreign waste” by the end of 2019 and yet will put into place an enhanced “solid waste import licensing system.” Thus, it appears that China is banning some “waste” but continuing to allow the import and licensing of other “waste,” which we assume to cover the legal trade of scrap commodities. China’s announcements, as well as its July 27 statement, are very unclear about what “waste” is intended for import prohibition.

China’s notification to the TBT committee that the government intended to update the *Identification Standards*, we believed, was an opportunity for China to specifically define waste and define scrap and other recyclable materials. In comments submitted through the U.S. Enquiry Point to the TBT Committee, ISRI (with the support of counterpart organizations in Canada and Europe that submitted similar comments via their governments) specifically recommended language that makes clear these distinctions. Unfortunately, the final standard published on August 31 does not take on board any of the definitions nor changes in nomenclature that was proposed by the industry.

Simply put, scrap is not waste.

Waste – often called “trash”, “refuse” or “garbage – is a material that has no value and is not wanted. Wastes are disposed of because they are no longer useful.

In contrast, **Scrap** – often called “recyclable material” or “secondary material” – is a valuable commodity sold in the global marketplace according to industry-wide, globally recognized specifications as a raw material in lieu of virgin materials for manufacturing. Worldwide, more than 800 million metric tons of scrap commodities are consumed each year. Scrap is relied upon by manufacturers around the world as a competitive, environmentally preferable and energy efficient feedstock material. In its unprocessed form, it is derived from residential, industrial, manufacturing and/or commercial sources and is composed of ferrous, nonferrous, plastic, paper, glass, textiles and/or rubber. In its processed form, it is manufactured by processors to a specification grade to meet the needs of the industrial consumer.

Scrap is a product sold on the open market in competition with virgin raw materials. It is processed by scrap recyclers to one of hundreds of specification grades. Unlike waste, recycled materials are processed into commodity-grade specifications used by buyers and sellers of scrap around the world. As the predominant source of scrap specifications, **ISRI’s Scrap Specifications Circular** contains several hundred specifications covering ferrous scrap, nonferrous scrap, glass cullet, paper stock, plastic scrap, electronics scrap, and tire scrap (www.isri.org/specs). These specifications are used by industry members to facilitate the buying and selling of their materials and by customs officials for customs clearance

purposes.⁴ To that end, ISRI supports a ban on unusable waste that does not meet the specifications.

3. Timing is Unclear. The notification to ban certain scrap imports includes dates for “implementation” and “entering into effect.” By some interpretations, it is believed that shipments leaving originating ports after September 1 would be denied entry, even if they arrive before December 31. The Chinese Embassy in Washington believed December 31 to be the only date of concern, in which materials received after would be denied entry. We need to understand the appropriate timing, but no matter the correct answer, less than six months’ notice provides very little time for exporters to adapt. As a result, we expect a wide-ranging and negative impact on municipal waste collection systems nationwide that may be forced to send recyclable commodities to landfills if these materials cannot be exported to China or any other market. This could create discontent among households that have come to expect their efforts to separate recyclables from trash means more materials will be recycled, translating into negative political pressure on local governments. Our inquiries to the Chinese government have gone unanswered.
4. Prohibitive Technical Standards. The proposed changes to the *Environmental Protection Control Standards* include a reduction of the control requirement for “carried waste” to 0.3% for all commodities. ISRI is extremely concerned by this because the application of this standard will effectively result in a ban on the importation of all scrap commodities, not just those specifically targeted in the import ban notified to the WTO. It is simply not possible to achieve such a control level, nor is it possible to even measure it with such accuracy.

The current standards followed globally by the recycling community and our industrial consumers are found in ***ISRI’s Scrap Specifications Circular*** and vary depending upon the specific commodity. For example, for paper, “outthrows” (the equivalent term for “carried waste”) generally varies between 1% and 5%, depending upon the grade of paper. Similar levels are found in the plastic specs. These numbers were determined through an open and deliberative process within the global recycling community, and reflect manufacturing standards and needs. The same open process is utilized for all the other commodities as well.

In addition, the 80% weight requirement for “Metal and Electrical Appliance Scraps” (GB 16487.10-2017) contains a specific requirement that “the content of recyclable metal shall be no less than 80% of the total weight of metal and electrical appliance scraps.” In the United States, a 50% threshold is used when defining what is considered legitimate scrap metal for recycling. For consistency in the global trade, we would respectfully request that a uniform standard of 50% be used within China as well.

⁴ ISRI’s Scrap Specifications Circular has been used globally for more than 80 years, promoting consistency and quality in the trade of scrap around the world. In fact, the Government of India references the ISRI Specifications within their own rules concerning the import of scrap. The specifications are used by both India Customs and the Indian Directorate of Foreign Trade (DGFT) as a reference point for determining what materials are acceptable for import into India.

5. National Treatment. These technical standards described above were announced only in policies that impact imports of solid waste and scrap materials. There has been no indication that Chinese recyclers will be held to the same “carried waste” thresholds as imports.

6. Protectionism. In its July 27 policy statement, the Chinese Government makes specific reference to an intent to “[a]ccelerate construction of the domestic solid waste recycling system, establish a sound extended producer responsibility system, promote rural-urban household/personal waste classification, raise the recycling rate for domestic solid waste, and increase the amount of solid waste recycled from 246 million metric tons in 2015 to 350 million metric tons by 2020...and by the end of 2019, gradually halt the importation of solid waste that can be replaced with domestic resources.” We believe this has the potential to affect the remaining \$4.7 billion in scrap exports from the United States not covered in the import ban notified to the WTO in July, thus potentially devastating the entire U.S.-based recycling industry, as well as the global recycling industry. Although we agree with the Chinese Government’s intent to protect the environment from the world’s trash being dumped into its landfills, it can be construed that imposing a ban on imports of recyclable materials is a protectionist policy to support this industrial development, violating the principles of open and non-discriminatory trade policies espoused by the WTO.

Conclusion

ISRI fully supports China’s efforts to protect the environment and to increase recycling rates within China, and we have offered our support to provide information on best practices in the industry. We agree and support the need to separate unusable waste from high value, specification-grade commodities scrap and will continue to advocate for the adoption of **ISRI’s Scrap Specification Circular** as the global standard for evaluating waste and scrap imports. Such collaboration would go much further to help China address its environmental concerns than would restrictions on imports.

We express our appreciation to the Administration for reviewing this critical trade issue. We hope ISRI’s input provides a clear picture of what is at stake for the U.S. recycling industry and will be given careful consideration as China’s compliance with its WTO obligations is reviewed. If there is any additional information or clarification to these arguments we can provide, please reach out to me directly at rwienner@isri.org.

Sincerely,



Robin Wiener
President