



May 30, 2017

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

Dear Mr. Botwin,

The launch on April 19, 2017, by the Secretary of Commerce of an investigation to determine the effects of imported raw steel on national security – an action authorized by Section 232 of the Trade Expansion Act of 1962 – and the subsequent prioritization of that action by President Trump are key steps to address serious, growing threats to U.S. interests stemming from imports of steel and steel products. But without modifying the parameters of the case, these efforts may inadvertently fail to capture as much as a hundred million tons each year of finished steel products exported to the U.S. market from China, which effectively circumvent existing and potential future trade remedies.

The Rail Security Alliance, a new collaborative of American freight rail manufacturing interests, appreciates the opportunity to submit these comments, and we respectfully urge the Department of Commerce to broaden the scope of its Section 232 action to include steel freight rail parts imported from China. The evidence is compelling that Chinese government-owned interests have strategically targeted the freight rail sector and that they are systematically building the apparatus to allow massive quantities of steel exports from China to the United States to go unchecked, undermining U.S. steel and rail interests as well as broader U.S. economic and national security.

Criteria for Section 232 investigations are dual faceted, concerning both homeland security and defense, and U.S. economic welfare. Allowing finished steel products from China to flood the U.S. freight rail manufacturing sector poses urgent, critical threats to both facets, in these ways:

- First, allowing China to use a loophole in the scrutiny of steel imports into the United States will permit hundreds of millions of tons of Chinese steel into the U.S. market, further displacing jobs in the steel industry, which are already at grave risk;
- Second, allowing these imports to serve the Chinese government’s clear goal of undermining the U.S. rail manufacturing sector threatens collateral damage to an even broader segment of the U.S. manufacturing employment base and to the sustainability of the rail sector; and
- Third, allowing unfettered delivery of underpriced steel rail parts from China into the U.S. advances the aims of China’s government-owned rail business to displace the U.S. freight-rolling stock manufacturing sector. It likewise raises serious questions about national security and cybersecurity threats occasioned by forcing U.S. industry, the U.S. military, and other government interests to rely increasingly on the government of China for our freight rail needs.

### Critical Facts

1. *China is strategically targeting the U.S. freight rail manufacturing sector, with a first, aggressive step into U.S. transit rail assembly.*

The “Made in China 2025” initiative, a key component of China’s 13<sup>th</sup> Five-Year plan,<sup>1</sup> explicitly identifies the rail sector as a top target for Chinese expansion and has driven strategic investment and financing activities of the China Railroad Rolling Stock Corporation (CRRC) in third-country markets and the United States. According to Chinese state media, CRRC plans to increase overseas sales to \$15 billion by 2020, about double the level of export orders in 2014,<sup>2</sup> and there is little doubt that the U.S. market is a prime target.

CRRC is wholly owned by the Government of China and it has 90 percent of China’s domestic market for production of rail locomotives, bullet trains, passenger trains and metro vehicles.<sup>3</sup> In 2015, CRRC reported revenues of more than \$37 billion<sup>4</sup> — significantly outpacing the entire U.S. railcar market, which had \$22 billion of output during the same year.<sup>5</sup>

The strategy behind CRRC’s global expansion is evident in Australia, whose rail sector CRRC entered in 2008. In less than 10 years, CRRC effectively decimated the sector, undoing the other

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<sup>1</sup> U.S.-China Economic and Security Review Commission, *2016 Report to Congress*, November 2016, at 100.

<sup>2</sup> Brenda Goh, *China trainmaker CRRC to build more plants abroad in expansion plan: China Daily*, REUTERS, Dec. 5, 2016, <http://www.reuters.com/article/us-crrc-expansion-idUSKBN13U0EJ>.

<sup>3</sup> Langi Chiang, *China’s largest train maker CRRC Corp announces 12.2 billion yuan in contracts*, South China Morning REPORT, July 23, 2015.

<sup>4</sup> Macquarie Research, *CRRC Corp Ltd: Too big to roll too fast*, May 20, 2016, at 3.

<sup>5</sup> Oxford Economics, “Will We Derail US Freight Rolling Stock Production?,” May 2017, at 24.

four manufacturers in that country, which left only CRRC standing.<sup>6</sup> CRRC then leveraged its ability to ship an unlimited amount of Chinese-made steel parts for freight rail manufacturing into Australia, which CRRC then simply assembled into rail cars. CRRC also leveraged financing from its own government to help customers acquire its product at costs well below the market. Today, little Australian freight rolling stock manufacturing exists<sup>7</sup> – CRRC’s Australia footprint is almost exclusively that of an assembler of Chinese-made parts and a financier of purchases from CRRC.

In the United States, we have since 2015 witnessed CRRC establish assembly operations in five states, along with additional research and bidding operations in three others. Most of this activity focuses on the transit rail sector, but at least one new freight rail assembly facility launched when CRRC partnered with the U.S. business Vertex to create the newly incorporated Vertex Rail Corporation. A third partner in Vertex, it bears noting, is the Chinese government-connected finance firm Majestic Legend Holdings. By beginning with an aggressive investment strategy in the U.S. transit rail sector and deploying near-limitless financing from its home government on bids for new U.S. metropolitan transit projects, as well as maximizing its use of Chinese-made steel rail parts, CRRC has quickly established itself as an unbeatable force in U.S. transit rail competition. CRRC’s bids for metropolitan transit contracts in Chicago, Boston, Philadelphia, and Los Angeles were all successful, largely because CRRC priced each bid well below the next-highest bidders. Competing transit rail manufacturers in the U.S. market are feeling the pinch and many have begun to downsize U.S. manufacturing facilities and workforces,<sup>8</sup> with the prospects of more workforce reductions to come. Anticipating the opportunity to unseat other manufacturers here, CRRC announced that it is developing a 204,000-square foot plant in Springfield, Massachusetts, where it will assemble railcar components made of steel and other metals shipped from China to the United States.<sup>9</sup>

2. *China’s ability to sell cheap steel parts in the United States is key to its strategy targeting the U.S. freight rail manufacturing base, and it represents a vast opportunity to dump more steel into this country.*

While the U.S. transit rail sector is subject to certain domestic content requirements, and thus transit cars manufactured by CRRC need to include at least 60 percent U.S.-made components,<sup>10</sup> no similar requirements apply to freight car manufacturing.<sup>11</sup> Thus, China’s government-owned CRRC can pivot from its new stronghold in transit manufacturing to freight

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<sup>6</sup> *Id.*

<sup>7</sup> *Id.* at 15-16.

<sup>8</sup> See *UPDATE: GE closing 3 former Alstom plants in Chattanooga*, WRCA, June 21, 2016, <http://www.wrcbtv.com/story/32156061/update-ge-closing-3-former-alstom-plants-in-chattanooga>; *GE making layoffs at Salem plant*, WDBJ7, Mar. 24, 2017, <http://www.wdbj7.com/content/news/GE-making-layoffs-at-Salem-plant-417044683.html>.

<sup>9</sup> Jim Kinney, *CRRC MA Springfield plant has deal to build subway cars for Los Angeles*, MASSLIVE, Dec. 22, 2016, [http://www.masslive.com/business-news/index.ssf/2016/12/crrc\\_plans\\_final\\_assembly\\_of\\_los\\_angeles.html](http://www.masslive.com/business-news/index.ssf/2016/12/crrc_plans_final_assembly_of_los_angeles.html).

<sup>10</sup> Fed. Transit Admin., *Buy America*, accessed May 26, 2017, <https://www.transit.dot.gov/buyamerica>

<sup>11</sup> The lack of these requirements has served for many years to enable free and fair global competition in the freight car manufacturing supply segments, and need not be changed broadly.

rail manufacturing. CRRC's transit assembly plants can be easily converted to freight rail assembly, and this – combined with access to an unfettered flow of anticompetitive Chinese steel rail parts into the U.S. – creates the very real prospect that CRRC will displace U.S. freight rail manufacturers and their suppliers, causing irreparable damage to the U.S. market and U.S. interests.

The United States and other nations have filed numerous trade remedy cases against Chinese steel exporters in their home markets and at the World Trade Organization, all with the goal of protecting their economic and security interests against China's strategic targeting of their industries. Despite near-universal agreement on the detrimental effects of government-subsidized production and dumping, China continues to claim that ongoing counteractive measures are uncalled for and unfair, and has made no attempt to reduce steel production or limit its export to foreign markets. If anything, the failure of such measures only indicates China's steadfast dedication to exporting its steel, in any form it can.

Indeed, rail parts may offer China one of its best opportunities to dump steel into the United States: there is about 26 tons of steel in freight rail cars made and sold in the United States, and estimates are that U.S. freight rail manufacturing consumes some 100 million tons of steel each year,<sup>12</sup> making it among the most steel-reliant industries in our nation. To the extent that China's state-owned enterprise is allowed to build out its U.S. rail assembly operations and use anticompetitive tactics to grab market share from U.S. manufacturers, that nation is growing a virtually limitless repository for steel exports in the form of freight rail parts, most of which can avoid tariffs and other trade remedies today.

- 3. The U.S. freight rail sector supports nearly 65,000 U.S. jobs and represents some \$6.5 billion in U.S. GDP; all of this may be at risk without steps to address unfettered imports of Chinese freight rail parts.*

A 2017 study published by Oxford Economics outlines the full economic impact of continued Chinese investment in the rail industry. According to the study, if China is allowed through its unlimited supply of anticompetitively priced components to displace U.S. freight car production, 65,000 American jobs would be lost.<sup>13</sup> This massive loss would ripple across manufacturing and supply sectors. Furthermore, Oxford posits, China's actions could cause a \$6.5 billion loss in gross domestic product, sending shock waves across American industries.<sup>14</sup>

- 4. Forcing America's industrial, military, and other government interests to rely significantly or wholly on Chinese government-made freight rail cars raises grave security concerns.*

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<sup>12</sup> Internal data, combined with steel production numbers for 2015 from AISI  
[http://www.steel.org/Steel\\_org/document-types/news/2016/statisticalreport.aspx?siteLocation=c481cc99-d816-4613-805c-b90af33cc162](http://www.steel.org/Steel_org/document-types/news/2016/statisticalreport.aspx?siteLocation=c481cc99-d816-4613-805c-b90af33cc162)

<sup>13</sup> See *Supra* Note 5, at 4.

<sup>14</sup> See *Id.*

Unlike the U.S. maritime shipping industry, whose security is protected by the 100-year-old Jones Act – a measure that requires vessels transporting goods between U.S. ports to be U.S.-built and majority U.S.-owned – freight rail in America has been left comparatively unprotected. Yet the Department of Homeland Security (DHS) deems the U.S. rail sector as part of the nation’s critical infrastructure,<sup>15</sup> noting that 140,000 rail miles enable U.S. freight rail to run through every major American city and every military base in the nation. Freight rail transports not only military freight and industrial products, but also nuclear material and hazardous chemicals that can be safely and effectively transported only by rail. There are very real concerns, DHS has noted, about freight rail vulnerability, including through cyber-attack. As DHS reported in 2010,

*With the merger of information system technology and transportation infrastructure, railroad operations have become increasingly reliant on information systems and communications technologies. Rail companies have made growing use of onboard-computers, local area networks, automated equipment identifiers, global positioning system (GPS) tracking, automatic reporting of work orders to headquarters, car scheduling and train order systems, and two-way wireless communications. . . . Nearly all . . . rail cars are tagged with automatic identification transponders, which automatically record and report car location as it passes a wayside detector. . . . The railroad’s growing dependence on these centralized monitoring and control systems, including Centralized Traffic Control networks, prompts concerns of possible cyber-attacks upon these systems.<sup>16</sup>*

That assessment, written seven years ago, did not account for substantially more complex digital capabilities that have since evolved, or are in development, for U.S. freight rail cars and freight train operations. Yet the assessment underscores the clear danger of a foreign country, and particularly the Government of China and its state-owned enterprises, having undue control of freight manufacturing in the U.S. market.

Already, there are reports of Chinese manufacturers investigating the production of their own “telematics” technology to allow the monitoring and control of their freight cars.<sup>17</sup> Needless to say, as China’s CRRC becomes more dominant as a U.S. rail manufacturer, there are urgent questions we must answer regarding whether a growing presence of – and reliance on – freight cars from the major state-owned Chinese rail enterprise could compromise the security and safety of industrial, military, and other U.S. freight shipments.

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<sup>15</sup> Presidential Policy Directive 21 (PPD-21) identifies 16 critical infrastructure sectors, including “Transportation Systems.” The Department of Homeland Security defines “Freight Rail” as one of the seven key subsectors. See generally, PPD-21, *Critical Infrastructure Security and Resilience*, Feb. 12, 2013, <https://www.whitehouse.gov/the-press-office/2013/02/12/presidential-policy-directive-critical-infrastructure-security-and-resil> and *Transportation Systems Sector*, Dep’t of Homeland Sec., Mar. 25, 2013, <http://www.dhs.gov/transportation-systems-sector>.

<sup>16</sup> U.S. DEP’T OF HOMELAND SEC., *TRANSPORTATION SYSTEMS SECTOR-SPECIFIC PLAN: AN ANNEX TO THE NATIONAL INFRASTRUCTURE PROTECTION PLAN* (2010), at 285.

<sup>17</sup> *China plans ‘smart trains’ to take on global rail companies*, CHINA DAILY, March 10, 2016, [http://english.chinamil.com.cn/news-channels/2016-03/10/content\\_6952271\\_2.htm](http://english.chinamil.com.cn/news-channels/2016-03/10/content_6952271_2.htm).

Recommended Action

If the current Section 232 investigation focuses solely on raw steel exported into the United States, it ignores a dangerous loophole exploited by the Chinese. State-owned entities, like the CRRC, will continue to establish themselves in the U.S. rail industry and steel products will continue to enter the U.S. market virtually unchecked in the form of finished railcars and components. Consequently, a Section 232 investigation and subsequent government action are critical to protect vital U.S. national and economic security interests.

We at the Rail Security Alliance thank the Department for its consideration of our concerns, and we hope to work together on our common goal of protecting U.S. national and economic security at risk from steel imports, especially Chinese steel imported through manufacture of freight rail cars and related components.

Respectfully submitted,



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