



January 17, 2023

The Honorable Katherine Tai  
The Office of United States Trade Representative  
600 17th St NW  
Washington, DC 20006

**RE: Docket ID-USTR-2022-0014**

Dear Ambassador Tai:

The Rail Security Alliance (RSA) appreciates the opportunity to comment on the Office of the United States Trade Representative's (USTR) request for public comments regarding the section 301 investigation of China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation. We contend the tariffs bolster the domestic railcar industry by combating the anticompetitive tactics used by Chinese state-owned enterprises in the sector and urge USTR to maintain the current Section 301 tariffs on all railcar parts, as this represents U.S. policy which has spanned Republican and Democratic Administrations and has wide bipartisan support on Capitol Hill.

### **Introduction**

RSA represents the manufacturing segment of the rail industry in North America for freight railcars and the supply of railcar components. Working alongside congressional leaders, as well as current and past Administrations, we have advocated for a competitive playing field for domestic freight railcar manufacturers competing against the Chinese state-owned and subsidized rail enterprise (SOE), CRRC Corporation Limited (CRRC), as it pursues its goal of dominating railcar manufacturing in the United States and around the world. This \$28.6 billion SOE<sup>1</sup> has made aggressive and alarming inroads into the U.S. since its entry into the market in 2015. CRRC uses state-backed financing, direct government subsidization (\$1.3 billion since 2015)<sup>2</sup>, below-market pricing, and other anti-competitive tactics. Their goal is to decimate domestic railcar manufacturing and with the single end goal of producing all railcars in the People's Republic of China (PRC). This would wipe out American manufacturing in the process.

Our domestic freight railcar industry is a vital component of our economy. It supports more than 65,000 family-wage jobs and upwards of \$6.5 billion in GDP.<sup>3</sup> Freight rail is also a crucial part of America's critical infrastructure. It safely and efficiently carries hazardous materials, military equipment, key commodities, energy products, and everyday goods. In 2013, President

---

<sup>1</sup> CRRC Corporation Limited, [Annual Report 2020](#), April 2021.

<sup>2</sup> Oxford Economics, [Off Track: The Role of China's CRRC in the Global Railcar Market](#), July 2022.

<sup>3</sup> Oxford Economics, [Will We Derail US Freight Rolling Stock Production?](#) May 2017.



Obama and Vice President Biden recognized freight rail's importance to the security of critical infrastructure by issuing Presidential Policy Directive 21 (PPD-21), explicitly including the freight rail industry.<sup>4</sup> Given the challenges the nation's freight rail industry has faced, beginning with the COVID-19 pandemic and the country's ongoing economic and supply challenges, we must ensure the survival of the U.S. freight railcar industry. It is the cornerstone of our nation's transportation and infrastructure systems and is vital to every state in the U.S.

### **China's Aggressive International Expansion**

As noted above, over the past 8 years, CRRC has made aggressive inroads into the U.S. market in an attempt to decimate our domestic railcar manufacturing. The subsidies received by CRRC enable it to significantly underbid private companies for global rolling stock contracts, posing a direct threat to our domestic rail manufacturing industry and national security.

According to CRRC, its products are now offered in more than 104 countries and its share of the global rail and rolling stock market stands at 83%.<sup>5</sup> Further underscoring the threat from CRRC, in 2020<sup>6</sup> and again in 2022<sup>7</sup>, the Department of Defense included the firm in a list of major state-owned companies it says are effectively controlled by the Chinese military. Also in 2020, the Department of Treasury included CRRC in its Chinese Military-Industrial Complex Companies Sanctions List.<sup>8</sup>

CRRC's activities in Australia can serve as a blueprint of its designs for the American market. Within a decade of entering Australia's once-thriving domestic rail manufacturing industry, CRRC used its anti-competitive tactics to wipe out Australia's domestic rail manufacturing entirely in less than 9 years. Today, Australia's railcar manufacturing is completely controlled by CRRC.

CRRC also secured more than \$2.6 billion in U.S. taxpayer-supported transit contracts since 2015 to provide passenger railcars for the cities of Boston, Chicago, Philadelphia, and Los Angeles (federal funding is included in three of those contracts). CRRC underbids its competitors by 22% on average but has submitted bids as much as 50% lower than "Buy-

---

<sup>4</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.

<sup>5</sup> @CRRC\_global, "[Following CRRC's entry to Jamaica, our products are now offered to 104 countries and regions. So far, 83% of all rail products in the world are operated by #CRRC or are CRRC ones. How long will it take for us conquering the remaining 17%?](#)" Twitter, January 11, 2018.

<sup>6</sup> U.S. Deputy Secretary of Defense David L. Norquist. [Letter to Senator Tom Cotton](#). June 24, 2020.

<sup>7</sup> [DOD Releases List of People's Republic of China \(PRC\) Military Companies in Accordance With Section 1260H of the National Defense Authorization Act for Fiscal Year 2021](#), Oct. 5, 2022

<sup>8</sup> [Executive Order 13959 of November 12, 2020](#)



America” compliant companies with large manufacturing facilities in the United States.<sup>9</sup> CRRC also attempted to win several other transit contracts in the U.S., including one from the Washington Metropolitan Area Transit Authority (WMATA). However, these bids failed due to a combination of public and Congressional pressure, as well as the passage of the Transportation Infrastructure Vehicle Security Act (TIVSA).

CRRC has also turned its attention to the Canadian domestic market, further highlighting the need to address its encroachment into North America. In 2017, CRRC won a bid to supply Montreal’s transit system with 44 double-decker coaches.<sup>10</sup> That same year, CRRC announced a joint venture with ARS Canada Rolling Stock Inc. to build freight railcars in Moncton, New Brunswick. In 2019, ArcelorMittal purchased CRRC freight railcars for use in its mining operations. Currently, CRRC is bidding on \$2.3 billion project in Toronto to supply 480 subway cars. More recently, CRRC has also moved to the Mexican domestic market. In 2019, CRRC was awarded a \$1.5 billion contract to renovate Line 1 of the Mexico City metro.<sup>11</sup> In 2020, the firm won a \$60 million contract for the Monterrey Metro.<sup>12</sup>

### **China’s Anticompetitive Domestic Rail Market**

While CRRC has been making aggressive inroads internationally, the Chinese government has continued to implement hostile, anticompetitive practices toward foreign firms in China. They now have one of the most restricted procurement markets in the world.<sup>13</sup> For instance, foreign market access to China’s rail markets has decreased dramatically in recent decades. The Association of the European Rail Supply Industry (UNIFE) found that the Chinese rail market was only 17% accessible for the period of 2017–2019, as compared with 63% for the period of 2009–2011.<sup>14</sup>

China also has a long, continuing pattern of forced technology transfer in the rail sector. For instance, in 2004, the Ministry of Railways announced three tenders for the construction of high-speed trains. Each tender required foreign companies to collaborate with domestic partners and transfer key technologies to Chinese firms.<sup>15</sup> Forced technology transfers remain a lynchpin of China’s broader rail and high-speed rail development strategy. For example, the country maintains an ongoing requirement for 100% Chinese-owned technology in many procurement contracts. Foreign firms must also engage with majority-Chinese-owned joint ventures (JV) submit bids for contracts. These factors result in an effective mandate to transfer

---

<sup>9</sup> Nigel Cory, Information Technology and Innovation Foundation, [Heading Off Track: The Impact of China’s Mercantilist Policies on Global High-Speed Rail Innovation](#), April 2021.

<sup>10</sup> Railway Age, [First Look: Montreal’s CRRC Multilevels](#). February 2022.

<sup>11</sup> BNamericas, [Spotlight: Chinese companies’ growing railway footprint in Mexico](#). November 2020.

<sup>12</sup> Rail Journal. [CRRC wins Monterrey metro vehicle contract](#). December 2019.

<sup>13</sup> European Commission, [Study on the competitiveness of the Rail Supply Industry](#). November 2019.

<sup>14</sup> UNIFE. [White Paper on levelling the playing field as regards foreign subsidies position](#). September 2020.

<sup>15</sup> China Daily, [China gears up for high-speed rail plan](#). November 2005.



technology to Chinese firms.<sup>16</sup> Despite announcements by China's State Council to the contrary, procurement discrimination in the rail market not only persists but abounds.<sup>17</sup>

### **China's Subsidization of CRRC**

China continues to significantly subsidize its rail champion, CRRC. It is one of the most heavily subsidized companies in China. In fact, CRRC received explicit government subsidies of \$271 million in 2020 and almost \$1.3 billion from 2014 to 2020.<sup>18</sup> Like other Chinese SOEs, CRRC is the recipient of larger implicit subsidies. In a recent report, the Center for Strategic and International Studies estimated that direct subsidies to Chinese firms represent less than 20% of total industrial spending.<sup>19</sup> For instance, as one of the ten sectors China targets under the Made in China 2025 strategy, CRRC is also eligible to receive preferential subsidies and tax incentives for R&D.<sup>20</sup> In addition, China reduced the income tax rate for high-tech firms like CRRC from 25% to 15%, and raised the rate of additional deductions of R&D expenses from 50% to 75%.<sup>21</sup>

Equally troubling is the fact that CRRC makes clear that its chief obligation is to the Chinese state. Company executives and employees have direct ties to the Chinese Communist Party and the People's Liberation Army. According to a 2018 report, three of CRRC's current board members previously held high-level positions at state-owned defense companies, the Aviation Industry Corporation of China (AVIC) and the China Shipbuilding Industry Corporation (CSIC). Moreover, two former CRRC board members held positions at AVIC and the China North Industries Group Corporation Limited (NORINCO).<sup>22</sup>

---

<sup>16</sup> Nigel Cory, Information Technology and Innovation Foundation, [Heading Off Track: The Impact of China's Mercantilist Policies on Global High-Speed Rail Innovation](#), April 2021.

<sup>17</sup> Mingyan Xu, ["China's State Council Issued Measures To Launch New Round Of High-Level Opening-Up."](#) *Mondaq*, December 15, 2017

<sup>18</sup> Oxford Economics, [Off Track: The Role of China's CRRC in the Global Railcar Market](#), July 2022.

<sup>19</sup> DiPippo et al. The Center for Strategic and International Studies (CSIS). [Red Ink: Estimating Chinese Industrial Policy Spending in Comparative Perspective](#). May 2022

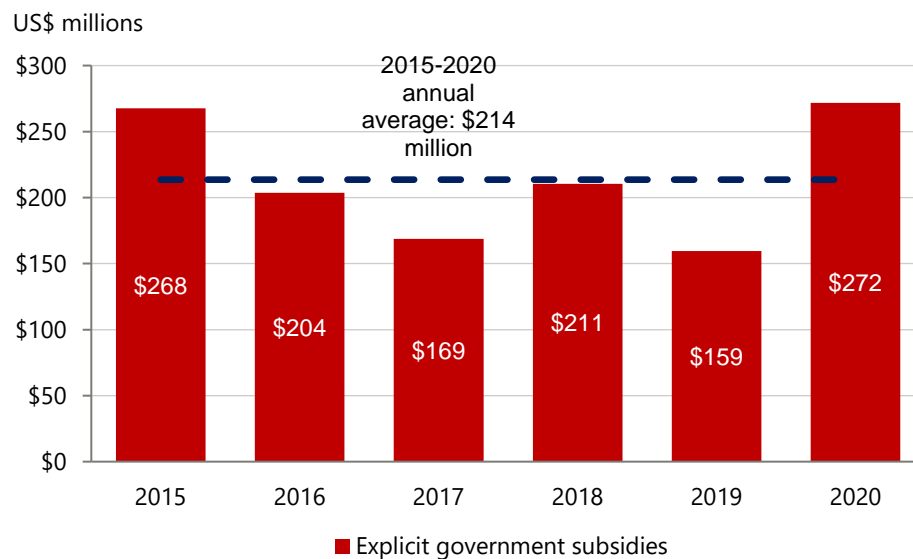
<sup>20</sup> Emily de La Bruyère & Nathan Picarsic. Radarlock. [Beijing's Dash for Global Rolling Stock Dominance](#). October 2019.

<sup>21</sup> UNIFE, [A call for urgent action: The Fast Expansion of China's State-Owned Rail Suppliers](#), November 2019.

<sup>22</sup> Brigadier General John Adams, US Army (Retired). (Oct 2018). (publication). [National Security Vulnerabilities of the U.S. Freight Rail Infrastructure and Manufacturing Sector – Threats and Mitigation](#).



**Fig. 1. CRRC explicit government subsidies, 2015-2020**



Source: Bloomberg, CRRC annual reports, Oxford Economics

### **Recommendation-Do Not Remove Section 301 Tariffs for Railcar Parts**

We urge you and the Biden Administration to build on the progress made through legislation such as the Transit Infrastructure Vehicle Security Act and other Executive action and ensure current trade agreements and tools are used to hold China accountable for its unfair and anti-competitive policies and practices. Section 301 of the Trade Act of 1974 is a key enforcement mechanism that can be used to address a wide variety of discriminatory acts, policies, and practices of U.S. trading partners. Current Section 301 tariffs are vital to aggressively and appropriately push-back on China. We applaud the Administration's decision to put in place a thoughtful system to review existing 301 tariffs. The tariffs are an essential tool to level the playing field against Chinese state-subsidized parts and fully-built railcars currently being sent into the U.S. market, and represents longstanding U.S. policy to push back against Chinese anticompetitive practices. We strongly support keeping the tariffs against Chinese railcar parts, railcar components, and fully built railcars and railcar kits in place.



For the facts laid out above, the dangers of removing tariffs on rail cars and rail products are clear: It would allow CRRC's anticompetitive actions to give China's government an even greater stronghold over the U.S. rail manufacturing market — from freight rail to transit. To put it bluntly, if the tariffs are removed, China will use its government-controlled manufacturing operations in the U.S. to import vast quantities of subsidized rail products into the country at below-market prices, displacing even more U.S. manufacturing and potentially decimating this vital domestic industry and the tens of thousands of jobs it supports.

The domestic freight rail manufacturing industry is a robust and thriving industry that supports over 65,000 jobs and represents \$6.5 billion in GDP. There has never been a time when the U.S. manufacturing industry could not fulfill all of the U.S. demand for these rail products with North American manufacturing facilities. These products have always been available from sources on the North American continent. Continued exclusions for rail parts and components would significantly harm the U.S. railway equipment industry.

### **Conclusion**

RSA commends the efforts of the United States Trade Representative and President Biden's continued vigilance toward the threat China poses to America's economy and manufacturing sector. Together, we can build a better and stronger America and keep the freight rail market in the U.S. thriving for decades to come. The President envisions railroads as a crucial component of future U.S. critical infrastructure; to ensure that the American freight rail industry survives to be a part of that future, we ask for the Administration's continued support of 301 tariffs for railcar parts.

Sincerely,

Erik Olson  
Executive Director  
Rail Security Alliance