Institute of Scrap Recycling Industries, Inc.
www.isri.org

Scott J. Horne
Vice President &
General Counsel
Direct: +1 202 662 8513
ScottHorne@ISRI.org

March 20, 2015

Mr. Dmitry Medvedev
The Prime Minister of the Russian Federation
The Kremlin
Moscow, Russia

Via email to: afanasova@minprom.gov.ru

Re: Proposed Amendments to the Collected Legislation of the Russian Federation, 2007, № 52, p. 6461, 2012, № 7, Art. 877 2014, № 6, Art. 588

Dear Prime Minister Medvedev,

The Institute of Scrap Recycling Industries (ISRI) respectfully submits our comments on the above referenced Proposed Amendments to the "List of Goods that are Essential For the Domestic Market of the Russian Federation, and With Respect to Which, In Exceptional Cases, Temporary Restrictions or Bans on Export Can Be Established" that would allow for restrictions on certain ferrous, non-ferrous and precious metals scrap. ISRI strongly urges the Government of the Russian Federation not to adopt the proposed amendments for the reasons outlined below. We submit these comments not because of any particular negative effect the proposed amendments might have on the scrap recycling industry in the United States but rather because of the significant adverse impacts such restrictions can have on the global marketplace for scrap metals and upon the Russian economy specifically.

ISRI is the "Voice of the Recycling Industry." ™ With headquarters in Washington, D.C., ISRI represents over 1,600 companies in over 40 nations worldwide that process, broker, and industrially consume scrap commodities, including metals, paper, plastics, glass, rubber, electronics, and textiles. The Institute provides education, advocacy and compliance training, and promotes public awareness of the value and importance of recycling to the production of the world's goods and services. For more information about ISRI, please visit our website at www.ISRI.org.

Scrap commodities are traded globally, in a dynamic marketplace that is extraordinarily sensitive to artificial intervention. Indeed, as I will discuss later, such artificial intervention has resulted in counterintuitive effects in a number of countries, especially the U.S., resulting in the industry sought to be protected facing higher prices than before the intervention. Thus, ISRI has always advocated the free and fair trade of scrap materials worldwide.

We are gravely concerned that the Russian Federation is considering legislation that would facilitate the imposition of export controls on scrap metals to increase the supply of scrap metals available to domestic industry. While it may be hard to conceptualize, domestic scrap prices in most countries are driven by the global prices for the particular commodity. Scrap materials, and scrap metals in particular, present one of the purest examples of basic supply and demand economics that we have in the global economy. Unfortunately, as such, even the slightest market intervention has the potential to disrupt the global marketplace for the scrap commodities affected by such intervention.

There are numerous examples of artificial intervention in the scrap markets. Virtually all of them have resulted in adverse, and sometimes disastrous, results. Perhaps the greatest example we can learn from the history of artificial intervention in scrap markets is a huge mistake the United States made in the 1970s. Export controls were imposed on ferrous scrap exports during the period of 1973-1974. U.S. steel producers argued that scrap exports were creating a domestic scrap shortage and that foreign scrap buyers were thereby raising the cost of U.S. steel to domestic industries. R. Shriner, Control Reversal in Economics: U.S. Scrap Export Restrictions.[1] The objective of the restrictions was to retard the outflow of scrap to foreign users to protect the supply available for domestic users and reduce the level of scrap price increases.[2] Restrictions were placed on the amount of scrap exported from the U.S. in early 1973 and extended to 1974. Despite the imposition of export controls, the domestic price of scrap continued to rise at an accelerating rate through 1973 and into 1974.[3] During this period, global ferrous scrap purchasers were agreeing to prices substantially above the U.S. domestic market level because the rising demand for steel and the restricted supply of scrap caused foreign buyers to compete vigorously for the available supply.[4]

The 1977 Shriner study of the after-effects of the export controls imposed by the U.S. on ferrous scrap provided an explanation for the increase in domestic scrap prices during the period the controls were in place.

> *In the absence of export controls, foreign and domestic scrap are part of the same market and their prices move essentially in harmony. Only when the*

---

[1] R. Shriner, Control Reversal in Economics: U.S. Scrap Export Restrictions, The Business Economist, p. 3 (1977).
[2] Id.
[3] Id.
[4] Id.

> *export controls were imposed did a significant divergence from their traditional relationship emerge. Therefore, any effect on domestic scrap price that is attributed to foreign scrap price must ultimately be attributed to the export restriction itself.*
>
> *. . . It appears that both buyers and sellers of scrap in the U.S. failed to anticipate or recognize the fact that the traditional relationship between domestic prices and export prices could not be maintained once export controls were applied. Seeing export prices skyrocket and expecting the domestic prices to remain in its normal relationship to export prices, buyers and sellers may well have been led astray by plausible but naïve expectations of market behavior based on previous conditions.*[5]

The report concluded that the evidence suggests the scrap export restrictions actually caused domestic scrap prices to rise more than they would have without restrictions and caused the U.S. steel industry to spend approximately $2 billion more for ferrous scrap in 1973 and 1974 than it otherwise would have.[6]

If the Russian Federation were to limit the supply of scrap available to foreign purchasers that action can, as it did in the U.S., cause them to compete for the remaining available scrap and drive the export purchase prices up. Therefore, assuming ferrous scrap trades freely in the Russian Federation, the closely related domestic price will likely follow suit and increase. The objective of imposing controls is typically to reduce the domestic price, not to cause an increase. However, as demonstrated by the Shriner study, imposing controls on scrap metal exports could have the perverse effect of causing the exact opposite of what is intended.

Aside from the purely economic effects that export restrictions can have, the imposition of export controls or restrictions on the export of scrap metals may violate the Russian Federation's obligations under the international trade agreements of the World Trade Organization ('WTO"). The General Agreement on Tariffs and Trade ("GATT'), which is the underlying basis of the WTO agreements, generally prohibits restrictions on the exportation or sale for export of any product destined to a WTO member country. Specifically GATT Article XI (1) states:

> No prohibitions or restrictions other than duties, taxes or other charges, whether made effective through quotas, import or export licenses or other measures, shall be instituted or maintained by any contracting party on …

[5] Id. at 5.
[6] Id.

the exportation or sale for export of any product destined for the territory
of any other contracting party.

Clearly, unless some exception to the general prohibition contained in Article XI would apply, the imposition of export controls on scrap metal would be prohibited by Article XI.

In summary, we urge the Government of the Russian Federation, to reconsider any notion it may have to restrict the export of scrap metals solely for the benefit of its domestic industries. The global scrap recycling industry has provided many benefits in humanity's efforts to conserve our natural resources and the precious air and water that we all so deeply rely upon. To undermine the industry's efforts in preference to domestic consuming industries could lead to devastating results in so many ways. ISRI hopes the Russian Federation understands that our comments today are in no way meant to be a criticism. Quite the contrary, ISRI hopes you will receive these comments in the way they are intended, which is to share the experiences of others who have implemented similar programs before the Russian Federation, so that you may benefit from knowing the results of their efforts.

Sincerely yours,

Scott J. Horne