

Trends in Price Structures and Risk Management

new tools to meet the needs of changing markets



Topics

Raw material
price volatility



✓ Financial
hedging

✓ Forward
price curves

World Steel
Exchange

✓ Scrap





NOVEMBER 9 -10, 2011 | HYATT REGENCY | CHICAGO, IL

Presented by:

Patrick A. McCormick

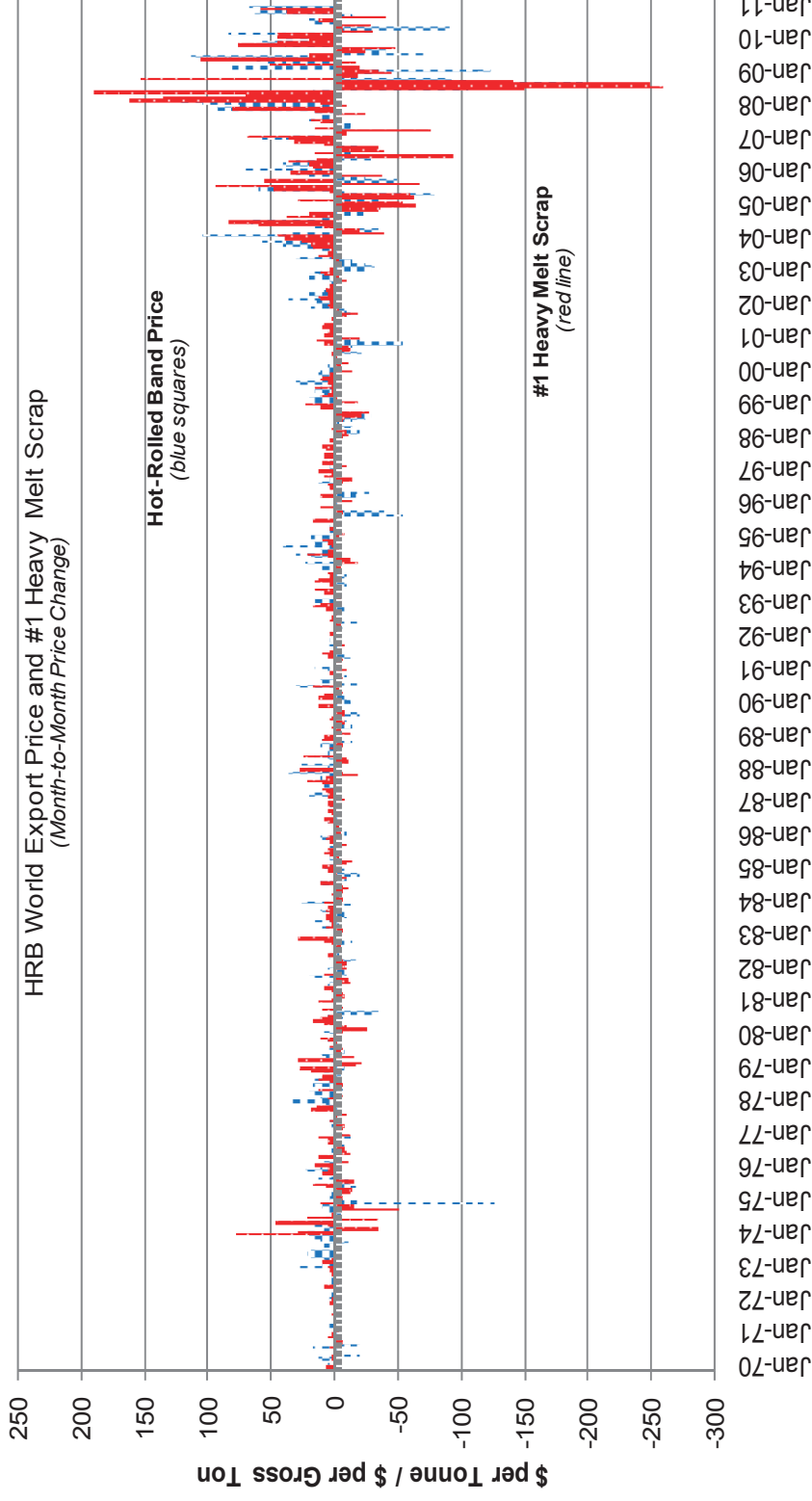
Managing Partner – WORLD STEEL DYNAMICS

***President – WORLD STEEL EXCHANGE
MARKETING***

November 10, 2011

Many players in the global steel industry now recognize that managing the risks associated with increasing price volatility is an essential need.....just like sleep and water

Steel Buyer/Seller Cardiac Arrest



Source: PriceTrack , SteelBenchmark™ and AMM

USA Scrap Price History

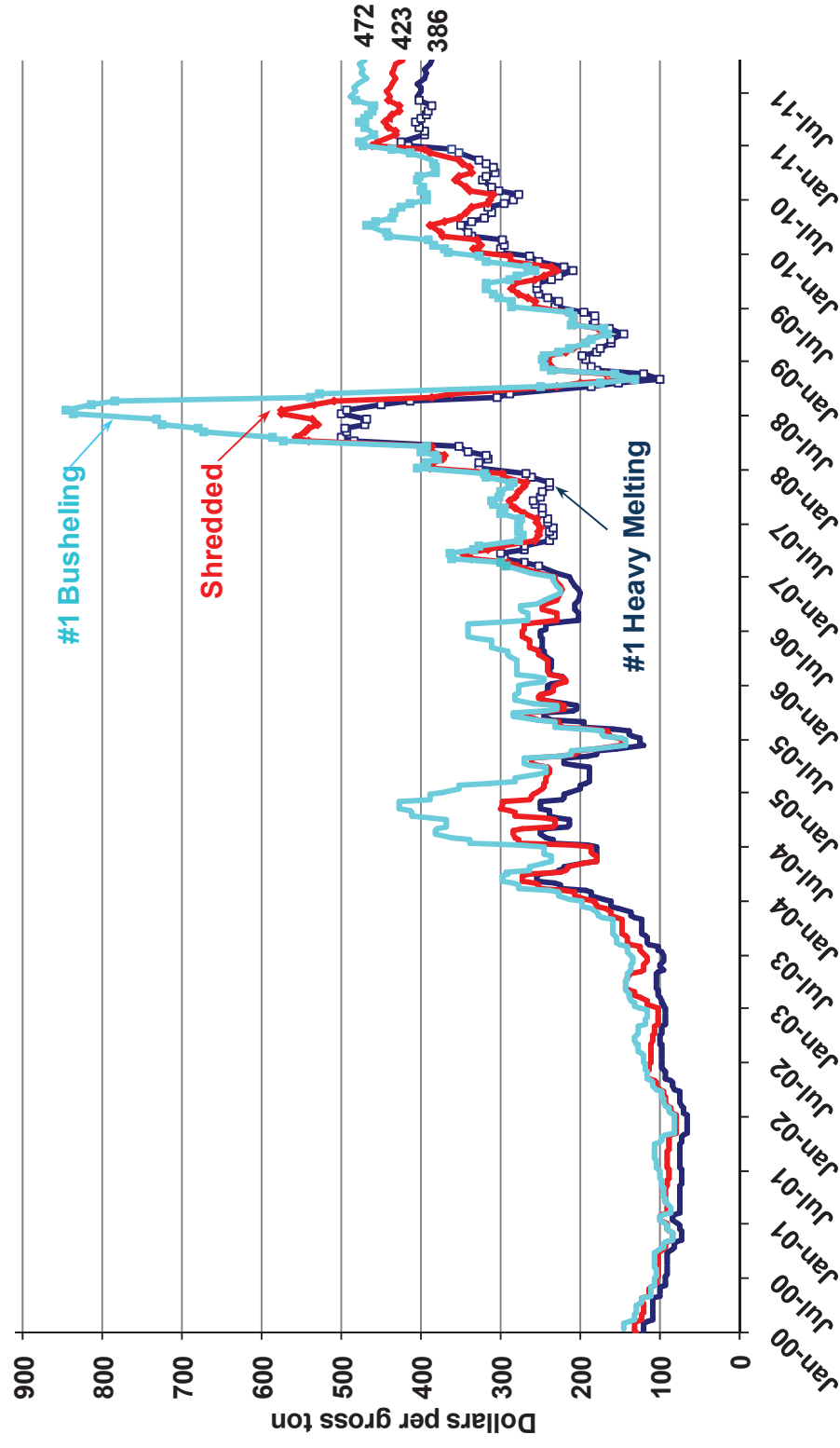
www.steelbenchmark.com



USA, delivered to steel plant

(AMM scrap price data, Jan. 2000 - Jan. 2007; SteelBenchmark data begins Feb. 2007)

October 26, 2011



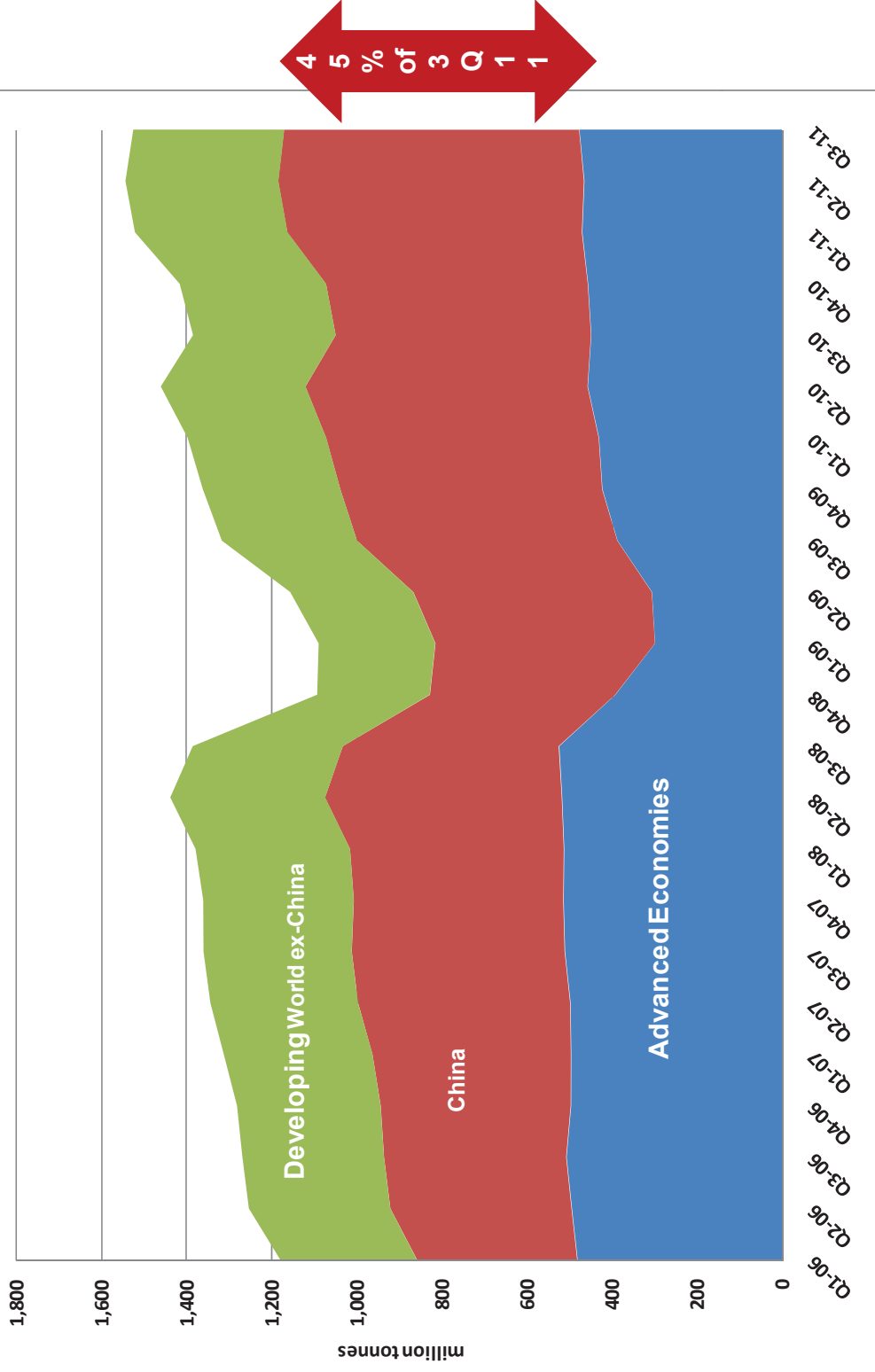
SteelBenchmarkerTM

*“Very high correlation (0.999) with RMDAS published
USA composite scrap prices for #1 HM, Shredded & #1 Busheling”*

- Easy internet access with a secure computerized roll-up process
- All qualified market participants can become a market price assessment provider at www.steelbenchmarker.com
- Collecting market price assessments from mills, end-users, traders, distributors, and scrappies
- WSD has deep experience in collecting market prices:
 - WSD PriceTracker series initiated in 1981
 - **SteelBenchmarkerTM** carried on in April 2006 → **Free Access**
- Multi regional prices for HRB, CRC, Plate, and Rebar.
 - USA scrap prices for #1 HM, shredded, and #1 busheling added in February 2007

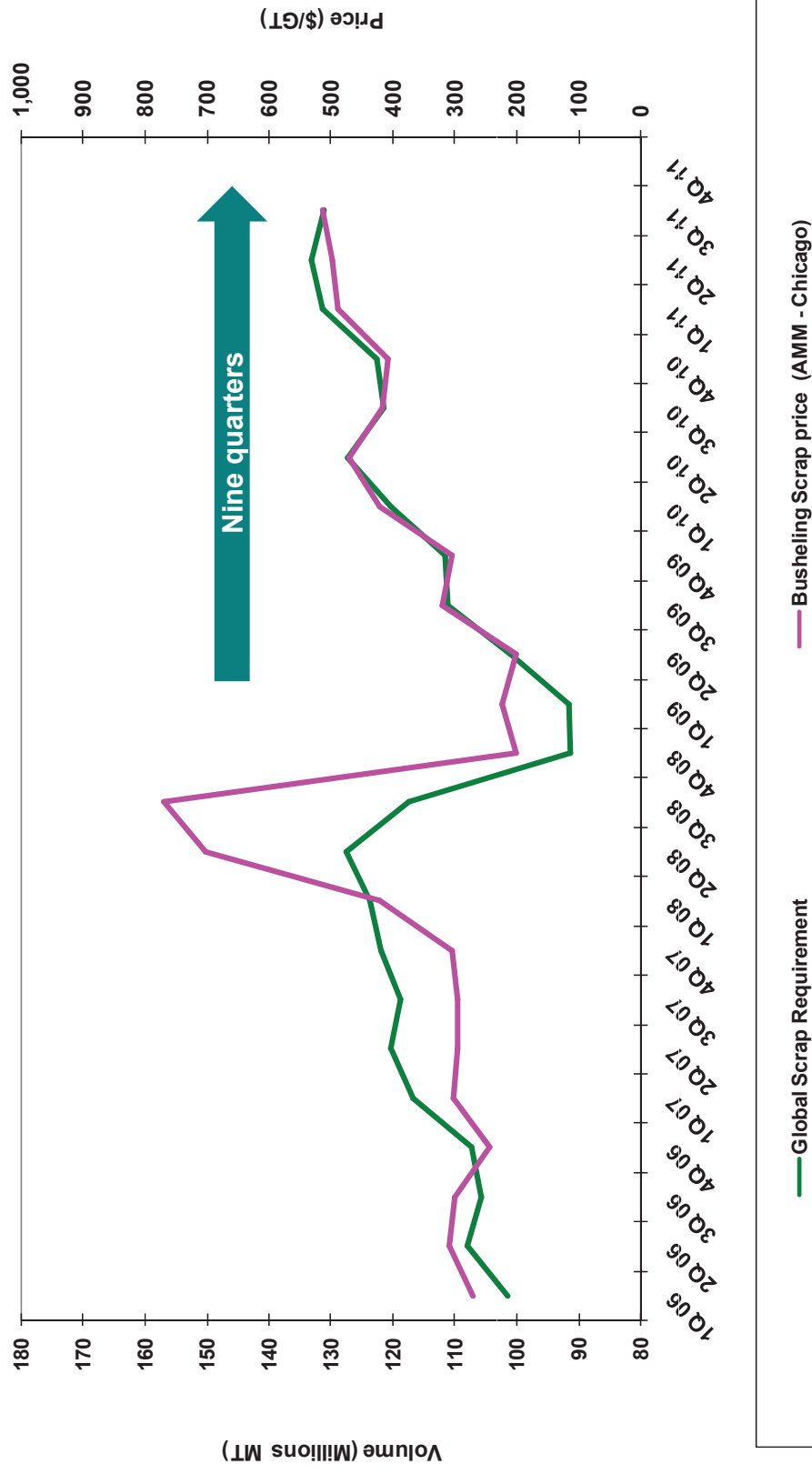
China's 3Q11 steel production was 45.4% of the global total

Quarterly Crude Steel Production (Annualized)



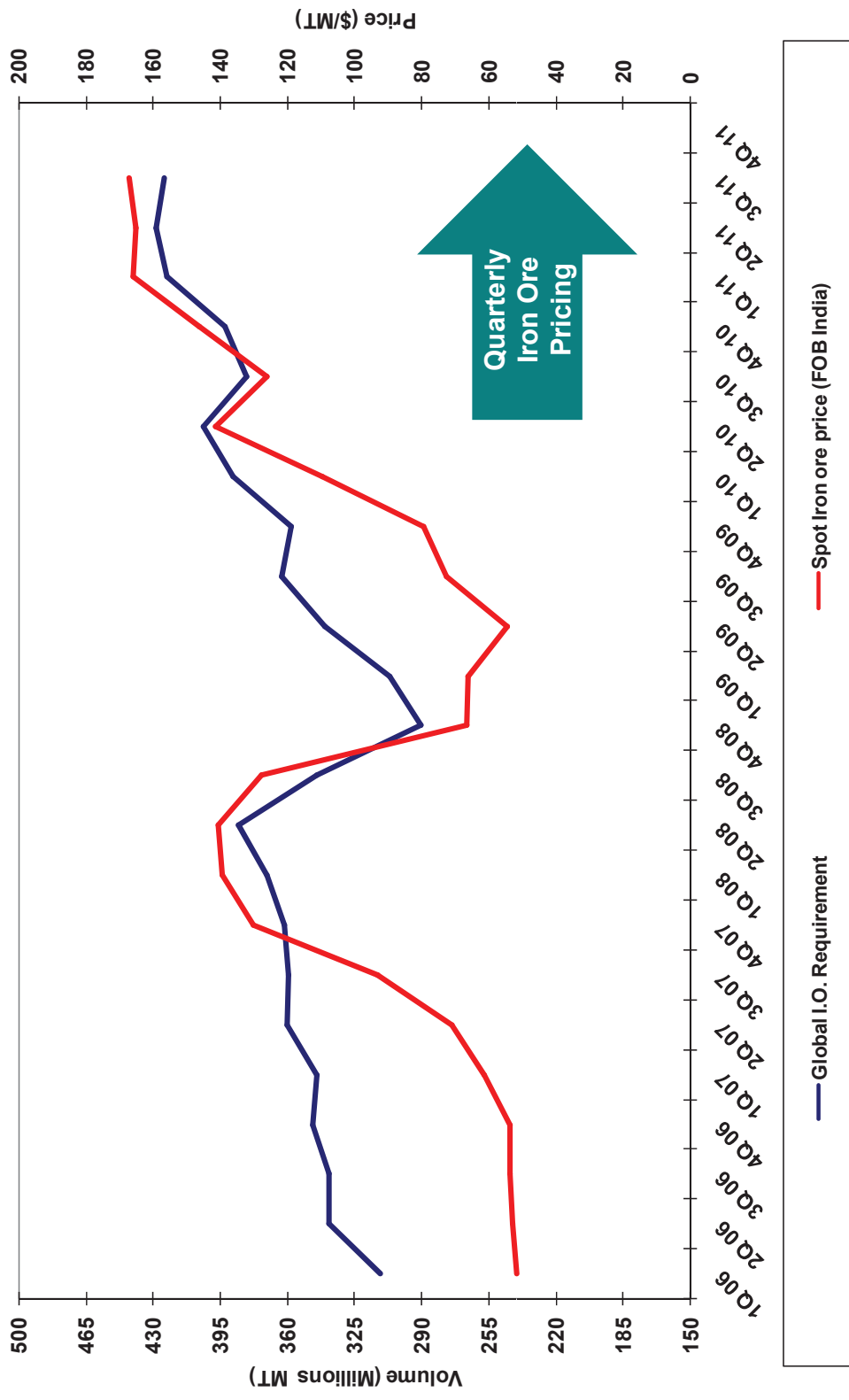
*USA #1 busheling price changes over the past nine quarters
are tracking well with global scrap demand changes*

Busheling Scrap Price Elasticity Analysis



India spot iron ore prices also starting to track well with global iron ore demand in 2010

Spot Iron Ore Price Elasticity Analysis



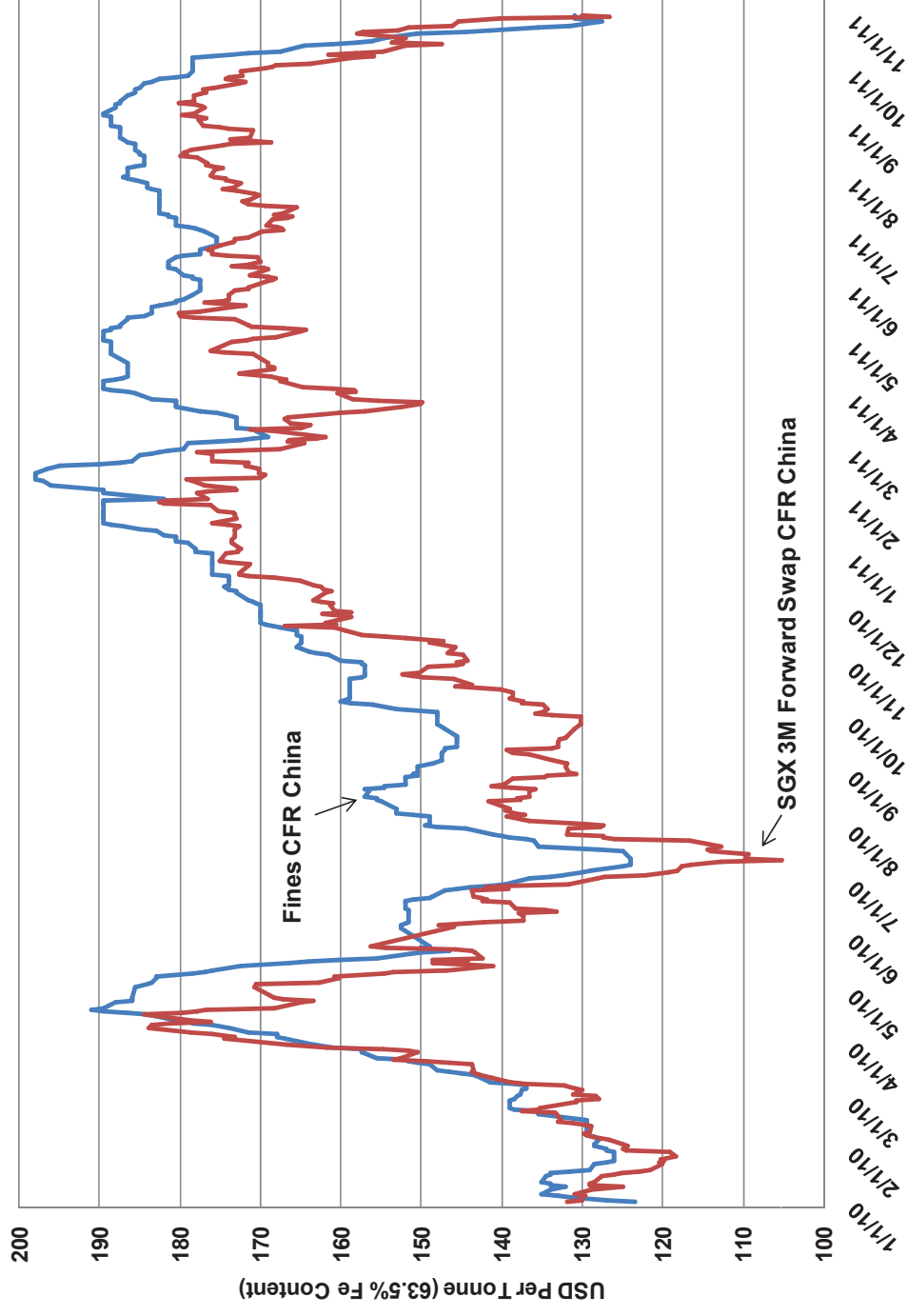


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Spot iron ore prices plunge in October 2011

Daily Iron Ore Spot Price versus 3 Month Forward Swap Price



Source: MetalBulletin and Singapore Exchange

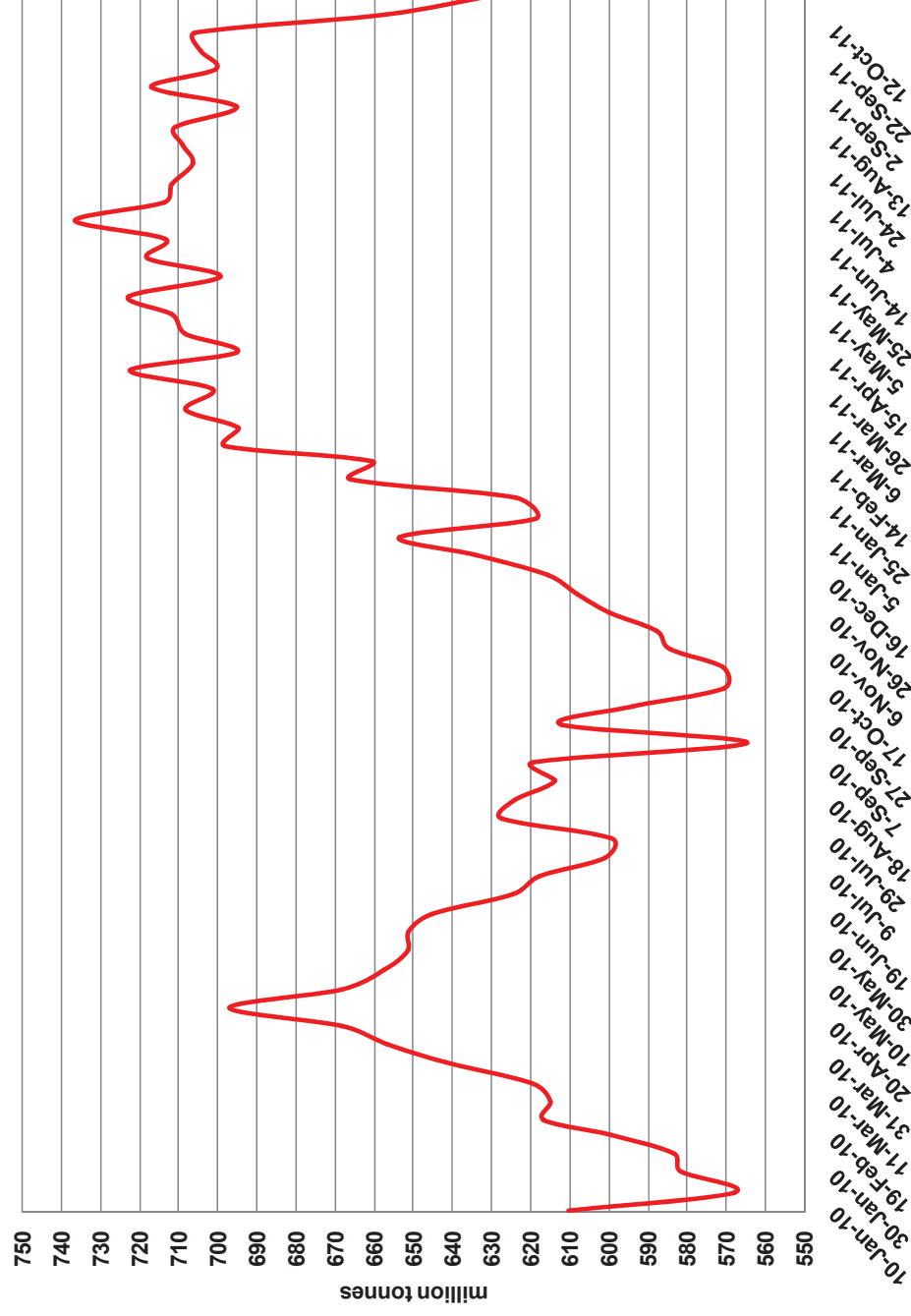


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China's annualized steel production rate drops 79M tonnes in October 2011

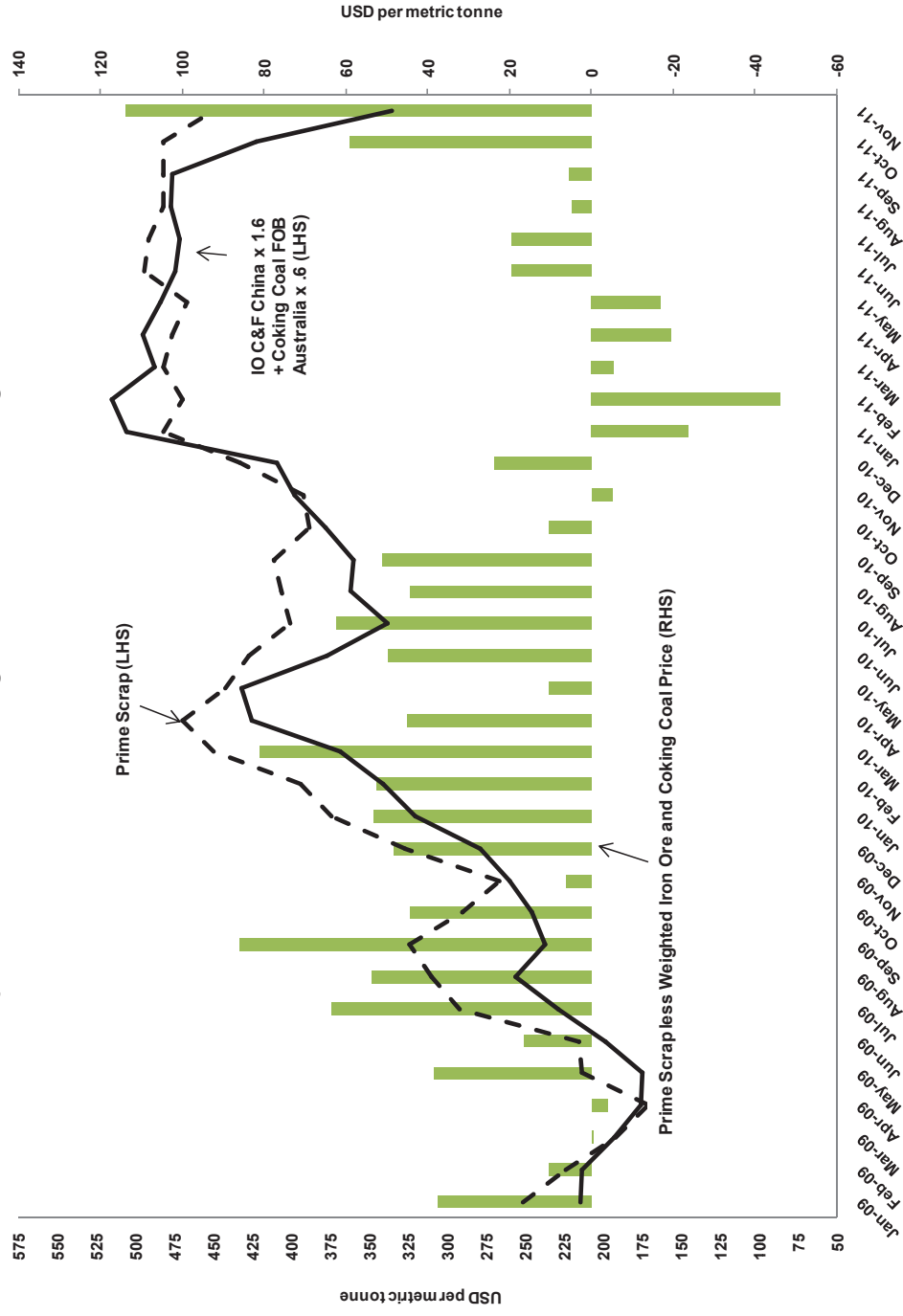
China 10 Day Annualized Crude Steel Production Figures



7
9
M
D
r
o
p

Huge iron ore price drop threatens steel scrap prices via lower pig iron raw material costs

Prime Scrap Delivered USA versus Weighted Iron Ore and Coking Coal Price Index



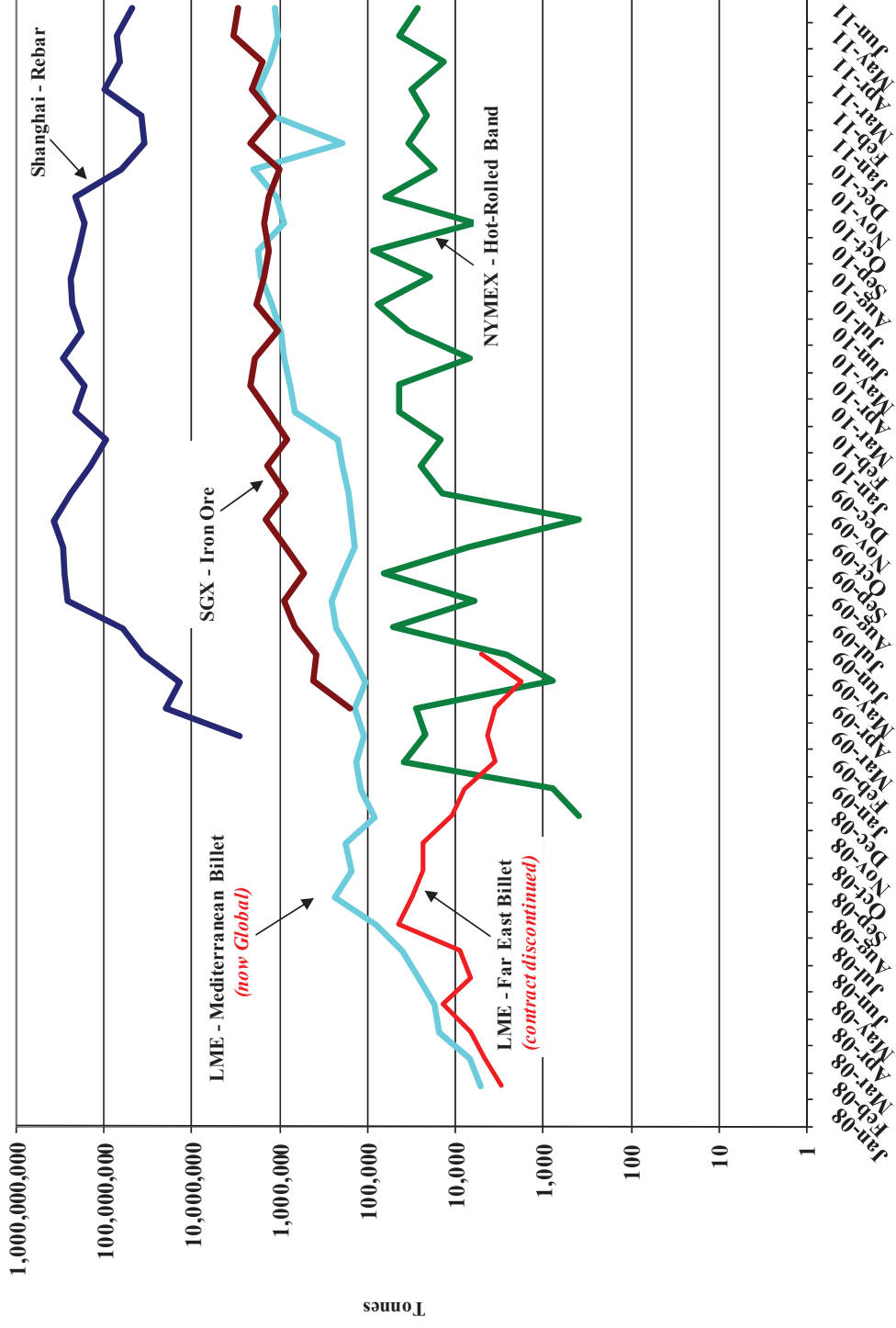
When should you consider financially hedging price risk

The following quotes frame the hedging rationale
from a steel industry player:

*“ I choose to financially hedge when the risk from market
price volatility is a large percentage of my profit margin!*

*“If the risk from market price volatility is a small percentage
of my profit margin I am willing to take the risk!*

Steel industry futures/swap trading volumes are growing

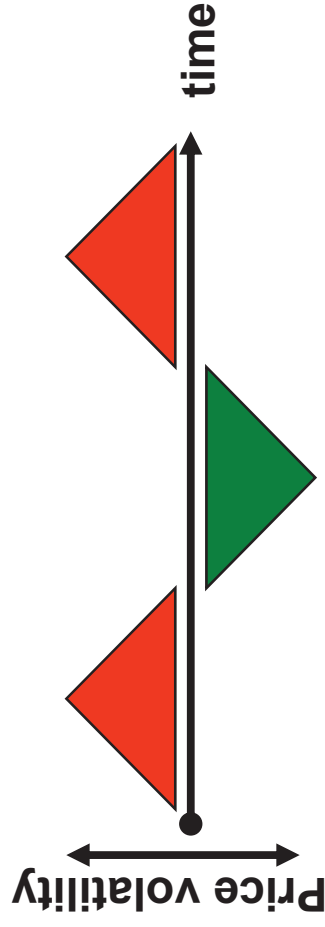


Financial hedging offers steel industry participants a unique value proposition

- ✓ Forward price curve from which to judge hedging opportunities
- ✓ Timing flexibility on forward price commitments
- ✓ Guaranteed contract performance
- ✓ No North American exchange clearing house has ever defaulted

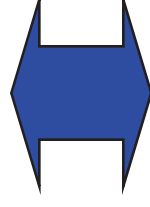
Financial hedging off-sets physical steel contract price risks

Physical Contract
Price Variation



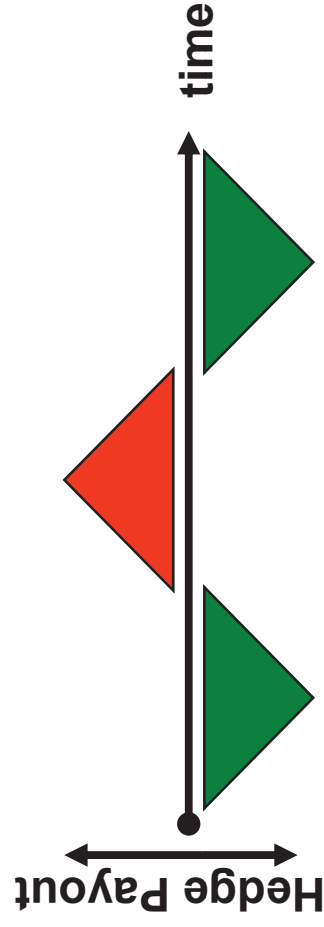
Physical Contract

Price volatility flows thru
via changes in the price
index



= Fixed Price

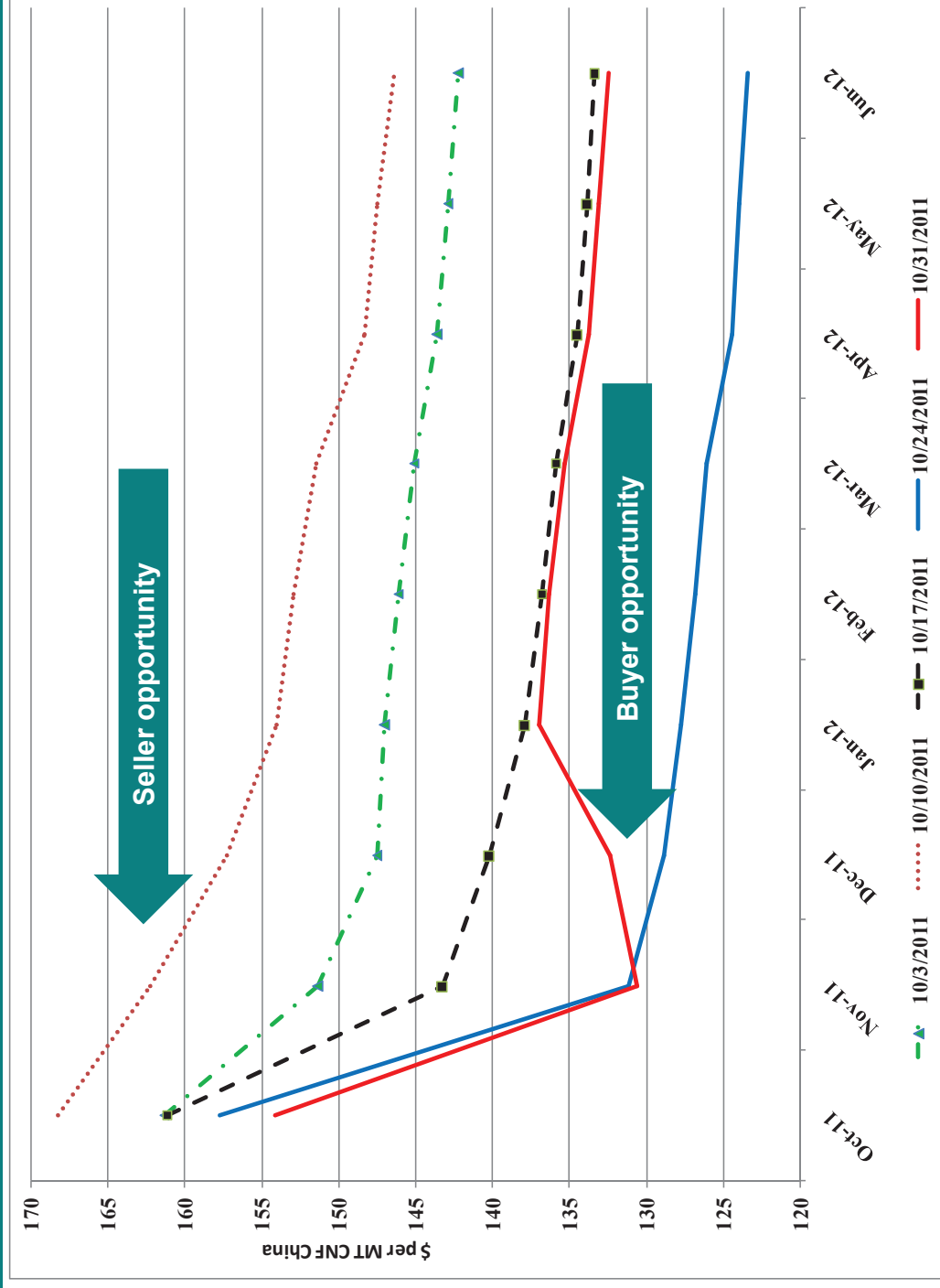
Financial Contract
Hedge Payout



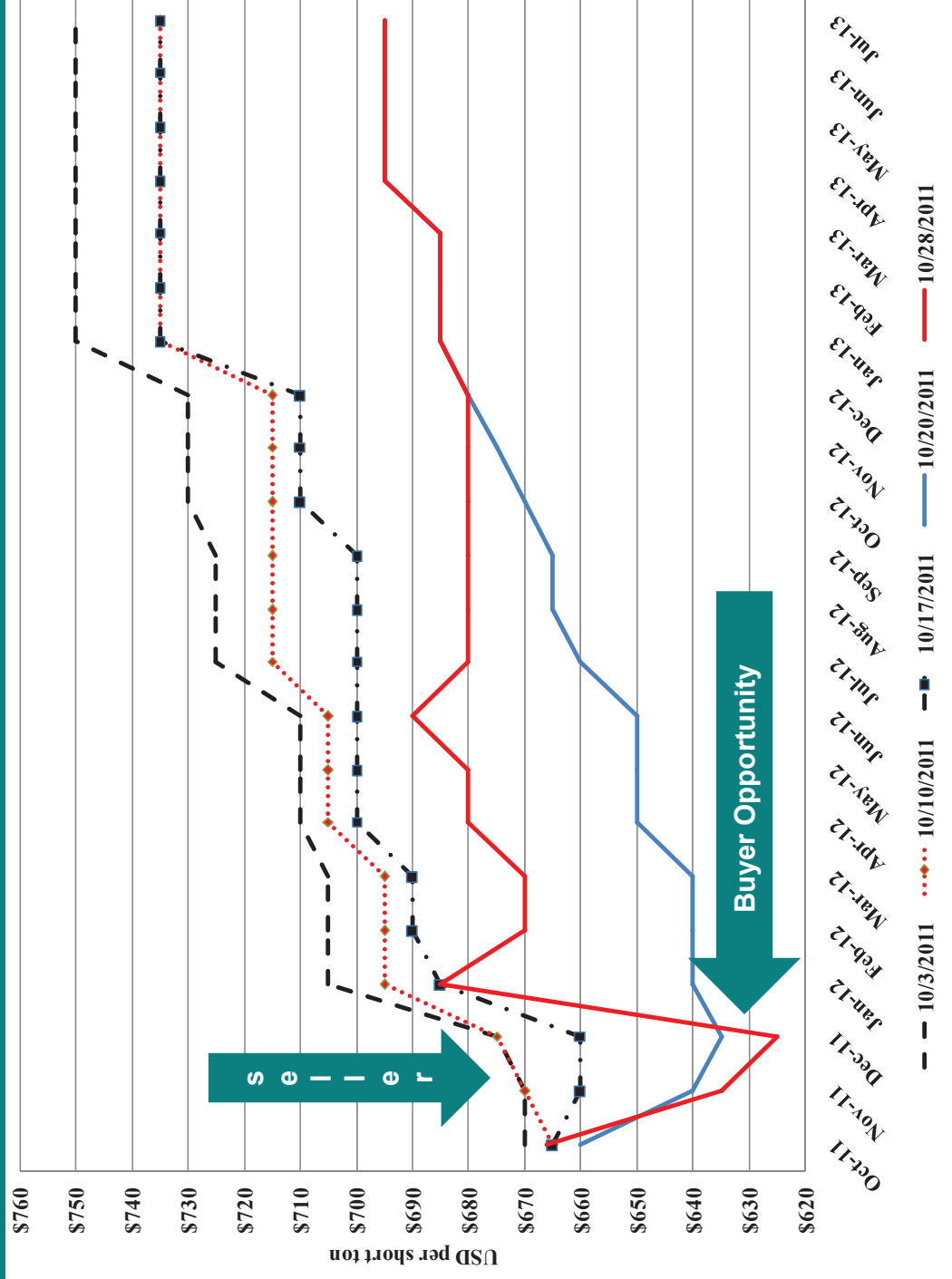
Financial Contract

Hedge payout is the
reciprocal of the changes
in the price index

SGX cleared iron ore swap forward curve weekly snapshots



CME/NYMEX hot-rolled coil forward curve weekly snapshots



Step 1 is understanding the price correlations of the financial tool

This is Very important when using financial derivatives to hedge

LME Billet Correlations to Other Product Indices

| | SteelBenchmarker™ | | | CME/CRU | SGX/TSI | | (last day) |
|-------------------|-------------------|------------|------------|------------|------------|----------|------------|
| | #1 HMS | Shredded | Busheling | HRB | 62% China | Iron Ore | LME Billet |
| 9-May-11 | 391 | 427 | 461 | 760 | 170 | | 555 |
| 13-Jun-11 | 403 | 442 | 483 | 722 | 171 | | 572 |
| 11-Jul-11 | 401 | 443 | 483 | 680 | 171 | | 591 |
| 8-Aug-11 | 406 | 436 | 481 | 695 | 176 | | 622 |
| 12-Sep-11 | 395 | 437 | 476 | 675 | 178 | | 584 |
| 10-Oct-11 | <u>396</u> | <u>440</u> | <u>477</u> | <u>635</u> | <u>158</u> | | <u>543</u> |
| 6 Mo Correlation | 0.734 | 0.159 | 0.499 | 0.023 | 0.785 | | 1.000 |
| 22 Mo Correlation | 0.899 | 0.898 | 0.810 | 0.595 | 0.818 | | 1.000 |

World Steel Exchange Update

A strong combination is underway

- ✓ A partnership with a well established exchange to power World Steel Exchange trading is in the kitchen – *stay tuned*
- ✓ WSEM/WSD brings a seasoned group of steel industry professionals
 - ✓ *Relationships with many global steel industry players*
 - ✓ *Hands-on price risk management experience with steel industry clients*
 - ✓ *Experts in the gathering and processing of high quality steel price indices*
- ✓ The exchange brings well established trading technology, clearing, and connectivity to the trading community
- ✓ Direct involvement by the Steel Industry will be a game-changer in promoting World Steel Exchange trading activity
- ✓ Phase 1 product launch will include USA ferrous scrap contracts for: #1 heavy melt, shredded and #1 busheling

There is scrap industry support for scrap futures

- Increased price volatility has added to inventory price risk
- Some scrap processors have financial hedging experience
 - *Successful non-ferrous hedging experience tees up interest in hedging steel scrap*
- Some believe applying their hedging expertise to steel scrap can become a marketing advantage
 - *Able to provide fixed price quotations to customers*
- Steel scrap purchases from manufacturers are often already price indexed

Thank you for your kind attention



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Global Steel Information System (GSIS)

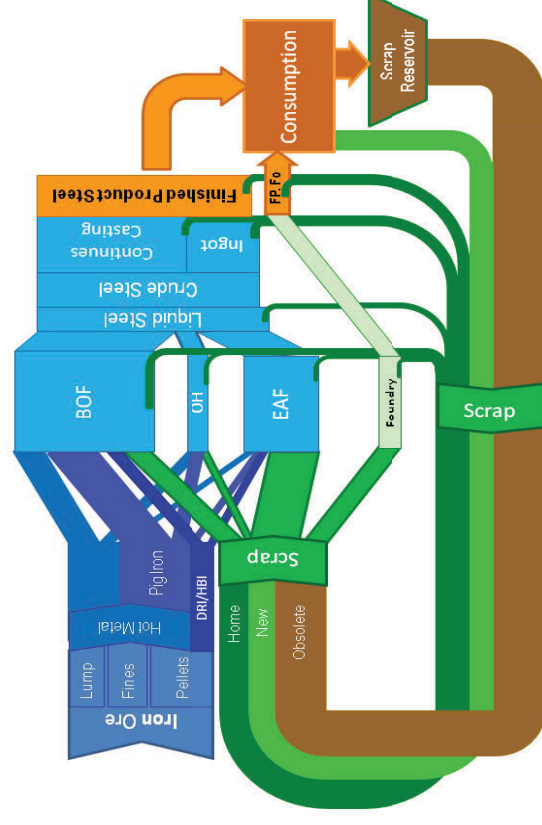
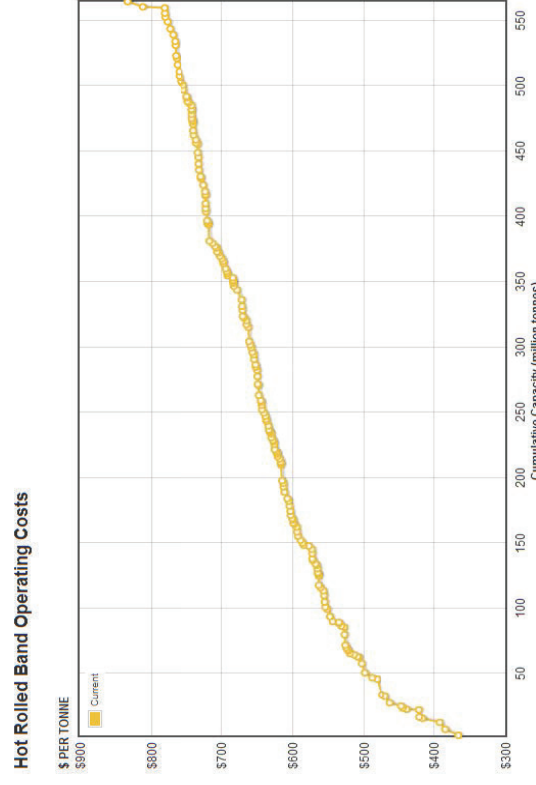
Boosting Your Steel IQ

World Cost Curves:

- Steel Sheet
- Steel Billet/Rebar/Wire Rod
- Steel Plate
- Coking Coal*
- Iron Ore
- Pig Iron/DRI/HBI

Global Metallics Balance

- Forecast to 2035
- All major metallics:
 - Iron Ore
 - Steel Scrap
 - Steel Scrap Substitutes
 - Coking Coal & Coke

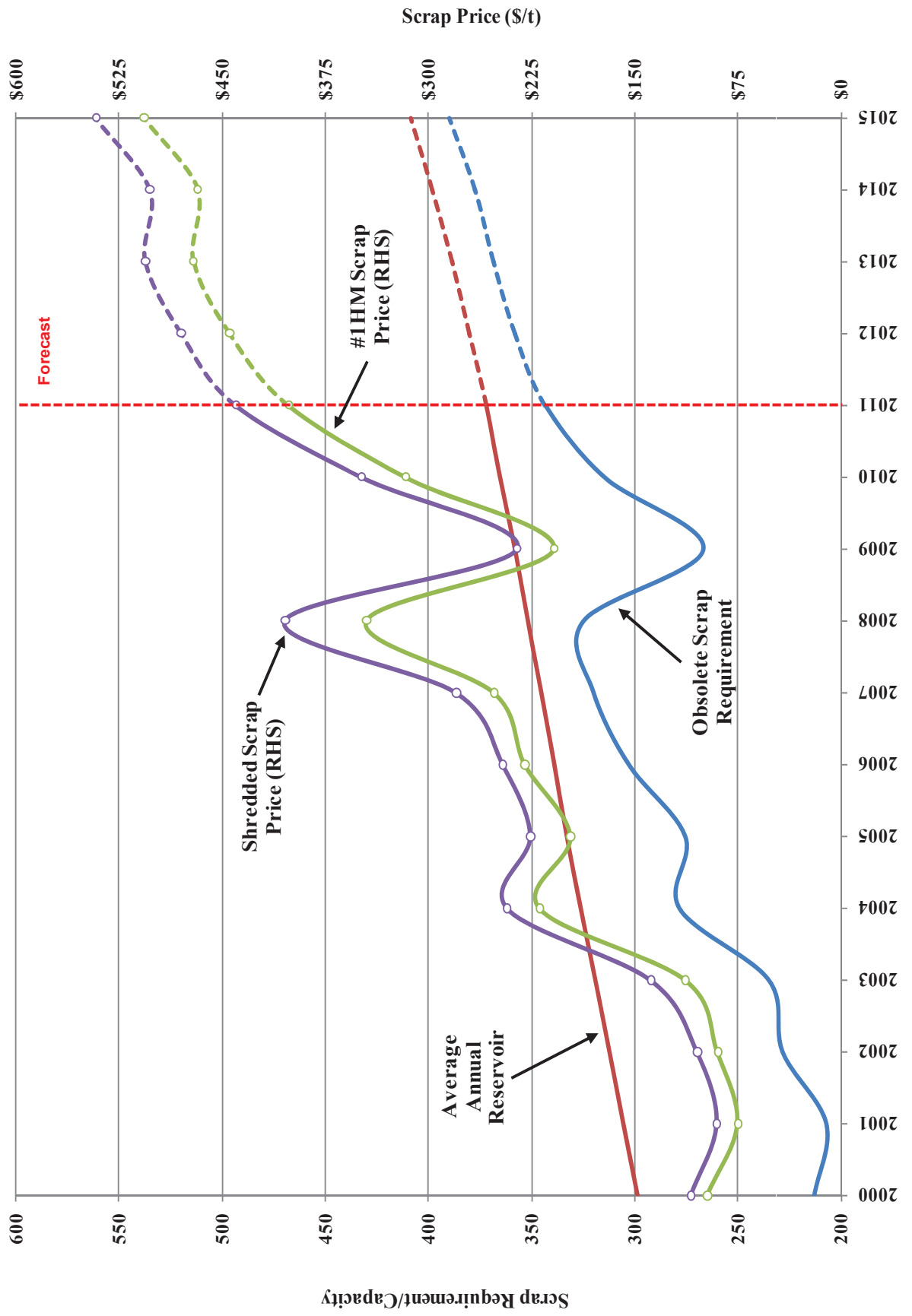


Global Metallica Outlook

Revelations from the GSIS

- ❖ A massive spike in the price of obsolete steel scrap could occur in the 2015-2016 time-frame.
 - Key Question: Will the global economy and steel demand growth remain positive in 2012 – i.e. can we clear the second “financial crisis hurdle?”
- ❖ China will drastically alter the global obsolete steel scrap supply/demand balance by 2025
 - And, as a result, will alter the landscape for the pricing and S/D of iron ore, coking coal, and other key steelmakers’ raw materials
- ❖ Should the global economy and demand for steel products slow in 2012 the steel industry will have a flatter cost curve which further drives increased competition
 - Chinese demand growth will not be enough to sustain high prices of raw materials, leading to a flatter cost curve to produce pig iron globally

The Secret Behind Steel Scrap Pricing



Macro perspectives on the future of galvanizing

Kareem Barbir, Market Analyst

20 September 2012



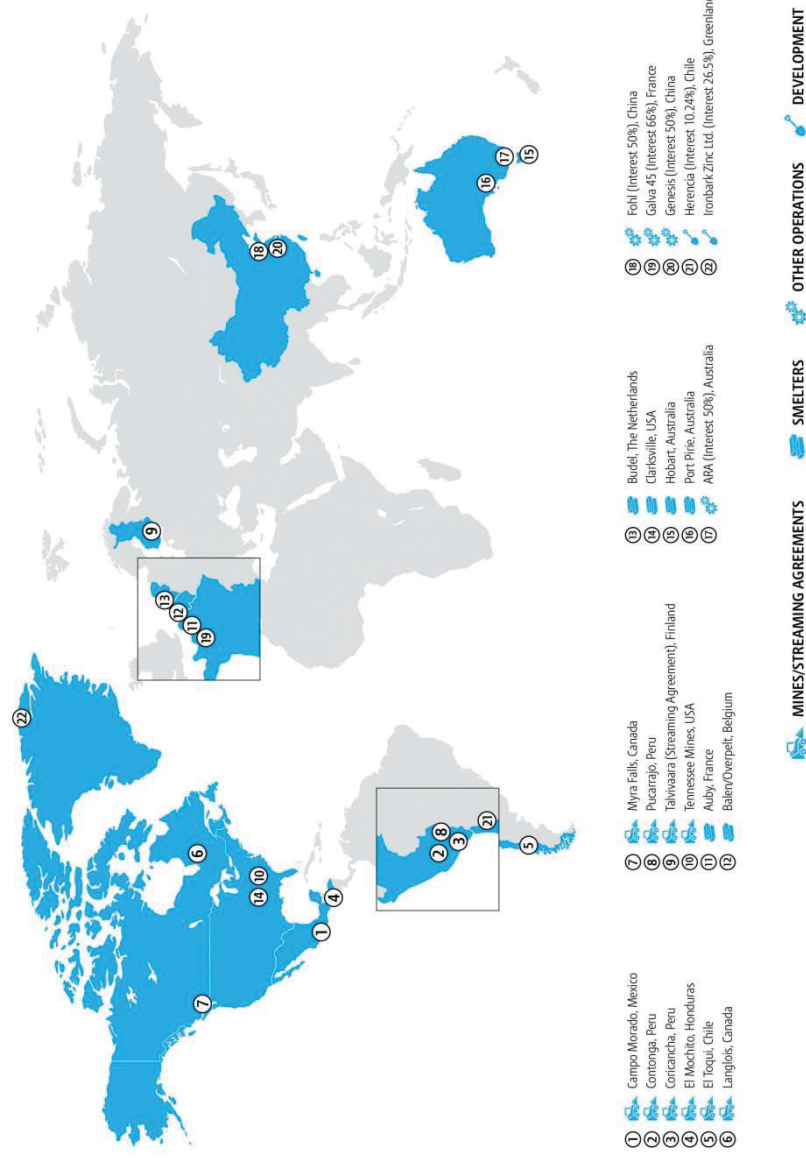
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Nyrstar's expanding global multi-metals footprint

Nyrstar is an integrated mining and metals business, with market leading positions in zinc and lead, and growing positions in other base and precious metals; essential resources that are fuelling the rapid urbanisation and industrialisation of our changing world. Nyrstar is incorporated in Belgium and has its corporate office in Switzerland. Nyrstar is listed on NYSE Euronext Brussels under the symbol NYR, and is a member of the BEL20.

- One of the world's largest integrated zinc producers
 - 1.1 million tpa zinc metal
 - 475,000 tpa zinc in concentrate¹
- Market leading position in lead
- Expanding multi-metals footprint
 - Growing production of copper, gold, silver and lead
- Nine mining operations
- Six smelters
- Employing over 7,000 people across five continents



Summary

- Macroeconomic conditions have been mixed but 2012 has been a very good year for galvanizing demand on a global basis.
- Focus will be on China, because in absolute terms it is the most significant driver of metals demand.
 - Review of the urbanization and industrialization story
 - Demonstrate that demand has still a long way to go before it peaks
- Highlight another important structural change in the US economy and why this has strong upside potential for galvanizing and metal demand.

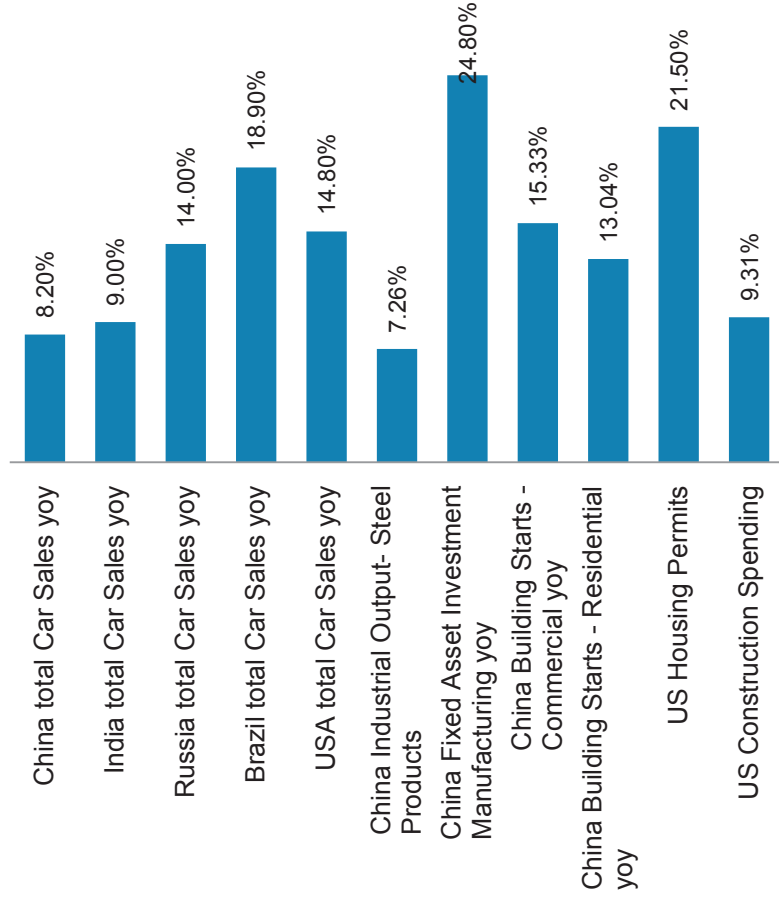
Contents

- Current market conditions
- Commodity super cycle revisited
- Other structural trends
- Conclusions

Automotive and Construction sectors are still showing encouraging signs

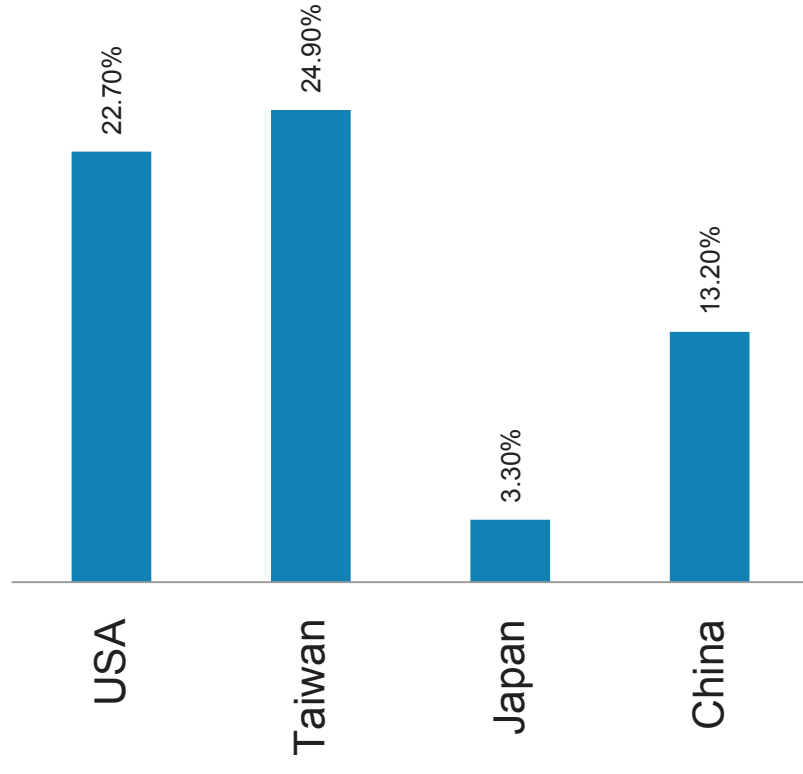
Performance of key indicators

Year on year growth (Most recent figures)



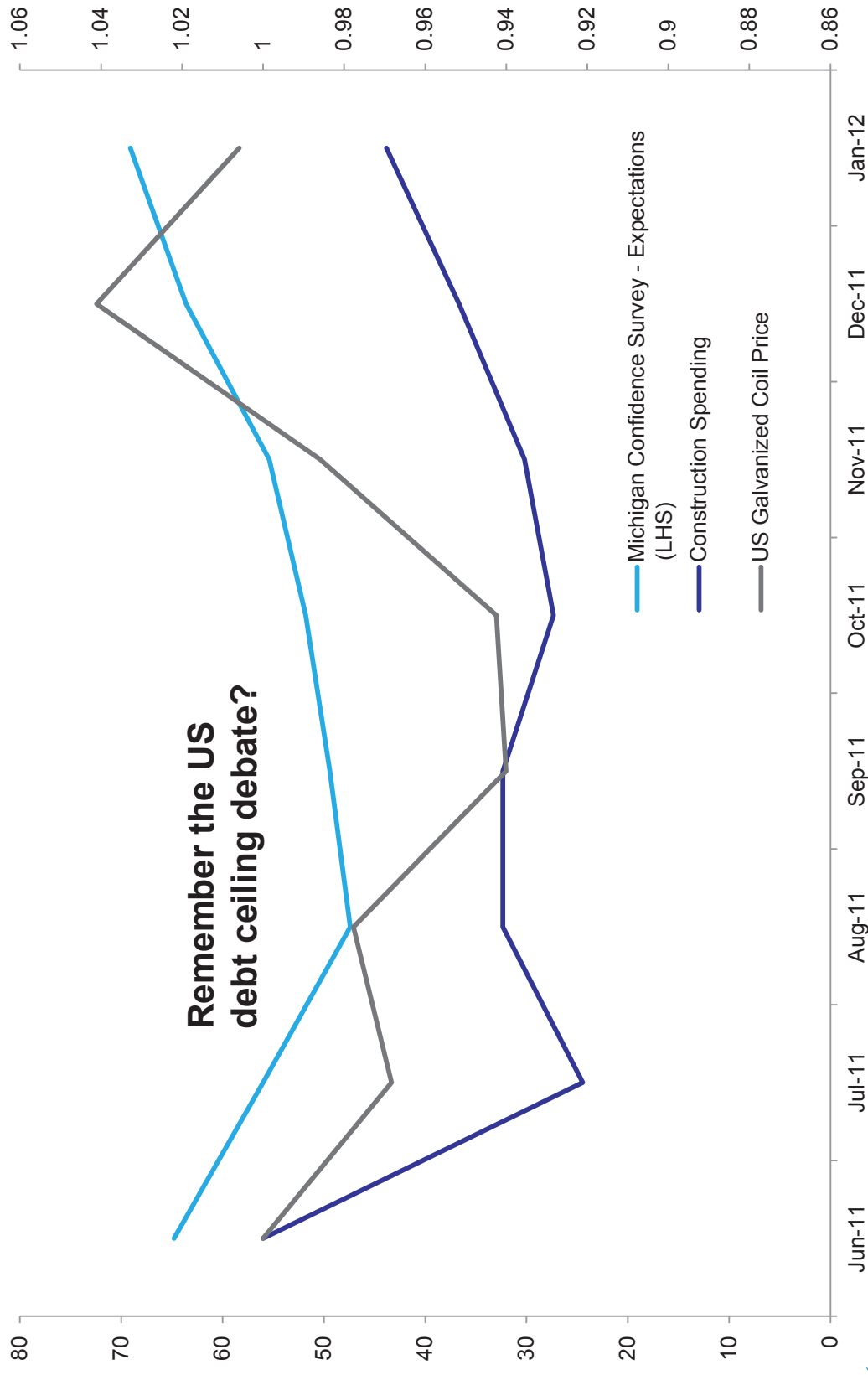
SOURCE: Bloomberg

Galvanized Sheet Output Ytd Change



SOURCE: Wood MacKenzie, NBS, JISCO, TSIIA, AISI

Europe is still a weak spot but sentiment can change very quickly when even temporary political solutions are found



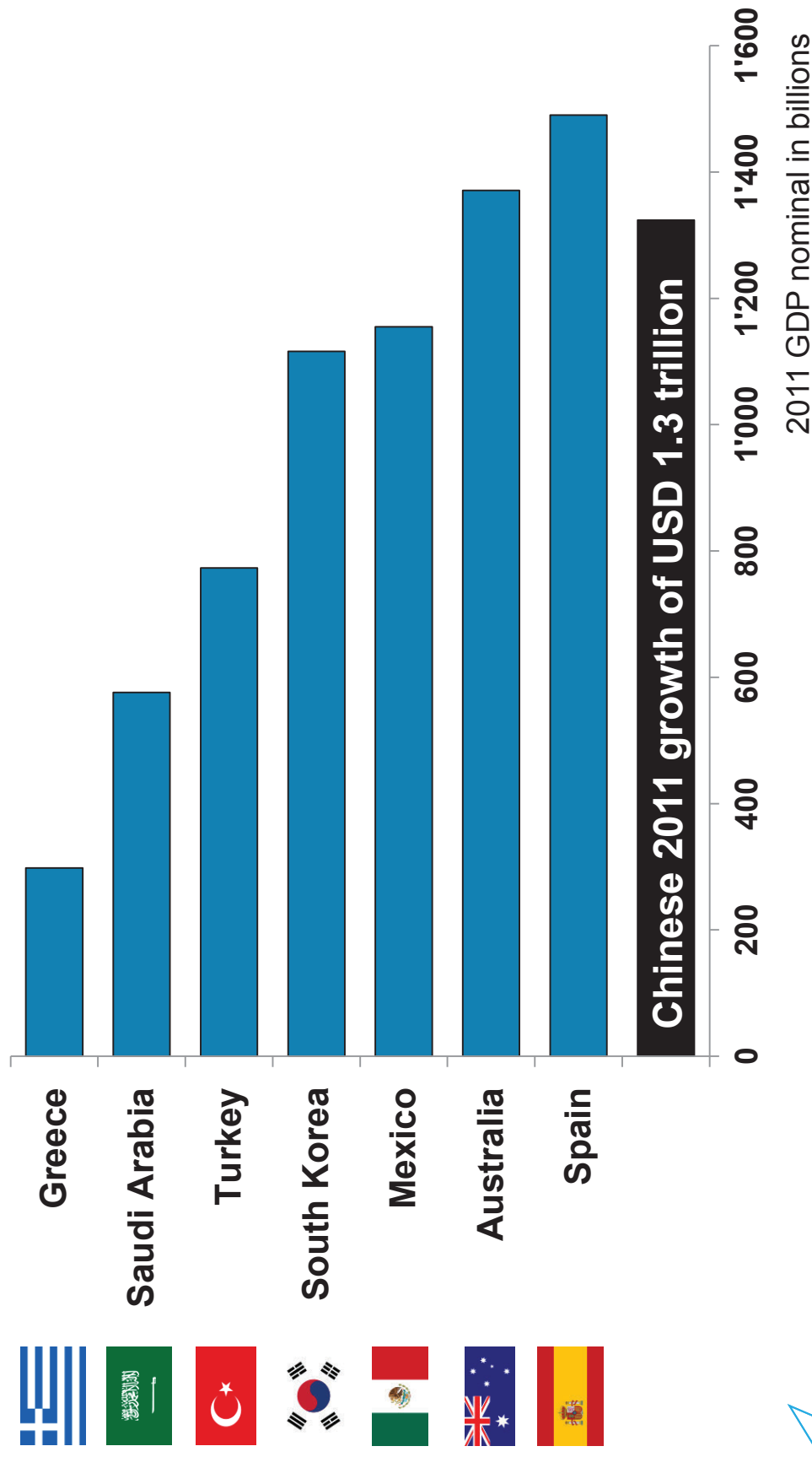
SOURCE: Bloomberg

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Why the focus on China?

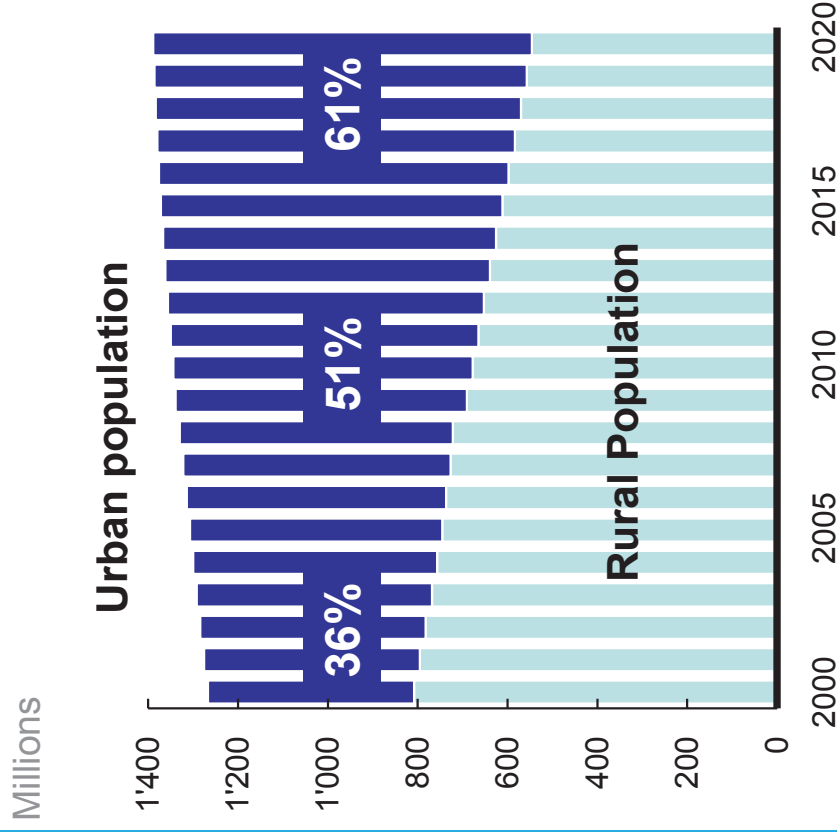
At the end of 2011 China's economy stood at USD 7.3 trillion having grown by about USD 1.3 trillion



SOURCE: World Bank, Goldman Sachs

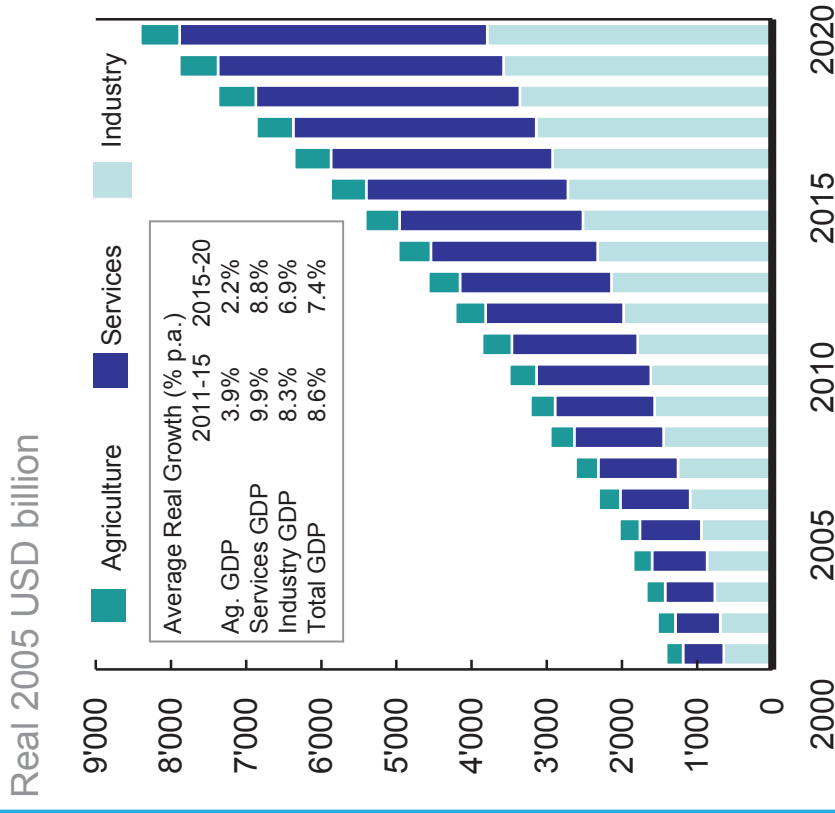
Urbanization and industrialization will remain the key drivers of China's growing annual steel demand

China population breakdown 2000-20



Av. 18M people added to China's urban population each year between 2000-20

China GDP breakdown 2000-20

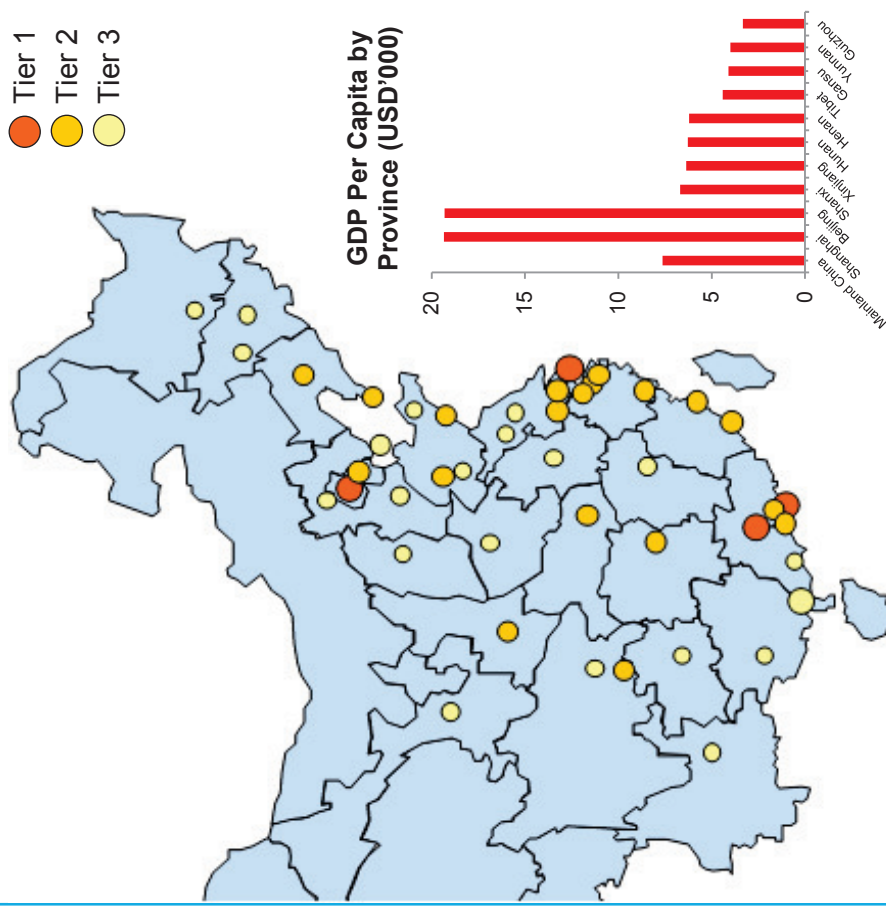


China's industry and service GDP will more than double between 2011-20

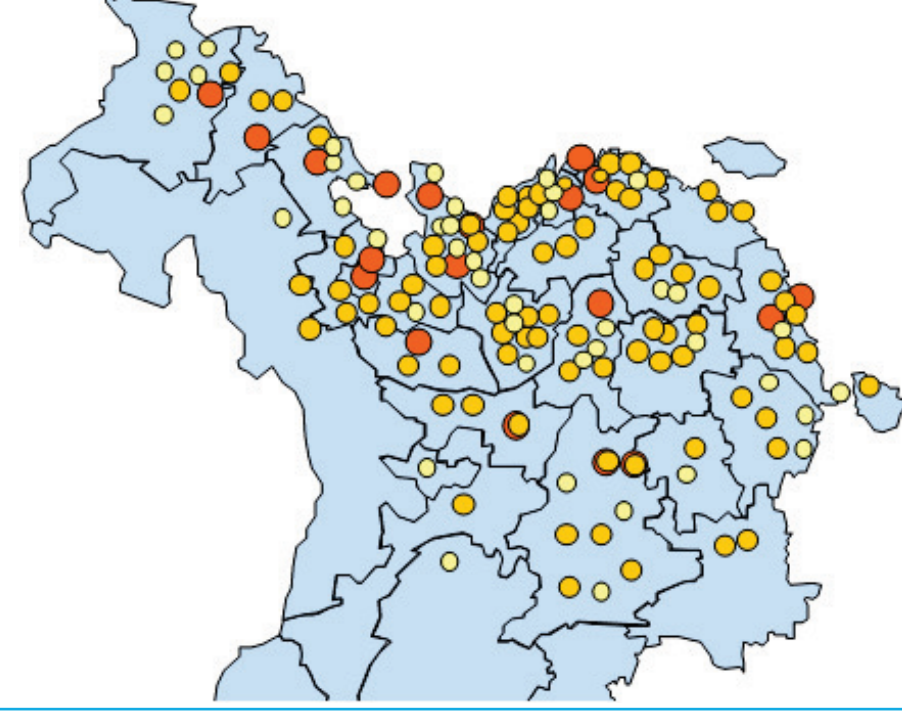
China's urbanization to date has been mainly coastal but will extend to inland China, adding ~15 Tier 1 cities over the next 15 years

China's city landscape by city Tier¹ – 2010

● Tier 1
● Tier 2
● Tier 3



China's city landscape by city Tier¹ – 2025



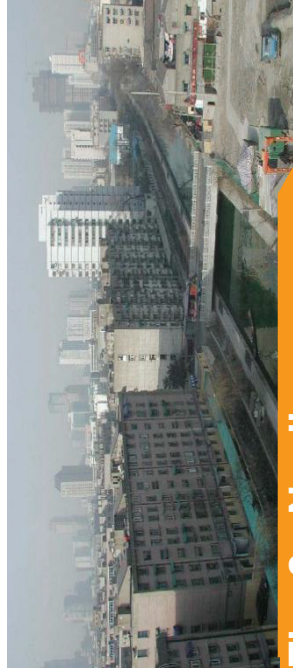
¹ Tier 1 city defined as registered population >4.5 m and GDP/capita >USD 3,000,
 Tier 2 city defined as either registered population >4.5 m or GDP/capita >USD 3,000
 Tier 3 city defined as registered population 1.5-4.5 m and GDP/capita USD 1,500-3,000

Commodity intensity evolves as cities start to develop



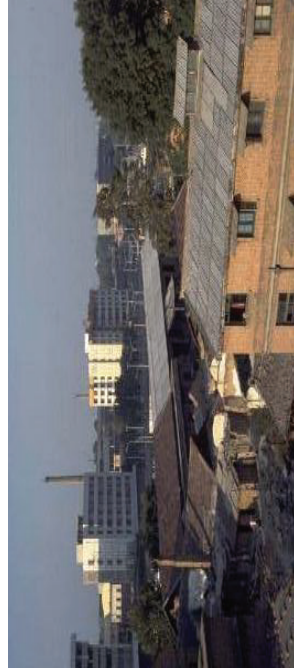
Tier 1 - Shenzhen

- Consumer dominates economy
- Commodity intensity declines
- Only commodities with increased intensity are light/environmental metals and commodities used in leisure activities



Tier 2 - Nanjing

- Increased consumer spending on goods with high commodity content
- Acceleration of energy use
- Increased intensity of copper, zinc and aluminium

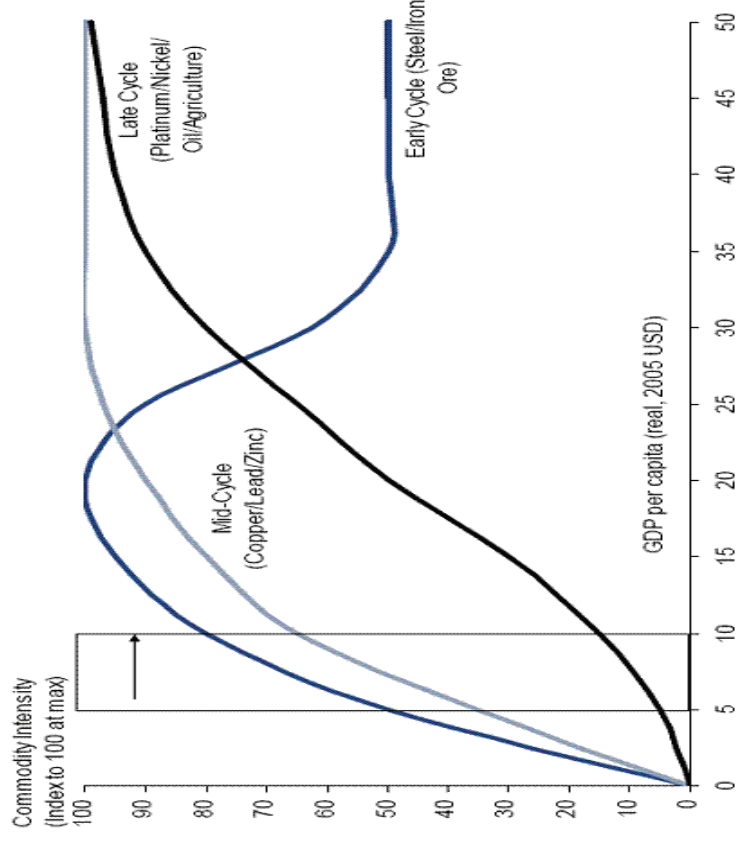


Tier 3 - Xian

- Infrastructure and heavy industry dominates economy
- Acceleration in demand for cement, steel, iron ore and coking coal though early stage development
- Early stage increases in demand for energy, other industrial metals, chemicals etc..

When steel demand growth starts to slow, galvanizing intensity may start to accelerate...

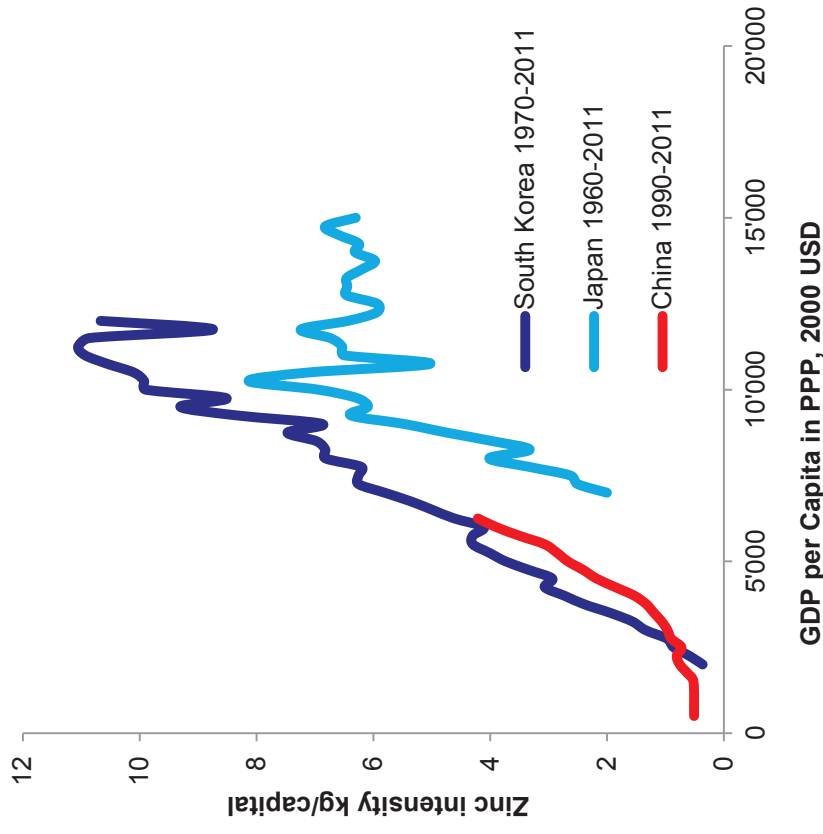
Zinc is a mid-economic cycle commodity



Galvanizing intensity to peak after steel intensity peaks

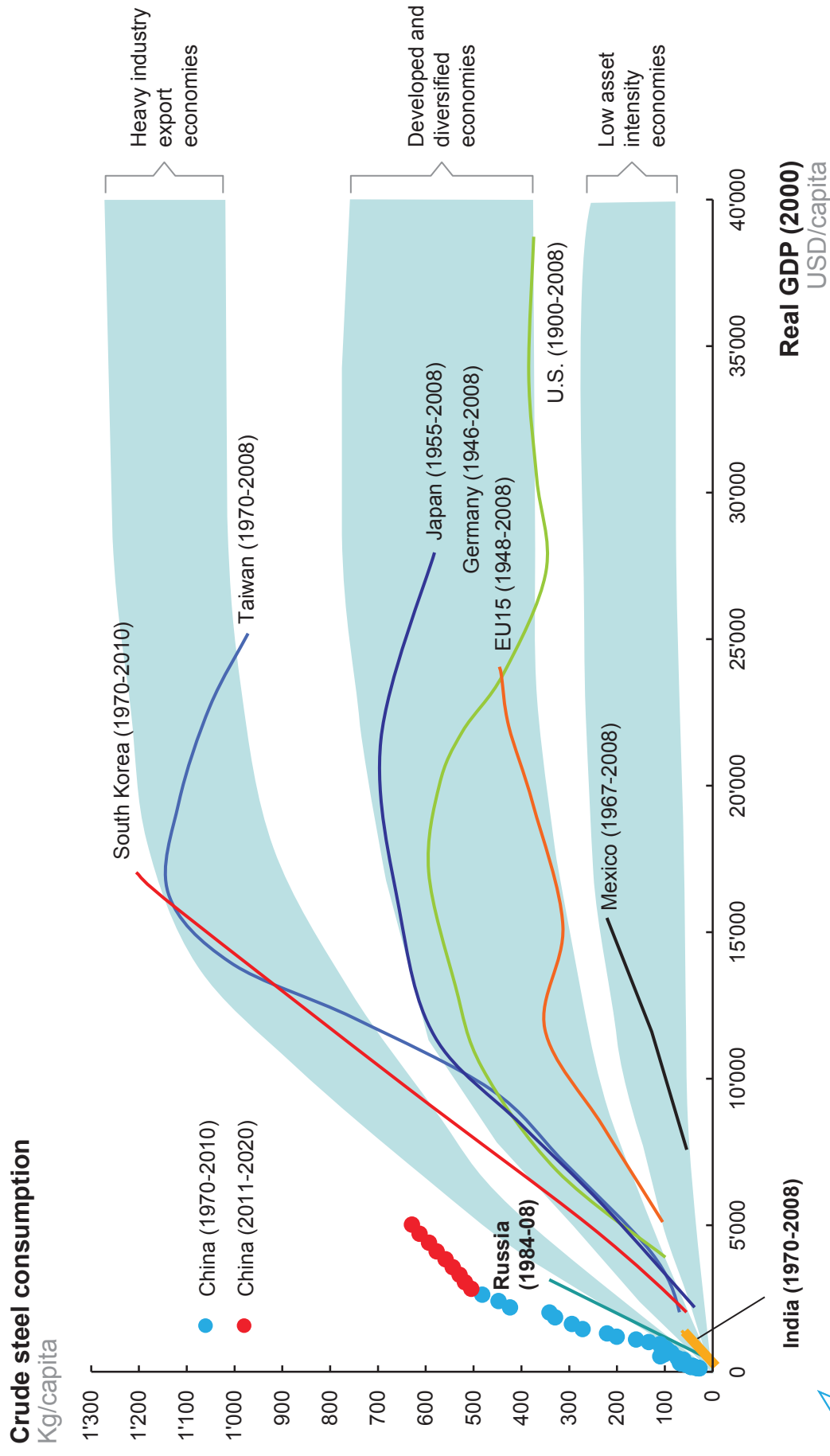
SOURCE: Citibank, Brook Hunt, IMF

China zinc demand still in infancy



Using zinc consumption as a proxy for galvanising demand we can see strong potential increases in demand

China is expected to reach a high level of steel consumption per capita faster than other countries but still has far to go

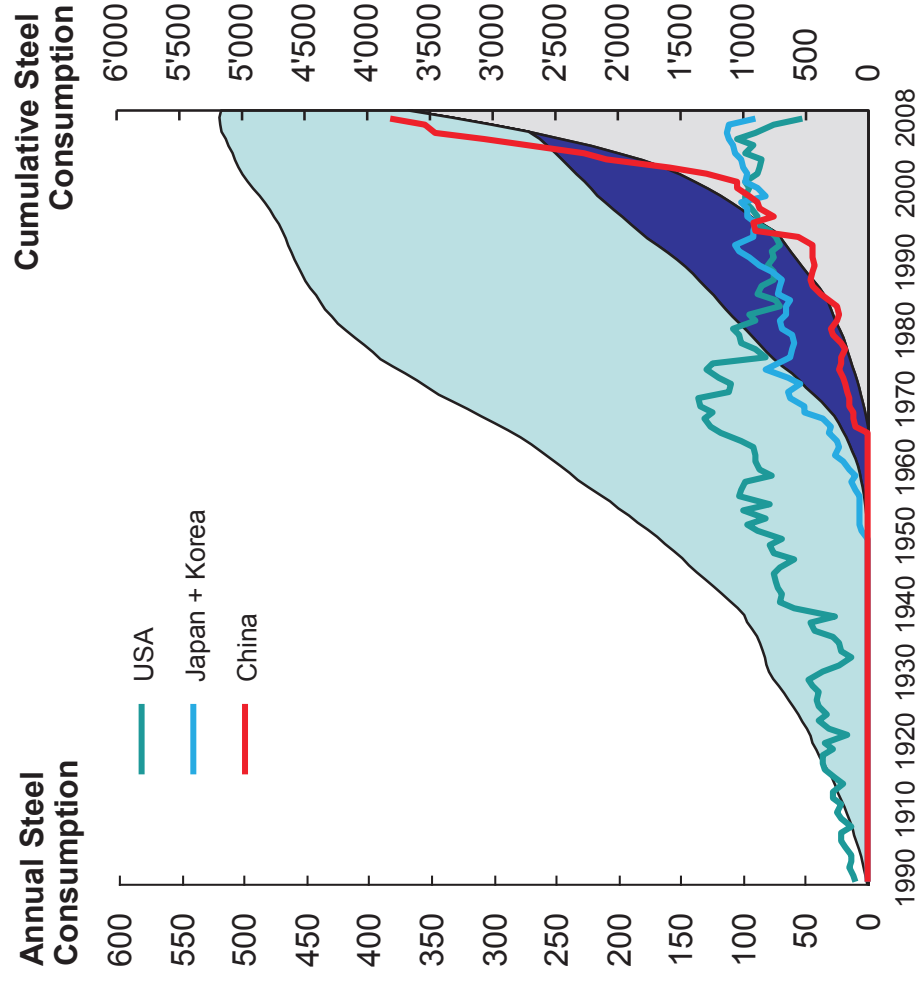


Sources: MGI, WSA; Global Insight; IMF; USGS; McKinsey; Brook Hunt

Cumulative steel consumption demonstrates that China has still a long way to go before it peaks

Annual and Cumulative Steel Consumption

Million metric tonnes

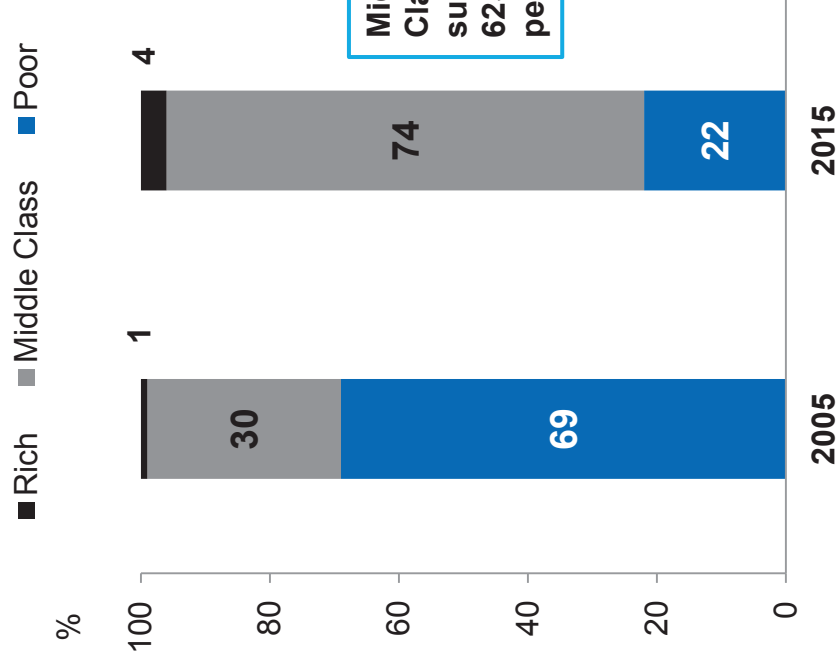


- China's annual demand is 4-5x US levels
- China has accumulated 70% of US stock levels or ~15% on population adjusted basis
- Cumulative stock per capita: China 2.5t, US 16.8t, Korea/Japan 15.8t

SOURCE: McKinsey; IISI

Rise of the middle class in China will increase galvanizing demand

Population breakdown by income

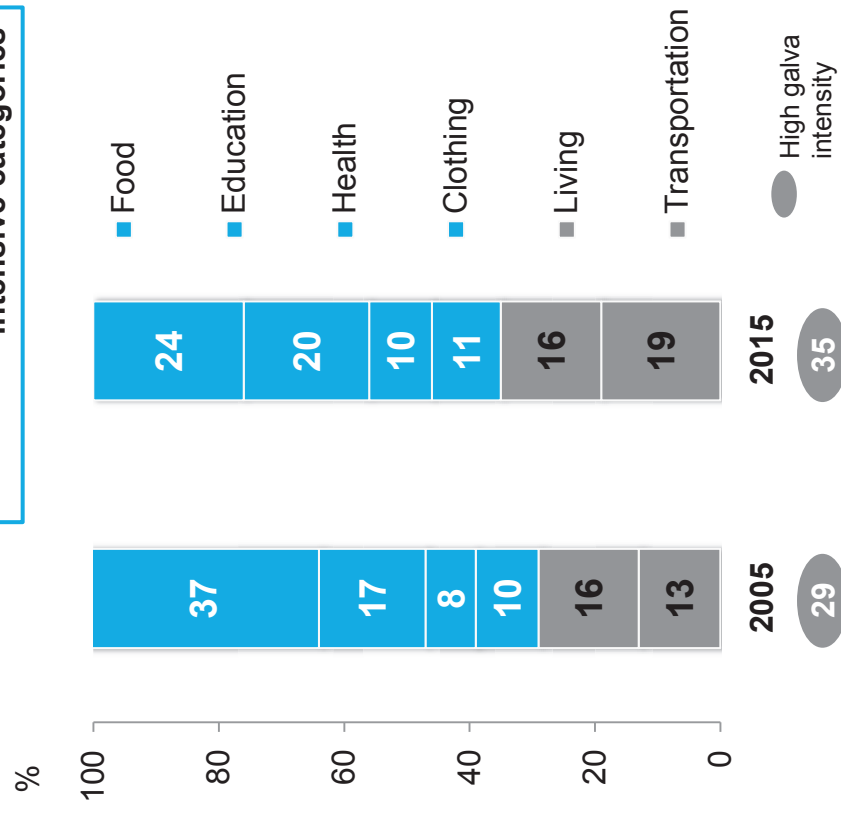


SOURCE: McKinsey, IMF

Increased salary expected to change demand patterns

Middle class to have more budget

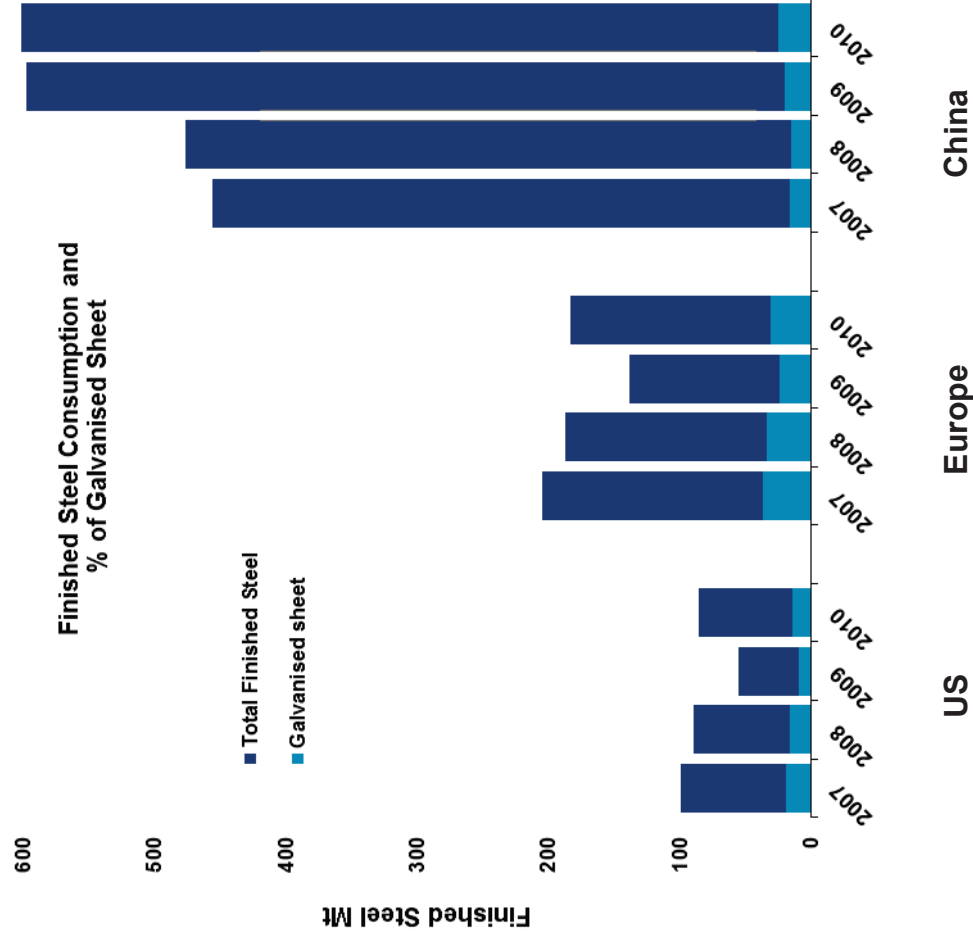
Share of spend in galvanizing intensive categories



Increased spending in living and transportation will lead to increased spend in galvanized products

Construction growth combined with increased galvanization percentages will continue to drive demand

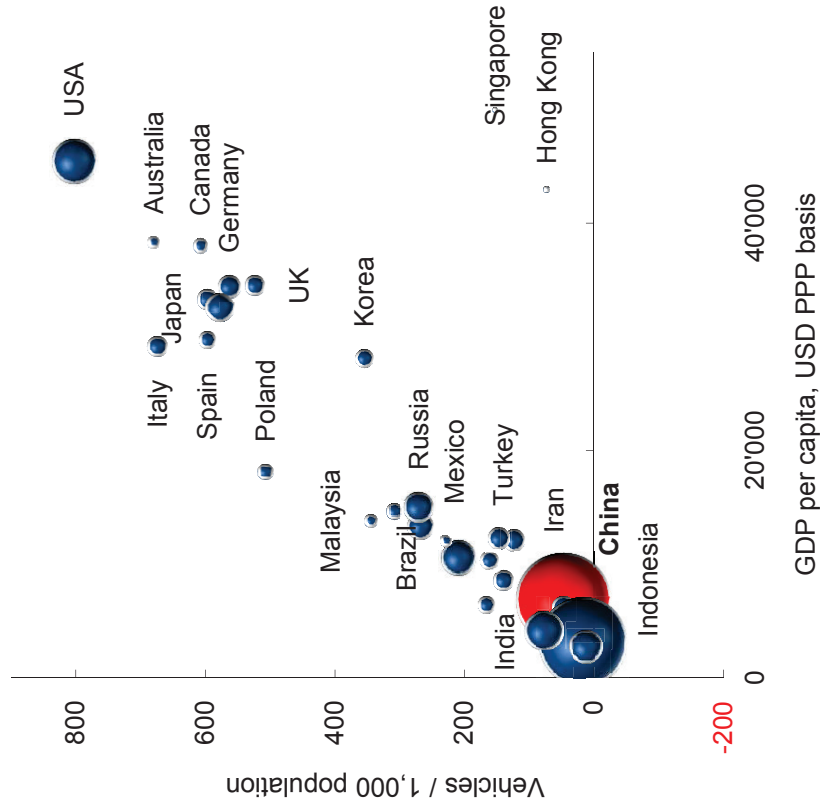
- Approximately 5% of China's steel consumption is in galvanised sheet form (18% in Europe & US)
- As China's urbanisation progresses:
 - Steel demand will continue to grow
 - Steel product mix will shift
 - Increase in galvanized flat products
 - Chinese galvanized steel shipments has so far increased by 13.2% in 2012



SOURCE: CRU, Brook Hunt, Nyrstar Estimates

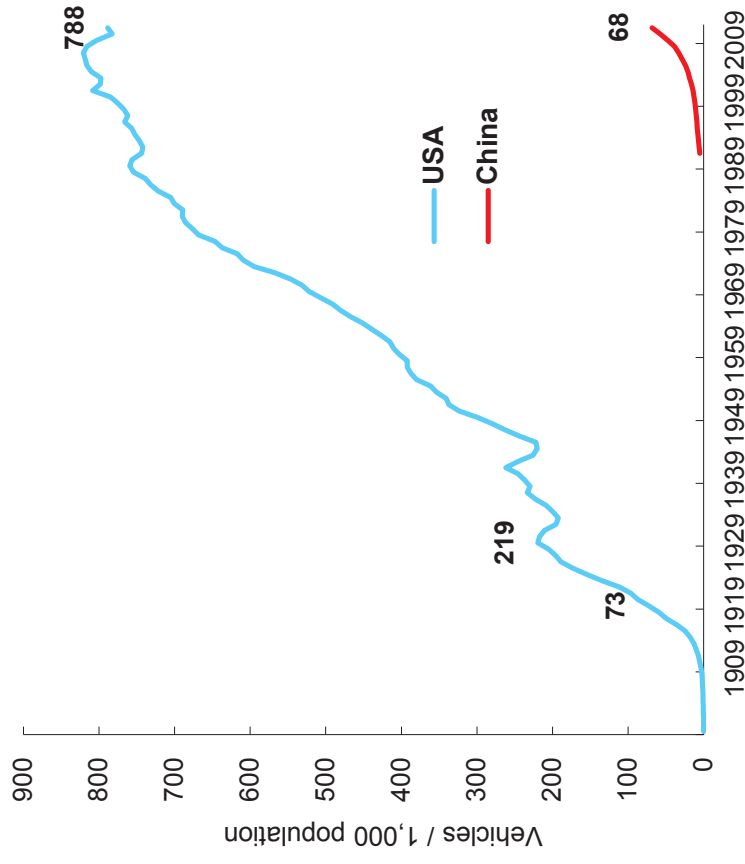
Automobile ownership in China still in its infancy

Vehicle ownership relative to income



Increased income expected to increase car ownership

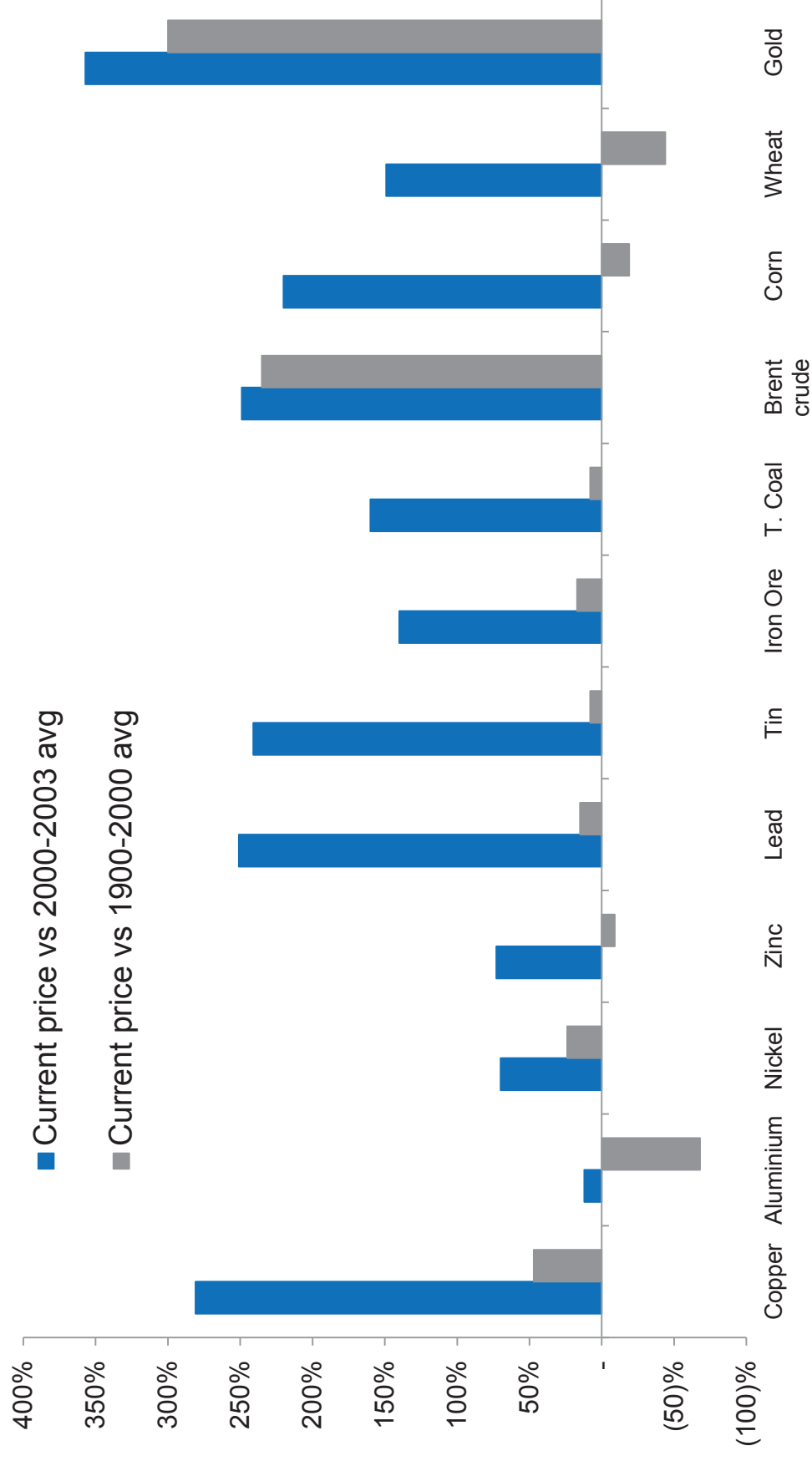
Vehicle ownership relative to population



China's level of vehicle ownership is like the United States in 1920

SOURCE: IRF, IMF, US Census Bureau, World Bank, Macquarie

Commodity prices are higher than the early 2000s but mostly lower than very long term averages

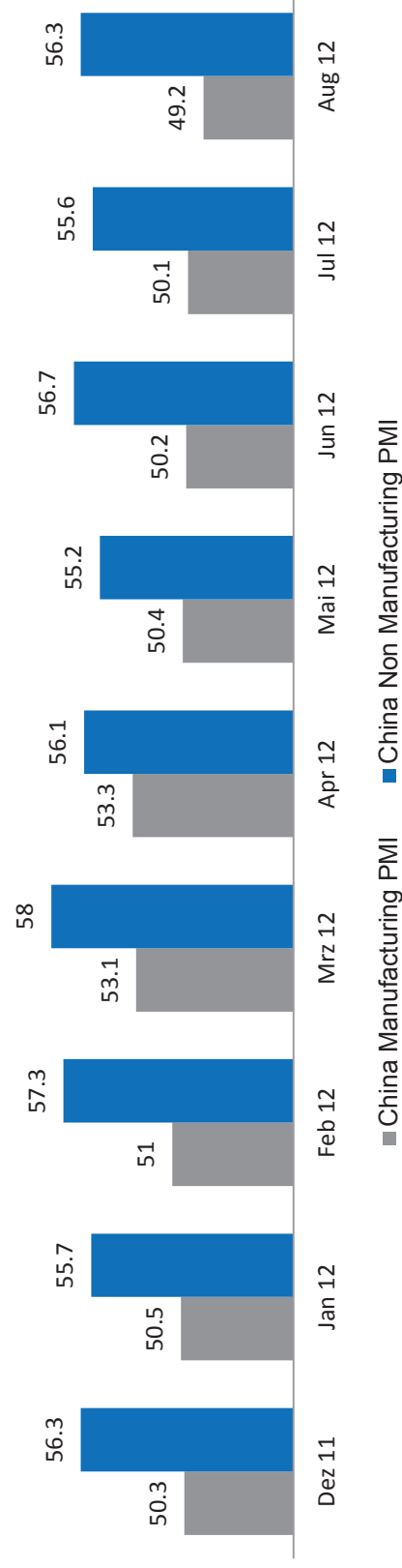


SOURCE: Credit Suisse 'Commodity Prices in the Long Run - Are We There Yet', September 11th 2012

Is the China driven commodity super cycle here to stay?

- On an installed basis, Chinese commodity intensity is still very low
- Urbanization** is still at its early stages
- Expansion of consumer demand in white goods, transport and housing has **still a long way to go**
- Difficult to doubt growth prospects of an economy where the **government is deliberately constraining demand**
- As economic stimulus of 2008-2009 starts to fade, **it is inevitable that we shall see a softening of** macro indicators such as Manufacturing Purchasing Managers Indices (PMI)
- As the **economic focus starts to shift** from being export led to consumer driven then there will be **some dislocations** in supply and demand, this is a **healthy development**

Services vs. Manufacturing

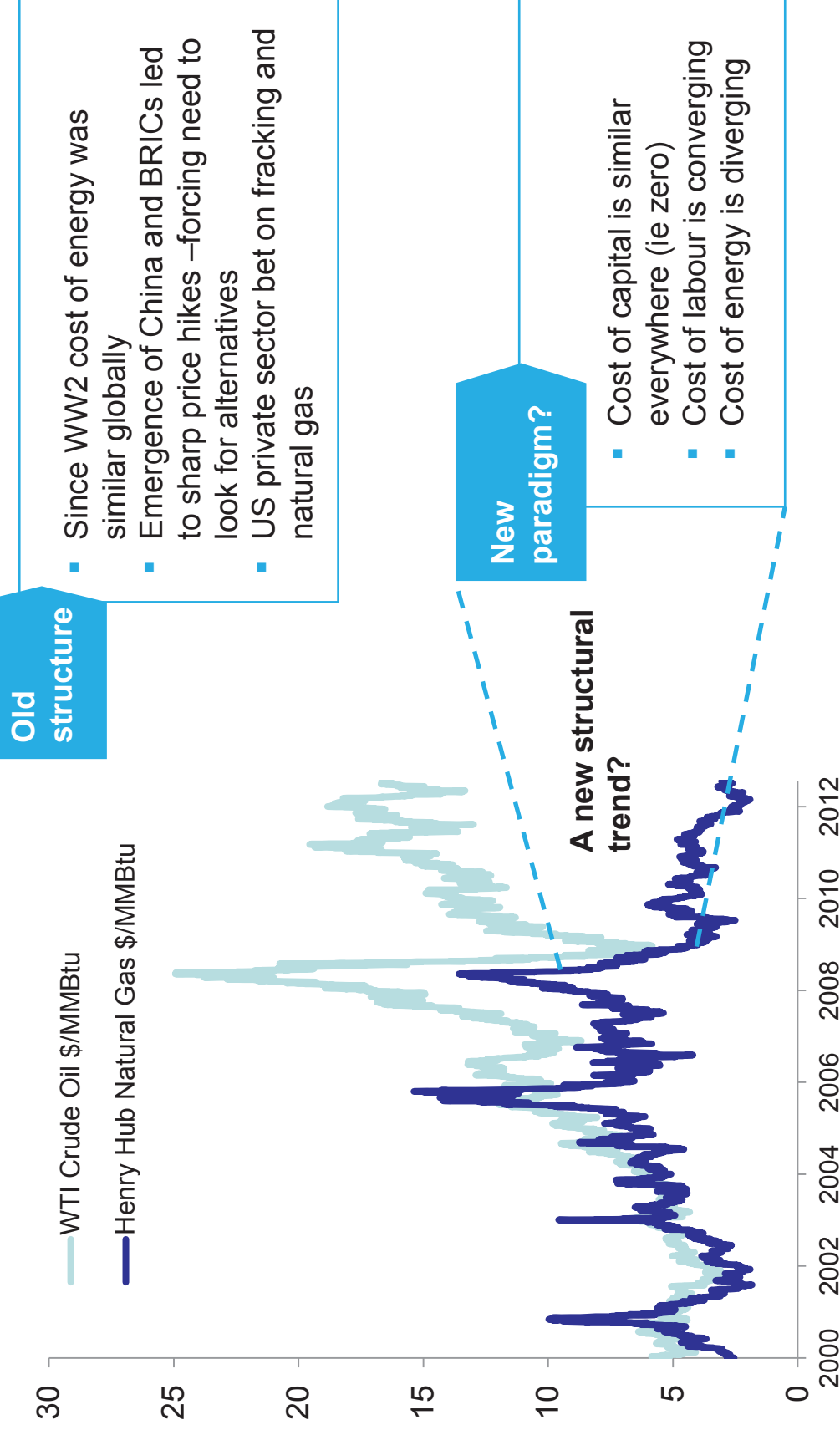


SOURCE: Bloomberg

Contents

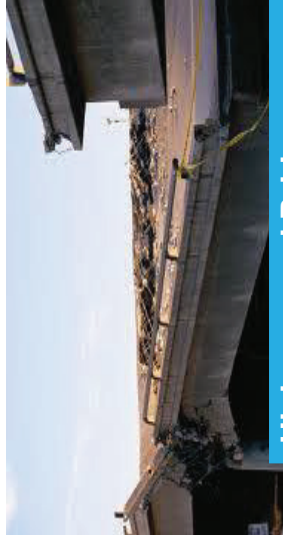
- Current market conditions
- Commodity super cycle revisited
- Other structural trends
- Conclusions

Relatively cheap energy could set the stage for a reindustrialization of the United States



SOURCE: Bloomberg, Gavekal

The United States has pent up demand due to aging infrastructure



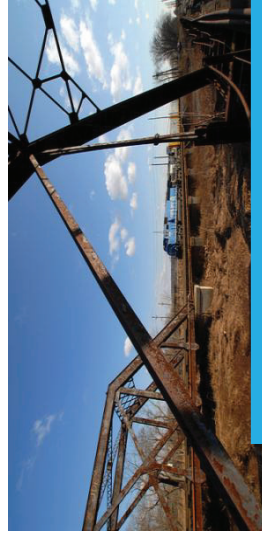
Highways and Bridges

- Total 5 year investment need for highways and bridges is USD 930bn of which USD 381bn is in the base case
- Current economic cost of congestion is USD 78bn per year



Energy infrastructure

- Total 5 year energy investment need USD 75bn
- Estimated annual cost of disturbances to economy between USD 25-180bn
- Electricity demand increased 25% since 1990 whilst construction of transmission facilities has decreased by 30%



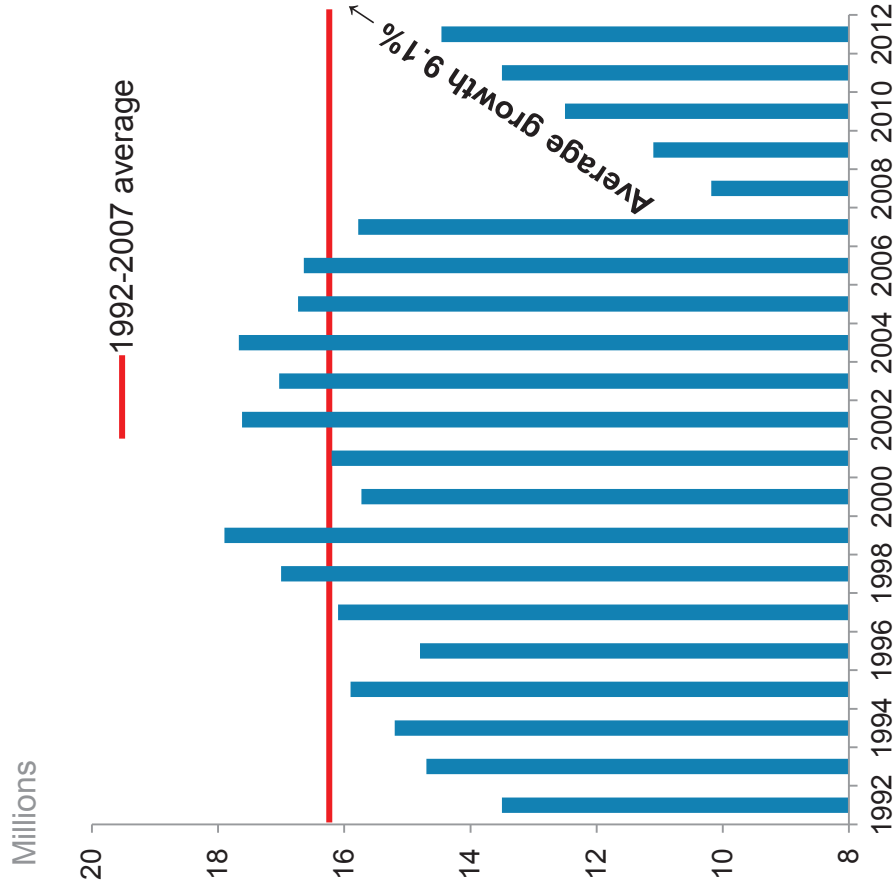
Railways

- Rail investment needs estimated to be USD 63bn but this does not include plans for high speed networks

SOURCE: US Energy Department, American Society of Civil Engineers

US car sales are growing strongly but still below pre-recession levels

US annual car sales

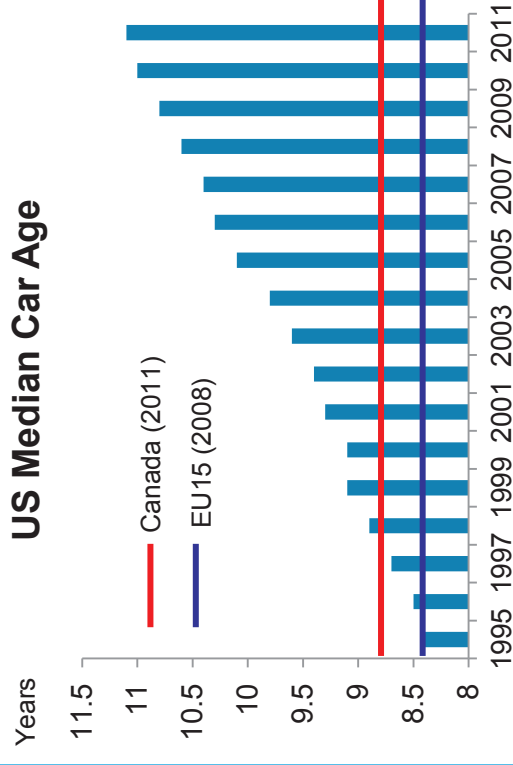


The average age of a car in the United States is now at 11 years, this is much higher than in most other countries



- A recovery expected, but consensus expectations do not envisage returning to 2006 levels before 2016

US Median Car Age



SOURCE: POLK, Bloomberg, ACEA

Contents

- Current market conditions
- Commodity super cycle revisited
- Other structural trends
- Conclusions

Galvanizing will continue to benefit from economic growth but there are some potential catalysts to even greater demand



Galvanizing will continue to benefit from Chinese growth

- Urbanization to support new infrastructure in central and western provinces and offset slower rate of expansion in China's coastal provinces.
- GDP growth is likely to be lower (but from a higher base) but intensity of **galvanization use is likely to increase**
- Fears of **hard landing difficult to envisage**



The US economic recovery has slowed but has pent up zinc demand

- Automotive sales have been strong and supported zinc demand and could be boosted by replacement of the aging car fleet
- Construction showing signs of improvement and **has huge potential**
- Fixed Asset Investment could be a strong surprise driver should the US address its issues of aging infrastructure

Questions



【Title】Administrative Compulsion Law of the People’s Republic of China[现行有效]
【法规标题】中华人民共和国行政强制法 [Effective]

| | | | |
|--|--|--|------------|
| Date issued: | 06-30-2011 | 发布日期: | 2011-06-30 |
| Effective date: | 01-01-2012 | 生效日期: | 2012-01-01 |
| Issuing authority: | Standing Committee of the National People's Congress | 发布部门: | 全国人大常委会 |
| Area of law: | Administrative Litigation | 类别: | 行政诉讼 |
| compulsionOrder of the President of the People's Republic of China (No. 49) | | 中华人民共和国主席令 (第四十九号) | |
| The Administrative Compulsion Law of the People's Republic of China, as adopted at the 21st meeting of the Standing Committee of the 11th National People's Congress of the People's Republic of China on June 30, 2011, is hereby promulgated and shall come into force on January 1, 2012. | | 《中华人民共和国行政强制法》已由中 华人民共和国第十一届全国人民代表大 会常务委员会第二十一次会议于 2011 年 6 月 30 日通过，现予公布，自 2012 年 1 月 1 日起施行。 | |
| Hu Jintao, President of the People's Republic of China June 30, 2011 | | 中华人民共和国主席 胡锦涛 2011 年 6 月 30 日 . . . | |
| Administrative Compulsion Law of the People's Republic of China (Adopted at the 21st meeting of the Standing Committee of the 11th National People's Congress on June 30, 2011) | | 中华人民共和国行政强制法 (2011 年 6 月 30 日第十一届全国人民 代表大会常务委员会第二十一次会议通 过) | |
| Contents | | 目 录 | |
| Chapter I General Principles | | 第一章 总 则 | |
| Chapter II Types and Setting of Administrative Compulsion | | 第二章 行政强制的种类和设定 | |
| Chapter III Procedures for the Implementation of Administrative Compulsory Measures | | 第三章 行政强制措施实施程序 | |
| Section 1 General Provisions | | 第一节 一般规定 | |
| Section 2 Seizure and Impoundment | | 第二节 查封、扣押 | |
| Section 3 Freezing | | 第三节 冻结 | |
| Chapter IV Procedures for Enforcement by Administrative Organs | | 第四章 行政机关强制执行程序 | |
| Section 1 General Provisions | | 第一节 一般规定 | |
| Section 2 Enforcement of Pecuniary Payment Obligations | | 第二节 金钱给付义务的执行 | |
| Section 3 Performance on Behalf of the Party Concerned | | 第三节 代履行 | |
| Chapter V Application to the People's Court for Enforcement | | 第五章 申请人民法院强制执行 | |
| Chapter VI Legal Liability | | 第六章 法律责任 | |
| Chapter VII Supplementary Provisions | | 第七章 附 则 | |
| Chapter I General Principles | | 第一章 总 则 | |

Article 1 This Law is formulated in accordance with the [Constitution](#) for the purposes of regulating the setting and implementation of administrative compulsion, guaranteeing and supervising administrative organs' performance of duties according to law, maintaining public interests and social order and protecting the legitimate rights and interests of citizens, legal persons and other organizations.

Article 2 The term "administrative compulsion" as mentioned in this Law shall include administrative compulsory measures and administrative enforcement.

Administrative compulsory measures refer to the temporary restriction of the personal freedom of citizens or temporary control of the property of citizens, legal persons or other organizations according to law by administrative organs in the process of administration for such purposes as stopping illegal acts, preventing destruction of evidence, avoiding damage and containing expansion of danger.

Administrative enforcement refers to the performance of obligations as legally enforced by administrative organs or by the people's courts upon applications of administrative organs against citizens, legal persons or other organizations which do not perform administrative decisions.

Article 3 This Law shall apply to the setting and implementation of administrative compulsion.

In case of occurrence or impending occurrence of any natural disaster, accidental disaster, public health incident, social security incident or other emergency, the emergency response measures or temporary measures taken by administrative organs shall be governed by the relevant laws and administrative regulations.

The prudential supervision measures for the financial sector and the mandatory technical monitoring measures for imported and exported goods taken by administrative organs shall be governed by the relevant laws and administrative regulations.

Article 4 Administrative compulsion shall be set and implemented according to the statutory authority, extent, conditions and procedures.

Article 5 The setting and implementation of administrative compulsion shall be appropriate. If the purposes of administration may be achieved by non-compulsory means, no administrative compulsion shall be set or implemented.

Article 6 The implementation of administrative compulsion shall adhere to the combination of education and compulsion.

Article 7 Administrative organs and their staff members shall not seek benefits for entities or individuals by taking advantage of

第一条 为了规范行政强制的设定和实施，保障和监督行政机关依法履行职责，维护公共利益和社会秩序，保护公民、法人和其他组织的合法权益，根据[宪法](#)，制定本法。

第二条 本法所称行政强制，包括行政强制措施和行政强制执行。

行政强制措施，是指行政机关在行政管理过程中，为制止违法行为、防止证据损毁、避免危害发生、控制危险扩大等情形，依法对公民的人身自由实施暂时性限制，或者对公民、法人或者其他组织的财物实施暂时性控制的行为。

行政强制执行，是指行政机关或者行政机关申请人民法院，对不履行行政决定的公民、法人或者其他组织，依法强制履行义务的行为。

第三条 行政强制的设定和实施，适用本法。

发生或者即将发生自然灾害、事故灾难、公共卫生事件或者社会安全事件等突发事件，行政机关采取应急措施或者临时措施，依照有关法律、行政法规的规定执行。

行政机关采取金融业审慎监管措施、进出境货物强制性技术监控措施，依照有关法律、行政法规的规定执行。

第四条 行政强制的设定和实施，应当依照法定的权限、范围、条件和程序。

第五条 行政强制的设定和实施，应当适当。采用非强制手段可以达到行政管理目的的，不得设定和实施行政强制。

第六条 实施行政强制，应当坚持教育与强制相结合。

第七条 行政机关及其工作人员不得利用行政强制权为单位或者个人谋取利益。

administrative compulsory powers.

Article 8 A citizen, a legal person or any other organization shall be entitled to make statements or arguments against administrative compulsion implemented by an administrative organ, be entitled to apply for administrative reconsideration or lodge an administrative lawsuit according to law, and be entitled to compensation for damage suffered from an administrative organ's illegal administrative compulsion.

A citizen, a legal person or any other organization which has suffered damage from any illegal act of or expansion of extent of enforcement by the people's court in the process of enforcement shall be entitled to compensation according to law.

Chapter II Types and Setting of Administrative Compulsion

Article 9 Types of administrative compulsory measures:

- (1) Restricting the personal freedom of a citizen;
- (2) Seizing premises, facilities or properties;
- (3) Impounding properties;
- (4) Freezing deposits or remittances; and
- (5) Other administrative compulsory measures.

Article 10 Administrative compulsory measures shall be set by law. For matters which are not included in any law and are subject to the administrative authority of the State Council, administrative compulsory measures other than those as prescribed in Article 9 (1) and (4) of this Law and those as must be set by law may be set by administrative regulation.

For matters which are not included in any law or administrative regulation and are local affairs, administrative compulsory measures as prescribed in Article 9 (2) and (3) of this Law may be set by local regulation. No regulatory documents other than laws and regulations may set administrative compulsory measures.

Article 11 Where a law has provided for the objects, conditions for adoption and types of administrative compulsory measures, no administrative or local regulation shall provide beyond the extent thereof. Where no administrative compulsory measures are set in a law, no administrative compulsory measures shall be set by administrative or local regulation. However, if a law provides that the specific administrative measures for certain matters shall be provided for by administrative regulation, the administrative regulation may set administrative compulsory measures other than those as prescribed in Article 9 (1) and (4) of this Law and those that must be set by law.

第八条 公民、法人或者其他组织对行政机关实施行政强制，享有陈述权、申辩权；有权依法申请行政复议或者提起行政诉讼；因行政机关违法实施行政强制受到损害的，有权依法要求赔偿。

公民、法人或者其他组织因人民法院在强制执行中有违法行为或者扩大强制执行范围受到损害的，有权依法要求赔偿。

第二章 行政强制的种类和设定

第九条 行政强制措施的种类：

- （一）限制公民人身自由；
- （二）查封场所、设施或者财物；
- （三）扣押财物；
- （四）冻结存款、汇款；
- （五）其他行政强制措施。

第十条 行政强制措施由法律设定。

尚未制定法律，且属于国务院行政管理职权事项的，行政法规可以设定除本法第九条第一项、第四项和应当由法律规定的行政强制措施以外的其他行政强制措施。

尚未制定法律、行政法规，且属于地方性事务的，地方性法规可以设定本法第九条第二项、第三项的行政强制措施。法律、法规以外的其他规范性文件不得设定行政强制措施。

第十一条 法律对行政强制措施的对象、条件、种类作了规定的，行政法规、地方性法规不得作出扩大规定。

法律中未设定行政强制措施的，行政法规、地方性法规不得设定行政强制措施。但是，法律规定特定事项由行政法规规定具体管理措施的，行政法规可以设定除本法第九条第一项、第四项和应当由法律规定的行政强制措施以外的其他行政强制措施。

Article 12 Manners of administrative enforcement:

- (1) Fines or late fees;
- (2) Transfer of deposits or remittances;
- (3) Auction or legal disposition of premises, facilities or properties that are seized or impounded;
- (4) Removal of obstructions or restitution;
- (5) Performance on behalf of the party concerned; and
- (6) Other manners of enforcement.

Article 13 Administrative enforcement shall be set by law.

Where enforcement by administrative organs is not provided for by law, the administrative organ making the relevant administrative decision shall apply to the people's court for enforcement.

Article 14 In drafting a law or regulation, if administrative compulsion is to be set, the drafting entity shall hear opinions in such forms as a hearing and a demonstration meeting, and explain the necessity of such administrative compulsion, the possible impacts and the solicitation and adoption of opinions to the organ making the law or regulation.

Article 15 The organ setting administrative compulsion shall regularly review the administrative compulsion set by it, and timely amend or abolish any inappropriate administrative compulsion.

The organ implementing administrative compulsion may review the implementation of the set administrative compulsion and the necessity of existence thereof in good time, and report its opinion to the organ setting such administrative compulsion.

Citizens, legal persons and other organizations may submit opinions and suggestions on the setting and implementation of administrative compulsion to the organs setting or implementing administrative compulsion. The relevant organs shall conduct research and demonstration in earnest, and give feedback in proper manners.

Chapter III Procedures for the Implementation of Administrative Compulsory Measures

Section 1 General Provisions

Article 16 Administrative organs shall, in performing their administrative functions, implement administrative compulsory measures in accordance with laws and regulations.

For illegal acts with obviously minor circumstances or without obvious harm to the society, administrative organs may decide not to take administrative compulsory measures.

第十二条 行政强制执行的方式:

- (一) 加处罚款或者滞纳金;
- (二) 划拨存款、汇款;
- (三) 拍卖或者依法处理查封、扣押的场所、设施或者财物;
- (四) 排除妨碍、恢复原状;
- (五) 代履行;
- (六) 其他强制执行方式。

第十三条 行政强制执行由法律设定。

法律没有规定行政机关强制执行的,作出行政决定的行政机关应当申请人民法院强制执行。

第十四条 起草法律草案、法规草案,拟设定行政强制的,起草单位应当采取听证会、论证会等形式听取意见,并向制定机关说明设定该行政强制的必要性、可能产生的影响以及听取和采纳意见的情况。

第十五条 行政强制的设定机关应当定期对其设定的行政强制进行评价,并对不适当的行政强制及时予以修改或者废止。

行政强制的实施机关可以对已设定的行政强制的实施情况及存在的必要性适时进行评价,并将意见报告该行政强制的设定机关。

公民、法人或者其他组织可以向行政强制的设定机关和实施机关就行政强制的设定和实施提出意见和建议。有关机关应当认真研究论证,并以适当方式予以反馈。

第三章 行政强制措施实施程序

第一节 一般规定

第十六条 行政机关履行行政管理职责,依照法律、法规的规定,实施行政强制措施。

违法行为情节显著轻微或者没有明显社会危害的,可以不采取行政强制措施。

Article 17 Administrative compulsory measures shall be implemented by administrative organs prescribed by laws and regulations within their statutory authority. The power to implement administrative compulsory measures shall not be delegated.

Administrative organs which exercise relatively centralized powers of administrative punishment in accordance with the [Law of the People's Republic of China on Administrative Punishment](#) may implement administrative compulsory measures related to their powers of administrative punishment as prescribed by laws and regulations. Administrative compulsory measures shall be implemented by the qualified law enforcement personnel of administrative organs only.

Article 18 In implementing administrative compulsory measures, an administrative organ shall comply with the following provisions:

- (1) Before implementation, a report on implementation shall be submitted to the person in charge of the administrative organ and an approval of implementation shall be obtained.
- (2) An administrative compulsory measure shall be implemented by two or more law enforcement personnel of the administrative organ.
- (3) Law enforcement identity certificates shall be produced.
- (4) The party concerned shall be notified to be present.
- (5) The party concerned shall be notified on the spot of the reasons and basis for taking the administrative compulsory measure and the rights of and remedies available to the party concerned according to law.
- (6) The statements and arguments of the party concerned shall be heard.
- (7) On-site transcripts shall be made.
- (8) The on-site transcripts shall be signed or sealed by the party concerned and the law enforcement personnel of the administrative organ, and if the party concerned refuses to do so, it shall be noted in the transcripts.
- (9) If the party concerned is not present, witnesses shall be invited to be present, and the witnesses and the law enforcement personnel of the administrative organ shall sign or seal the on-site transcripts.
- (10) Other procedures as prescribed by laws and regulations.

Article 19 If any administrative compulsory measure is implemented on the spot as needed in case of emergency, the law enforcement personnel of an administrative organ shall report it to the person in charge of the administrative organ and go through the approval formalities within 24 hours. If the person in charge of the administrative organ deems it improper to take the administrative compulsory measure, the measure shall be lifted immediately.

Article 20 In implementing administrative compulsory measures which restrict the personal freedom of citizens according to law, in addition to the procedures in Article 18 of this Law, an administrative organ shall

第十七条 行政强制措施由法律、法规规定的行政机关在法定职权范围内实施。

行政强制措施权不得委托。

依据《[中华人民共和国行政处罚法](#)》的规定行使相对集中行政处罚权的行政机关，可以实施法律、法规规定的与行政处罚权有关的行政强制措施。

行政强制措施应当由行政机关具备资格的行政执法人员实施，其他人员不得实施。

第十八条 行政机关实施行政强制措施应当遵守下列规定：

- （一）实施前须向行政机关负责人报告并经批准；
- （二）由两名以上行政执法人员实施；
- （三）出示执法身份证件；
- （四）通知当事人到场；
- （五）当场告知当事人采取行政强制措施的理由、依据以及当事人依法享有的权利、救济途径；
- （六）听取当事人的陈述和申辩；
- （七）制作现场笔录；
- （八）现场笔录由当事人和行政执法人员签名或者盖章，当事人拒绝的，在笔录中予以注明；
- （九）当事人不到场的，邀请见证人到场，由见证人和行政执法人员在现场笔录上签名或者盖章；
- （十）法律、法规规定的其他程序。

第十九条 情况紧急，需要当场实施行政强制措施的，行政执法人员应当在二十四小时内向行政机关负责人报告，并补办批准手续。行政机关负责人认为不应当采取行政强制措施的，应当立即解除。

第二十条 依照法律规定实施限制公民人身自由的行政强制措施，除应当履行本法第十八条规定的程序外，还应当遵守

comply with the following provisions:

(1) The law enforcement personnel of the administrative organ shall notify the family of the party concerned of the administrative organ implementing the administrative compulsory measure and the location and term thereof, on the spot or immediately after implementing the administrative compulsory measure.

(2) If the administrative compulsory measure is implemented on the spot in case of emergency, the law enforcement personnel of the administrative organ shall report it to the person in charge of the administrative organ and go through the approval formalities immediately after returning to the administrative organ.

(3) Other procedures as prescribed by law.

Administrative compulsory measures which restrict personal freedom shall not be implemented beyond the statutory term. If the purposes of implementing such an administrative compulsory measure have been achieved or the conditions for implementing it have disappeared, the administrative compulsory measure shall be lifted immediately.

Article 21 If an illegal act may constitute a crime and shall be transferred to the judicial organ, the administrative organ shall transfer the seized, impounded or frozen properties along with it, and inform the party concerned in writing.

Section 2 Seizure and Impoundment

Article 22 Seizure and impoundment shall be implemented by administrative organs as prescribed by laws and regulations, and no other administrative organs or organizations may implement them.

Article 23 Seizure and impoundment shall be limited to the case-related premises, facilities or properties, and no premises, facilities or properties irrelevant to the illegal acts shall be seized or impounded. The daily necessities of citizens and their dependents shall not be seized or impounded.

Premises, facilities or properties of the party concerned, which have been seized by any other state organ according to law, shall not be seized repeatedly.

Article 24 Where an administrative organ decides to implement seizure or impoundment, it shall go through the procedures in Article 18 of this Law, and make and deliver on the spot a written decision on seizure or impoundment and a list of seizure or impoundment.

The written decision on seizure or impoundment shall specify:

- (1) Name and address of the party concerned;
- (2) Reasons and basis for and term of seizure or impoundment;
- (3) Names and amounts, among others, of the seized or impounded

下列规定:

(一) 当场告知或者实施行政强制措施后立即通知当事人家属实施行政强制措施的行政机关、地点和期限;

(二) 在紧急情况下当场实施行政强制措施的, 在返回行政机关后, 立即向行政机关负责人报告并补办批准手续;

(三) 法律规定的其他程序。

实施限制人身自由的行政强制措施不得超过法定期限。实施行政强制措施的目的已经达到或者条件已经消失, 应当立即解除。

第二十一条 违法行为涉嫌犯罪应当移送司法机关的, 行政机关应当将查封、扣押、冻结的财物一并移送, 并书面告知当事人。

第二节 查封、扣押

第二十二条 查封、扣押应当由法律、法规规定的行政机关实施, 其他任何行政机关或者组织不得实施。

第二十三条 查封、扣押限于涉案的场所、设施或者财物, 不得查封、扣押与违法行为无关的场所、设施或者财物; 不得查封、扣押公民个人及其所扶养家属的生活必需品。

当事人的场所、设施或者财物已被其他国家机关依法查封的, 不得重复查封。

第二十四条 行政机关决定实施查封、扣押的, 应当履行本法第十八条规定的程序, 制作并当场交付查封、扣押决定书和清单。

查封、扣押决定书应当载明下列事项:

- (一) 当事人的姓名或者名称、地址;
- (二) 查封、扣押的理由、依据和期限;

premises, facilities or properties;

(4) Ways and time limit for applying for administrative reconsideration or lodging an administrative lawsuit; and

(5) Name and seal of the administrative organ and date.

The list of seizure or impoundment shall be made in duplicate, as respectively held by the party concerned and the administrative organ.

Article 25 The term of seizure or impoundment shall not exceed 30 days. If the situation is complicated, the term may be extended with the approval of the person in charge of the administrative organ, but the extension shall not exceed 30 days, unless it is otherwise provided for by a law or administrative regulation.

The party concerned shall be timely notified in writing of a decision on extension of the term of seizure or impoundment as well as the reasons for the extension.

If any item needs to be tested, inspected, quarantined or technically appraised, the period of seizure or impoundment shall not include the period of testing, inspection, quarantine or technical appraisal. The period of testing, inspection, quarantine or technical appraisal shall be specified and be notified to the party concerned in writing. The fees for testing, inspection, quarantine or technical appraisal shall be borne by administrative organs.

Article 26 An administrative organ shall properly keep, and shall not use or damage, the seized or impounded premises, facilities or properties; and if any loss is caused, shall bear the compensatory liability.

An administrative organ may authorize a third party to keep the seized premises, facilities or properties, and the third party shall not damage or transfer or dispose them without authorization. For any loss caused by the third party, the administrative organ shall be entitled to reimbursement by the third party after making advance compensation for the loss.

The keeping fees incurred for seizure or impoundment shall be borne by administrative organs.

Article 27 After taking a seizure or impoundment measure, an administrative organ shall timely ascertain the facts and make a handling decision within the time limit as prescribed in Article 25 of this Law. If there are clear facts of violation of law, the administrative organ shall confiscate illegal properties as required by law; destroy those as prescribed by laws and administrative regulations; or make a decision on lifting the seizure or impoundment as it should be.

Article 28 Under any of the following circumstances, an administrative organ shall timely make a decision on lifting a seizure or impoundment:

(三) 查封、扣押场所、设施或者财物的名称、数量等;

(四) 申请行政复议或者提起行政诉讼的途径和期限;

(五) 行政机关的名称、印章和日期。
查封、扣押清单一式二份, 由当事人和行政机关分别保存。

第二十五条 查封、扣押的期限不得超过三十日; 情况复杂的, 经行政机关负责人批准, 可以延长, 但是延长期限不得超过三十日。法律、行政法规另有规定的除外。

延长查封、扣押的决定应当及时书面告知当事人, 并说明理由。

对物品需要进行检测、检验、检疫或者技术鉴定的, 查封、扣押的期间不包括检测、检验、检疫或者技术鉴定的期间。检测、检验、检疫或者技术鉴定的期间应当明确, 并书面告知当事人。检测、检验、检疫或者技术鉴定的费用由行政机关承担。

第二十六条 对查封、扣押的场所、设施或者财物, 行政机关应当妥善保管, 不得使用或者损毁; 造成损失的, 应当承担赔偿责任。

对查封的场所、设施或者财物, 行政机关可以委托第三人保管, 第三人不得损毁或者擅自转移、处置。因第三人的原因造成的损失, 行政机关先行赔付后, 有权向第三人追偿。

因查封、扣押发生的保管费用由行政机关承担。

第二十七条 行政机关采取查封、扣押措施后, 应当及时查清事实, 在本法第二十五条规定的期限内作出处理决定。对违法事实清楚, 依法应当没收的非法财物予以没收; 法律、行政法规规定应当销毁的, 依法销毁; 应当解除查封、扣押的, 作出解除查封、扣押的决定。

第二十八条 有下列情形之一的, 行政机关应当及时作出解除查封、扣押决定:

- (1) The party concerned has not committed any illegal act;
- (2) The seized or impounded premises, facilities or properties are irrelevant to the illegal act;
- (3) The administrative organ has already made a handling decision on the illegal act, and a seizure or impoundment is no longer necessary;
- (4) The term of seizure or impoundment has expired; or
- (5) The measure of seizure or impoundment is otherwise no longer necessary.

Where a seizure or impoundment is lifted, the relevant properties shall be returned immediately. If the fresh goods or other perishable properties have been auctioned or sold, the proceeds from the auction or sale shall be refunded. If the selling price is obviously lower than the market price, causing any loss to the party concerned, compensation shall be made for the loss.

Section 3 Freezing

Article 29 The freezing of deposits or remittances shall be implemented by administrative organs as prescribed by law, and shall not be delegated to other administrative organs or organizations. No other administrative organs or organizations may freeze deposits or remittances.

The amount of deposits or remittances frozen shall be equivalent to the amount involved in the illegal acts. Deposits or remittances that have been frozen by any other state organ according to law shall not be frozen repeatedly.

Article 30 Where an administrative organ decides to freeze deposits or remittances according to law, it shall go through the procedures in Article 18 (1), (2), (3) and (7) of this Law, and deliver a notice of freezing to the relevant financial institution.

The financial institution shall freeze the deposits or remittances immediately after receiving the notice of freezing issued by the administrative organ according to law, and shall not disclose any information to the party concerned before the freezing.

Where an administrative organ or organization other than those as prescribed by law requests a financial institution to freeze any deposit or remittance of the party concerned, the financial institution shall reject it.

Article 31 To freeze deposits or remittances according to law, an administrative organ making the decision shall, within 3 days, deliver to the party concerned a written decision on freezing, which shall specify:

- (1) Name and address of the party concerned;
- (2) Reasons and basis for the freezing and the term thereof;
- (3) Account number and amount frozen;
- (4) Ways and time limit for applying for administrative reconsideration or lodging an administrative lawsuit; and

- (一) 当事人没有违法行为;
- (二) 查封、扣押的场所、设施或者财物与违法行为无关;
- (三) 行政机关对违法行为已经作出处理决定, 不再需要查封、扣押;
- (四) 查封、扣押期限已经届满;
- (五) 其他不再需要采取查封、扣押措施的情形。

解除查封、扣押应当立即退还财物; 已将鲜活物品或者其他不易保管的财物拍卖或者变卖的, 退还拍卖或者变卖所得款项。变卖价格明显低于市场价格, 给当事人造成损失的, 应当给予补偿。

第三节 冻结

第二十九条 冻结存款、汇款应当由法律规定的行政机关实施, 不得委托给其他行政机关或者组织; 其他任何行政机关或者组织不得冻结存款、汇款。

冻结存款、汇款的数额应当与违法行为涉及的金额相当; 已被其他国家机关依法冻结的, 不得重复冻结。

第三十条 行政机关依照法律规定决定实施冻结存款、汇款的, 应当履行本法第十八条第一项、第二项、第三项、第七项规定的程序, 并向金融机构交付冻结通知书。

金融机构接到行政机关依法作出的冻结通知书后, 应当立即予以冻结, 不得拖延, 不得在冻结前向当事人泄露信息。法律规定以外的行政机关或者组织要求冻结当事人存款、汇款的, 金融机构应当拒绝。

第三十一条 依照法律规定冻结存款、汇款的, 作出决定的行政机关应当在三日内向当事人交付冻结决定书。冻结决定书应当载明下列事项:

- (一) 当事人的姓名或者名称、地址;
- (二) 冻结的理由、依据和期限;
- (三) 冻结的账号和数额;
- (四) 申请行政复议或者提起行政诉讼

(5) Name and seal of the administrative organ and date.

Article 32 Within 30 days from the date of freezing deposits or remittances, an administrative organ shall make a handling decision or a decision on lifting the freezing measure. If the situation is complicated, the time limit may be extended with the approval of the person in charge of the administrative organ, but the extension shall not exceed 30 days, unless it is otherwise provided for by a law.

The party concerned shall be timely notified in writing of a decision on extension of freezing as well as the reasons for the extension.

Article 33 Under any of the following circumstances, an administrative organ shall timely make a decision on lifting the freezing measure:

- (1) The party concerned has not committed any illegal act;
- (2) The frozen deposits or remittances are irrelevant to the illegal act;
- (3) The administrative organ has already made a decision on handling the illegal act, and freezing is no longer necessary;
- (4) The term of freezing has expired; or
- (5) The freezing measure is otherwise no longer necessary.

Where an administrative organ makes a decision on lifting the freezing measure, it shall timely notify the relevant financial institution and the party concerned. The financial institution shall lift the freezing measure immediately after receiving the notice.

Where an administrative organ fails to make a handling decision or a decision on lifting the freezing measure within the prescribed time limit, the relevant financial institution shall lift the freezing measure from the date of expiry of the term of freezing.

Chapter IV Procedures for Enforcement by Administrative Organs

Section 1 General Provisions

Article 34 Where, after an administrative organ makes an administrative decision according to law, the party concerned fails to perform obligations within the time limit as determined by the administrative organ, the administrative organ with the administrative enforcement power shall conduct enforcement according to the provisions of this Chapter.

Article 35 An administrative organ shall prompt the party concerned to perform obligations before making a decision on enforcement. The prompting shall be made in writing, and specify:

- (1) The time limit for performing obligations;
- (2) Manners of performance of obligations;
- (3) Specific amount and payment methods if any pecuniary payment is involved; and

的途径和期限;

(五) 行政机关的名称、印章和日期。

第三十二条 自冻结存款、汇款之日起三十日内, 行政机关应当作出处理决定或者作出解除冻结决定; 情况复杂的, 经行政机关负责人批准, 可以延长, 但是延长期限不得超过三十日。法律另有规定的除外。

延长冻结的决定应当及时书面告知当事人, 并说明理由。

第三十三条 有下列情形之一的, 行政机关应当及时作出解除冻结决定:

- (一) 当事人没有违法行为;
- (二) 冻结的存款、汇款与违法行为无关;
- (三) 行政机关对违法行为已经作出处理决定, 不再需要冻结;
- (四) 冻结期限已经届满;
- (五) 其他不再需要采取冻结措施的情形。

行政机关作出解除冻结决定的, 应当及时通知金融机构和当事人。金融机构接到通知后, 应当立即解除冻结。

行政机关逾期未作出处理决定或者解除冻结决定的, 金融机构应当自冻结期满之日起解除冻结。

第四章 行政机关强制执行程序

第一节 一般规定

第三十四条 行政机关依法作出行政决定后, 当事人在行政机关决定的期限内不履行义务的, 具有行政强制执行权的行政机关依照本章规定强制执行。

第三十五条 行政机关作出强制执行决定前, 应当事先催告当事人履行义务。催告应当以书面形式作出, 并载明下列事项:

- (一) 履行义务的期限;
- (二) 履行义务的方式;
- (三) 涉及金钱给付的, 应当有明确的

(4) The right of the party concerned to make statements and arguments according to law.

Article 36 The party concerned shall be entitled to make statements and arguments after receiving a letter of prompting. An administrative organ shall fully hear the opinions of the party concerned, and record and review the facts, reasons and evidence provided by the party concerned. If any fact, reason or evidence provided by the party concerned is tenable, the administrative organ shall adopt it.

Article 37 Where, after being prompted, the party concerned still fails to perform an administrative decision within the prescribed time limit without any justifiable reason, the administrative organ may make a decision on enforcement.

A decision on enforcement shall be made in writing, and specify:

- (1) Name and address of the party concerned;
- (2) Reasons and basis for enforcement;
- (3) Manners and time of enforcement;
- (4) Ways and time limit for applying for administrative reconsideration or lodging an administrative lawsuit; and
- (5) Name and seal of the administrative organ and date.

During the period of prompting, if there is evidence on any sign of transfer or concealment of properties, the administrative organ may make a decision on immediate enforcement.

Article 38 A letter of prompting or a written decision on administrative enforcement shall be directly served on the party concerned. If the party concerned refuses to accept it or it cannot be directly served on the party concerned, it shall be served according to the relevant provisions of the [Civil Procedure Law of the People's Republic of China](#).

Article 39 Under any of the following circumstances, enforcement shall be suspended:

- (1) The party concerned has real difficulty in performing, or temporarily has no ability to perform, the administrative decision;
- (2) A third party claims right to the subject matter of enforcement with a justifiable reason;
- (3) The enforcement may cause any irreparable loss, and a suspension of enforcement does not damage the public interests; or
- (4) The administrative organ otherwise deems a suspension of enforcement necessary.

After the situation causing the suspension of enforcement disappears, the administrative organ shall resume enforcement. Where the party concerned really has no ability to perform the decision and the enforcement is not resumed 3 years after being suspended, if no obvious

amount and payment method;

(四) 当事人依法享有的陈述权和申辩权。

第三十六条 当事人收到催告书后有权进行陈述和申辩。行政机关应当充分听取当事人的意见，对当事人提出的事实、理由和证据，应当进行记录、复核。当事人提出的事实、理由或者证据成立的，行政机关应当采纳。

第三十七条 经催告，当事人逾期仍不履行行政决定，且无正当理由的，行政机关可以作出强制执行决定。

强制执行决定应当以书面形式作出，并载明下列事项：

- (一) 当事人的姓名或者名称、地址；
- (二) 强制执行的理由和依据；
- (三) 强制执行的方式和时间；
- (四) 申请行政复议或者提起行政诉讼的途径和期限；
- (五) 行政机关的名称、印章和日期。

在催告期间，对有证据证明有转移或者隐匿财物迹象的，行政机关可以作出立即强制执行决定。

第三十八条 催告书、行政强制执行决定书应当直接送达当事人。当事人拒绝接收或者无法直接送达当事人的，应当依照《[中华人民共和国民事诉讼法](#)》的有关规定送达。

第三十九条 有下列情形之一的，中止执行：

- (一) 当事人履行行政决定确有困难或者暂无履行能力的；
- (二) 第三人对执行标的主张权利，确有理由的；
- (三) 执行可能造成难以弥补的损失，且中止执行不损害公共利益的；
- (四) 行政机关认为需要中止执行的其他情形。

中止执行的情形消失后，行政机关应当恢复执行。对没有明显社会危害，当事人确无能力履行，中止执行满三年未恢复执行的，行政机关不再执行。

harm is caused to the society, the administrative organ shall no longer conduct the enforcement.

Article 40 Under any of the following circumstances, enforcement shall be terminated:

- (1) A citizen dies, leaving no inheritance available for enforcement and no successor to his or her obligations;
- (2) A legal person or any other organization is terminated, leaving no property available for enforcement and no successor to its obligations;
- (3) The subject matter of enforcement is extinguished;
- (4) The administrative decision on which the enforcement is based has been revoked; or
- (5) The administrative organ otherwise deems a termination of enforcement necessary.

Article 41 Where, in the process of enforcement or after completion of enforcement, the administrative decision on which the enforcement is based has been cancelled or modified or the enforcement is found to be wrong, restoration shall be made or properties shall be returned; and if restoration or return of properties is not possible, compensation shall be made according to law.

Article 42 In conducting administrative enforcement, an administrative organ may reach an enforcement agreement with the party considered, provided that no harm is caused to the public interests and the legitimate rights and interests of others. The enforcement agreement may be performed by stages; and if the party considered has taken remedial measures, the imposed fine or late fee may be reduced or waived. An enforcement agreement shall be performed. If the party concerned fails to perform the enforcement agreement, the administrative organ shall resume enforcement.

Article 43 Administrative organs shall not conduct administrative enforcement at night or on a statutory public holiday, except for emergency.

Administrative organs shall not force the parties concerned to perform the relevant administrative decisions by such means as cutting off the supply of water, electricity, heating or gas for the living of residents.

Article 44 For an illegal building, structure or facility, among others, which needs to be dismantled by force, an administrative organ shall make an announcement to set a time limit for the party concerned to dismantle it. If the party concerned fails to apply for administrative reconsideration or lodge an administrative lawsuit within the statutory time limit, and does not dismantle it, the administrative organ may forcibly dismantle it according to law.

第四十条 有下列情形之一的，终结执行：

- （一）公民死亡，无遗产可供执行，又无义务承受人的；
- （二）法人或者其他组织终止，无财产可供执行，又无义务承受人的；
- （三）执行标的灭失的；
- （四）据以执行的行政决定被撤销的；
- （五）行政机关认为需要终结执行的其他情形。

第四十一条 在执行中或者执行完毕后，据以执行的行政决定被撤销、变更，或者执行错误的，应当恢复原状或者退还财物；不能恢复原状或者退还财物的，依法给予赔偿。

第四十二条 实施行政强制执行，行政机关可以在不损害公共利益和他人合法权益的情况下，与当事人达成执行协议。执行协议可以约定分阶段履行；当事人采取补救措施的，可以减免加处的罚款或者滞纳金。执行协议应当履行。当事人不履行执行协议的，行政机关应当恢复强制执行。

第四十三条 行政机关不得在夜间或者法定节假日实施行政强制执行。但是，情况紧急的除外。行政机关不得对居民生活采取停止供水、供电、供热、供燃气等方式迫使当事人履行相关行政决定。

第四十四条 对违法的建筑物、构筑物、设施等需要强制拆除的，应当由行政机关予以公告，限期当事人自行拆除。当事人在法定期限内不申请行政复议或者提起行政诉讼，又不拆除的，行政机关可以依法强制拆除。

Section 2 Enforcement of Pecuniary Payment Obligations

Article 45 Where an administrative organ makes an administrative decision on an obligation of pecuniary payment according to law, and the party concerned fails to perform it within the prescribed time limit, the administrative organ may impose a fine or late fee according to law. The party concerned shall be notified of the standards for the imposed fine or late fee.

The amount of the imposed fine or late fee shall not exceed the amount of the pecuniary payment obligation.

Article 46 Where, 30 days after an administrative organ imposes a fine or late fee according to the provisions of Article 45 of this Law, the party concerned still fails to perform the relevant decision after being prompted, the administrative organ with the administrative enforcement power may conduct enforcement.

If, before conducting enforcement, the administrative organ needs to take the measure of seizure, impoundment or freezing, it shall be governed by the provisions of Chapter III of this Law.

An administrative organ without the administrative enforcement power shall apply to the people's court for enforcement. However, if the party concerned fails to apply for administrative reconsideration or lodge an administrative lawsuit within the statutory time limit, and still does not perform the relevant decision after being prompted, the administrative organ which has taken the measure of seizure or impoundment in the process of administration may auction the seized or impounded properties according to law for offsetting the fine.

Article 47 The transfer of deposits or remittances shall be decided by administrative organs as prescribed by law, and the related financial institutions shall be notified in writing. A financial institution shall transfer the deposits or remittances immediately after receiving a decision on transfer of deposits or remittances made by an administrative organ according to law.

Where any administrative organ or organization other than those as prescribed by law requests a transfer of deposits or remittances of the party concerned, the relevant financial institution shall reject it.

Article 48 For properties that need to be auctioned according to law, an administrative organ shall authorize an auction institution to auction such properties according to the [Auction Law of the People's Republic of China](#).

Article 49 The transferred deposits or remittances and the proceeds from auction or legal disposition shall be turned over to the state treasury or transferred into the designated financial accounts. No administrative

第二节 金钱给付义务的执行

第四十五条 行政机关依法作出金钱给付义务的行政决定，当事人逾期不履行的，行政机关可以依法加处罚款或者滞纳金。加处罚款或者滞纳金的标准应当告知当事人。

加处罚款或者滞纳金的数额不得超出金钱给付义务的数额。

第四十六条 行政机关依照本法第四十五条规定实施加处罚款或者滞纳金超过三十日，经催告当事人仍不履行的，具有行政强制执行权的行政机关可以强制执行。

行政机关实施强制执行前，需要采取查封、扣押、冻结措施的，依照本法第三章规定办理。

没有行政强制执行权的行政机关应当申请人民法院强制执行。但是，当事人在法定期限内不申请行政复议或者提起行政诉讼，经催告仍不履行的，在实施行政管理过程中已经采取查封、扣押措施的行政机关，可以将查封、扣押的财物依法拍卖抵缴罚款。

第四十七条 划拨存款、汇款应当由法律规定的行政机关决定，并书面通知金融机构。金融机构接到行政机关依法作出划拨存款、汇款的决定后，应当立即划拨。

法律规定以外的行政机关或者组织要求划拨当事人存款、汇款的，金融机构应当拒绝。

第四十八条 依法拍卖财物，由行政机关委托拍卖机构依照《[中华人民共和国拍卖法](#)》的规定办理。

第四十九条 划拨的存款、汇款以及拍卖和依法处理所得的款项应当上缴国库或者划入财政专户。任何行政机关或者个

organ or individual may withhold them in any way, privately divide them, or privately divide them in disguise.

Section 3 Performance on Behalf of the Party Concerned

Article 50 Where an administrative organ makes an administrative decision to require the party concerned to perform an obligation such as removal of obstruction or restitution, if the party concerned fails to perform it within the prescribed time limit, still fails to do so after being prompted and the consequences of it have endangered or will endanger the traffic safety, have caused or will cause environmental pollution or have damaged or will damage natural resources, the administrative organ may perform the obligation on behalf of the party concerned or authorize a third party which is not a party of interest to perform the obligation on behalf of the party concerned.

Article 51 In the performance on behalf of the party concerned, the following provisions shall be complied with:

- (1) A written decision shall be served before performance on behalf of the party concerned, which shall state the name and address of the party concerned, the reasons and basis for, the manner and time of, and the subject matter and expense budget of the performance on behalf of the party, and the party which performs on behalf of the party concerned.
- (2) The party concerned shall be prompted to perform 3 days before performance on behalf of the party concerned, and if the party concerned performs, performance on behalf of the party concerned shall cease.
- (3) During performance on behalf of the party concerned, the administrative organ making the relevant decision shall send personnel to conduct supervision on the spot.
- (4) After the completion of performance on behalf of the party concerned, the personnel of the administrative organ conducting supervision on the spot, the party which performs on behalf of the party concerned and the party concerned or witnesses shall affix their signatures or seals to the enforcement documents.

The fees for performance on behalf of the party concerned shall be reasonably determined on the basis of cost, and be borne by the party concerned, unless it is otherwise provided for by law.

Performance on behalf of the party concerned shall not be conducted by violence, compulsion or any other illegal means.

Article 52 Where it is necessary to immediately remove the objects littered, obstructions or pollutants on a road or in a watercourse, navigation route or public place, and the party concerned is unable to do so, the relevant administrative organ may decide to immediately initiate performance on behalf of the party concerned. If the party concerned is not on the spot, the administrative organ shall notify the party concerned

人不得以任何形式截留、私分或者变相私分。

第三节 代履行

第五十条 行政机关依法作出要求当事人履行排除妨碍、恢复原状等义务的行政决定，当事人逾期不履行，经催告仍不履行，其后果已经或者将危害交通安全、造成环境污染或者破坏自然资源的，行政机关可以代履行，或者委托没有利害关系的第三人代履行。

第五十一条 代履行应当遵守下列规定：

- （一）代履行前送达决定书，代履行决定书应当载明当事人的姓名或者名称、地址，代履行的理由和依据、方式和时间、标的、费用预算以及代履行人；
 - （二）代履行三日前，催告当事人履行，当事人履行的，停止代履行；
 - （三）代履行时，作出决定的行政机关应当派员到场监督；
 - （四）代履行完毕，行政机关到场监督的工作人员、代履行人和当事人或者见证人应当在执行文书上签名或者盖章。代履行的费用按照成本合理确定，由当事人承担。但是，法律另有规定的除外。
- 代履行不得采用暴力、胁迫以及其他非法方式。

第五十二条 需要立即清除道路、河道、航道或者公共场所的遗洒物、障碍物或者污染物，当事人不能清除的，行政机关可以决定立即实施代履行；当事人不在场的，行政机关应当在事后立即通知当事人，并依法作出处理。

immediately after the performance, and handle it according to law.

Chapter V Application to the People's Court for Enforcement

Article 53 If the party concerned fails to apply for administrative reconsideration or lodge an administrative lawsuit within the statutory time limit, and does not perform an administrative decision, the relevant administrative organ without the administrative enforcement power may, within 3 months after the expiry of the time limit, apply to the people's court for enforcement according to the provisions of this Chapter.

Article 54 An administrative organ shall, before applying to the people's court for enforcement, prompt the party concerned to perform obligations. If the party concerned still fails to perform obligations 10 days after the letter of prompting is served, the administrative organ may apply for enforcement to the local people's court having jurisdiction. If the object of enforcement is immovable, the administrative organ shall apply for enforcement to the people's court having jurisdiction at the place where the immovable property is located.

Article 55 An administrative organ which applies to the people's court for enforcement shall provide the following materials:

- (1) A written application for enforcement;
 - (2) A written administrative decision, and the facts, reasons and basis for making the decision;
 - (3) Opinions of the party concerned and information on prompting by the administrative organ;
 - (4) Information on the subject matter of enforcement upon application; and
 - (5) Other materials as prescribed by laws and administrative regulations.
- The written application for enforcement shall be signed by the person in charge of the administrative organ, bear the seal of the administrative organ, and be dated.

Article 56 The people's court shall accept an application of an administrative organ for enforcement within 5 days after receiving it. If the administrative organ raises any objection to the ruling of the people's court on rejecting its application for enforcement, it may apply to the people's court at the next higher level for reconsideration within 15 days, and the latter shall, within 15 days after receiving the application for reconsideration, make a ruling on whether to accept the application for enforcement.

Article 57 The people's court shall conduct documentary examination of the application of an administrative organ for enforcement, and if the application meets the provisions of Article 55 of this Law and the

第五章 申请人民法院强制执行

第五十三条 当事人在法定期限内不申请行政复议或者提起行政诉讼，又不履行行政决定的，没有行政强制执行权的行政机关可以自期限届满之日起三个月内，依照本章规定申请人民法院强制执行。

第五十四条 行政机关申请人民法院强制执行前，应当催告当事人履行义务。催告书送达十日后当事人仍未履行义务的，行政机关可以向所在地有管辖权的人民法院申请强制执行；执行对象是不动产的，向不动产所在地有管辖权的人民法院申请强制执行。

第五十五条 行政机关向人民法院申请强制执行，应当提供下列材料：

- （一）强制执行申请书；
 - （二）行政决定书及作出决定的事实、理由和依据；
 - （三）当事人的意见及行政机关催告情况；
 - （四）申请强制执行标的情况；
 - （五）法律、行政法规规定的其他材料。
- 强制执行申请书应当由行政机关负责人签名，加盖行政机关的印章，并注明日期。

第五十六条 人民法院接到行政机关强制执行的申请，应当在五日内受理。行政机关对人民法院不予受理的裁定有异议的，可以在十五日内向上一级人民法院申请复议，上一级人民法院应当自收到复议申请之日起十五日内作出是否受理的裁定。

第五十七条 人民法院对行政机关强制执行的申请进行书面审查，对符合本法第五十五条规定，且行政决定具备法定执

administrative decision has the statutory enforceability, the people's court shall make a ruling on enforcement within 7 days after acceptance, except under the circumstances as prescribed in Article 58 of this Law.

Article 58 If the people's court finds any of the following circumstances, it may hear the opinions of the party against whom enforcement is sought and the administrative organ before making a ruling.

- (1) Apparent lack of basis in fact;
- (2) Apparent lack of basis in law or regulation; or
- (3) Other obvious violation of law, damaging the legitimate rights and interests of the party against whom enforcement is sought.

The people's court shall, within 30 days after acceptance, make a ruling on whether to conduct enforcement. If it rules against enforcement, it shall give reasons for such a ruling, and serve the non-enforcement ruling on the administrative organ within 5 days.

If the administrative organ raises any objection to the ruling of the people's court on non-enforcement, it may, within 15 days after receiving the ruling, apply to the people's court at the next higher level for reconsideration, and the latter shall, within 30 days after receiving the application for reconsideration, make a ruling on whether to conduct enforcement.

Article 59 In case of emergency, to guarantee public security, an administrative organ may apply to the people's court for immediate enforcement. The people's court shall, with the approval of the president of the people's court, conduct enforcement within 5 days from the date on which the enforcement ruling is made.

Article 60 An administrative organ applying to the people's court for enforcement need not pay any application fee. The enforcement fees shall be borne by the party against whom enforcement is sought. Where the people's court conducts enforcement by transfer or auction, it may deduct the enforcement fees after transfer or auction. For properties that shall be auctioned according to law, the people's court shall authorize an auction institution to auction such properties according to the provisions of the [Auction Law of the People's Republic of China](#). The transferred deposits or remittances or the proceeds from auction or legal disposition shall be turned over to the state treasury or transferred into the designated financial accounts, and shall not be withheld in any form, privately divided, or privately divided in disguise.

Chapter VI Legal Liability

Article 61 Where an administrative organ implementing administrative compulsion falls under any of the following circumstances,

行效力的, 除本法第五十八条规定的情形外, 人民法院应当自受理之日起七日内作出执行裁定。

第五十八条 人民法院发现有下列情形之一的, 在作出裁定前可以听取被执行人和行政机关的意见:

- (一) 明显缺乏事实根据的;
- (二) 明显缺乏法律、法规依据的;
- (三) 其他明显违法并损害被执行人合法权益的。

人民法院应当自受理之日起三十日内作出是否执行的裁定。裁定不予执行的, 应当说明理由, 并在五日内将不予执行的裁定送达行政机关。

行政机关对人民法院不予执行的裁定有异议的, 可以自收到裁定之日起十五日内向上一级人民法院申请复议, 上一级人民法院应当自收到复议申请之日起三十日内作出是否执行的裁定。

第五十九条 因情况紧急, 为保障公共安全, 行政机关可以申请人民法院立即执行。经人民法院院长批准, 人民法院应当自作出执行裁定之日起五日内执行。

第六十条 行政机关申请人民法院强制执行, 不缴纳申请费。强制执行的费用由被执行人承担。

人民法院以划拨、拍卖方式强制执行的, 可以在划拨、拍卖后将强制执行的费用扣除。

依法拍卖财物, 由人民法院委托拍卖机构依照《[中华人民共和国拍卖法](#)》的规定办理。

划拨的存款、汇款以及拍卖和依法处理所得的款项应当上缴国库或者划入财政专户, 不得以任何形式截留、私分或者变相私分。

第六章 法律责任

第六十一条 行政机关实施行政强制, 有下列情形之一的, 由上级行政机关或者

the administrative organ at the higher level or the relevant department shall order it to make correction, and the directly liable person in charge and other directly liable persons shall be subject to disciplinary actions according to law:

- (1) Implementing administrative compulsion without any basis in law or regulation;
- (2) Altering the object, conditions and manner of administrative compulsion;
- (3) Implementing administrative compulsion in violation of statutory procedures;
- (4) Implementing administrative enforcement at night or on a statutory holiday in violation of this Law;
- (5) Forcing the party concerned to perform the relevant administrative decision by such means as cutting off the supply of water, electricity, heating and gas for the living of residents; or
- (6) Otherwise implementing administrative compulsion in violation of law.

Article 62 Where an administrative organ falls under any of the following circumstances in violation of this Law, the administrative organ at the higher level or the relevant department shall order it to make correction, and the directly liable person in charge and other directly liable persons shall be subject to disciplinary actions according to law:

- (1) Expanding the extent of seizure, impoundment or freezing;
- (2) Using or damaging the premises, facilities or properties seized or impounded;
- (3) Failing to make a handling decision within the statutory term of seizure or impoundment or failing to timely lift seizure or impoundment according to law; or
- (4) Failing to make a handling decision within the statutory term of the freezing of deposits or remittances or failing to timely lift the freezing according to law.

Article 63 Where an administrative organ withholds, privately divides, or privately divides in disguise the properties seized or impounded, the deposits or remittances transferred, or the proceeds from auction or legal disposition, the public finance department or the relevant department shall recover them; and the directly liable person in charge and other directly liable persons shall be subject to disciplinary actions according to law, including major demerit, demotion, removal or dismissal.

If any staff member of an administrative organ takes advantage of his/her position to appropriate the seized or impounded premises, facilities or properties, the administrative organ at the higher level or the relevant department shall order him/her to make correction, and subject him/her to disciplinary actions according to law, including major demerit, demotion, removal or dismissal.

有关部门责令改正，对直接负责的主管人员和其他直接责任人员依法给予处分：

- （一）没有法律、法规依据的；
- （二）改变行政强制对象、条件、方式的；
- （三）违反法定程序实施行政强制的；
- （四）违反本法规定，在夜间或者法定节假日实施行政强制执行的；
- （五）对居民生活采取停止供水、供电、供热、供燃气等方式迫使当事人履行相关行政决定的；
- （六）有其他违法实施行政强制情形的。

第六十二条 违反本法规定，行政机关有下列情形之一的，由上级行政机关或者有关部门责令改正，对直接负责的主管人员和其他直接责任人员依法给予处分：

- （一）扩大查封、扣押、冻结范围的；
- （二）使用或者损毁查封、扣押场所、设施或者财物的；
- （三）在查封、扣押法定期间不作出处理决定或者未依法及时解除查封、扣押的；
- （四）在冻结存款、汇款法定期间不作出处理决定或者未依法及时解除冻结的。

第六十三条 行政机关将查封、扣押的财物或者划拨的存款、汇款以及拍卖和依法处理所得的款项，截留、私分或者变相私分的，由财政部门或者有关部门予以追缴；对直接负责的主管人员和其他直接责任人员依法给予记大过、降级、撤职或者开除的处分。

行政机关工作人员利用职务上的便利，将查封、扣押的场所、设施或者财物据为己有的，由上级行政机关或者有关部门责令改正，依法给予记大过、降级、撤职或者开除的处分。

Article 64 Where an administrative organ or any of its staff members seeks any benefit for any entity or individual by taking advantage of the administrative compulsory power, the administrative organ at the higher level and the relevant department shall order it or him/her to make correction, and the directly liable person in charge and other directly liable persons shall be subject to disciplinary actions according to law.

Article 65 Where a financial institution commits any of the following acts in violation of this Law, the financial regulatory institution shall order it to make correction, and the directly liable person in charge and other directly liable persons shall be subject to disciplinary actions according to law:

- (1) Leaking information to the party concerned before freezing;
- (2) Failing to freeze or transfer the deposits or remittances that shall be immediately frozen or transferred, which results in the displacement of the deposits or remittances;
- (3) Freezing or transferring the deposits or remittances that shall not be frozen or transferred; or
- (4) Failing to timely lift the freezing of deposits or remittances.

Article 66 Where a financial institution transfers funds into any account other than the state treasury or designated financial accounts in violation of this Law, the financial regulatory institution shall order it to make correction, and impose a fine twice the amount of funds illegally transferred. The directly liable person in charge and other directly liable persons shall be subject to disciplinary actions according to law.

Where an administrative organ or people's court instructs a financial institution to transfer funds into any account other than the state treasury or designated financial accounts in violation of this Law, the directly liable person in charge and other directly liable persons shall be subject to disciplinary actions according to law.

Article 67 Where a people's court or any of its staff members commits any illegal act or expands the extent of enforcement during enforcement, the directly liable person in charge and other directly liable persons shall be subject to disciplinary actions according to law.

Article 68 Whoever violates this Law, causing any loss to any citizen, legal person or other organization, shall make compensation for the loss according to law.

Whoever violates this Law shall be subject to criminal liability if the violation constitutes a crime.

Chapter VII Supplementary Provisions

Article 69 A time limit of not more than 10 days as mentioned in this Law refers to work days, excluding statutory public holidays.

第六十四条 行政机关及其工作人员利用行政强制权为单位或者个人谋取利益的，由上级行政机关或者有关部门责令改正，对直接负责的主管人员和其他直接责任人员依法给予处分。

第六十五条 违反本法规定，金融机构有下列行为之一的，由金融业监督管理机构责令改正，对直接负责的主管人员和其他直接责任人员依法给予处分：

- （一）在冻结前向当事人泄露信息的；
- （二）对应当立即冻结、划拨的存款、汇款不冻结或者不划拨，致使存款、汇款转移的；
- （三）将不应当冻结、划拨的存款、汇款予以冻结或者划拨的；
- （四）未及时解除冻结存款、汇款的。

第六十六条 违反本法规定，金融机构将款项划入国库或者财政专户以外的其他账户的，由金融业监督管理机构责令改正，并处以违法划拨款项二倍的罚款；对直接负责的主管人员和其他直接责任人员依法给予处分。

违反本法规定，行政机关、人民法院指令金融机构将款项划入国库或者财政专户以外的其他账户的，对直接负责的主管人员和其他直接责任人员依法给予处分。

第六十七条 人民法院及其工作人员在强制执行中有违法行为或者扩大强制执行范围的，对直接负责的主管人员和其他直接责任人员依法给予处分。

第六十八条 违反本法规定，给公民、法人或者其他组织造成损失的，依法给予赔偿。

违反本法规定，构成犯罪的，依法追究刑事责任。

第七章 附则

第六十九条 本法中十日以内期限的规定是指工作日，不含法定节假日。

Article 70 Where an organization with the function of administering public affairs as authorized by a law or administrative regulation conducts administrative compulsion in its own name within the statutory authority, the relevant provisions on administrative organs in this Law shall apply.

Article 71 This Law shall come into force on January 1, 2012.

第七十条 法律、行政法规授权的具有管理公共事务职能的组织在法定授权范围内，以自己的名义实施行政强制，适用本法有关行政机关的规定。

第七十一条 本法自 2012 年 1 月 1 日起施行。

Law of the People's Republic of China against unfair Competition #1
(Adopted at the Third Meeting of the Standing Committee of the Eighth
National People's Congress on September 2, 1993, Promulgated by
Order No. 10 of the President of the People's Republic of China, and
effective as of December 1, 1993)

Chapter I - General Provisions #2

Article 1 #3

This Law is formulated with a view to safeguarding the healthy #4
 development of socialist market economy, encouraging and protecting
 fair competition, repressing unfair competition acts, and protecting the
 lawful rights and interests of business operators and consumers.

Article 2 #5

A business operator shall, in his market transactions, follow the principles of #6
 voluntariness,* equality, fairness, honesty and credibility and observe the
 generally recognized business ethics.

Unfair competition as mentioned in this Law refers to a business operators #7
 acts violating the provisions of this Law, infringing upon the lawful rights
 and interests of another business operator and disturbing the socio-economic
 order.

A business operator as mentioned in this Law refers to a legal person or any #8
 other economic organization or individual engaged in commodities marketing
 or profit-making services commodities referred to hereinafter includes such
 services).

Article 3 #9

People's governments at various levels shall take measures to repress unfair #10
 competition acts and create favorable environment and conditions for fair
 competition.

Administrative departments for industry and commerce of the people's #11
 governments at or above the county level shall exercise supervision over and
 inspection of unfair competition acts; where laws or administrative rules and
 regulations provide that other departments shall exercise the supervision and
 inspection, those provisions shall apply.

Article 4 #12

The State shall encourage, support and protect all organizations and individuals in the exercise of social supervision over unfair competition acts. #13

No State functionary may support or cover up unfair competition acts. #14

Chapter II - Acts of Unfair Competition #15

Article 5 #16

A business operator shall not harm his competitors in market transactions by resorting to any of the following unfair means: #17

(1) counterfeiting a registered trademark of another person; #18

(2) using for a commodity without authorization a unique name, package, or decoration of another's famous commodity, or using a name, package or decoration similar to that of another's famous commodity, thereby confusing the commodity with that famous commodity and leading the purchasers to mistake the former for the latter; #19

(3) using without authorization the name of another enterprise or person, thereby leading people to mistake their commodities for those of the said enterprise or person; or #20

(4) forging or counterfeiting authentication marks, famous-and-excellent-product marks or other product quality marks on their commodities, forging the origin of their products or making false and misleading indications as to the quality of their commodities. #21

Article 6 #22

A public utility enterprise or any other business operator occupying monopoly status according to law shall not restrict people to purchasing commodities from the business operators designated by him, thereby precluding other business operators from fair competition. #23

Article 7 #24

Governments and their subordinate departments shall not abuse administrative powers to restrict people to purchasing commodities from the business operators designated by them and impose limitations on the rightful operation activities of other business operators. #25

Governments and their subordinate departments shall not abuse administrative powers to restrict commodities originated in other places from entering the local markets or the local commodities from flowing into markets #26

of other places.

Article 8

#27

A business operator shall not resort to bribery, by offering money or goods or by any other means, in selling or purchasing commodities. A business operator who offers off-the-book rebate in secret to the other party, a unit or an individual, shall be deemed and punished as offering bribes; and any unit or individual that accepts off-the-book rebate in secret shall be deemed and punished as taking bribes. #28

A business operator may, in selling or purchasing commodities, expressly allow a discount to the other party and pay a commission to the middleman. The business operator who gives discount to the other party and pays commission to the middleman must truthfully enter them in the account. The business operator who accepts the discount or the commission must also truthfully enter it in the account. #29

Article 9

#30

A business operator may not, by advertisement or any other means, make false or misleading publicity of their commodities as to their quality, ingredients, functions, usage, producers, duration of validity or origin. #31

An advertisement agent may not act as agent for, or design, produce or release, a false advertisement while he clearly knows or ought to know its falsehood. #32

Article 10

#33

A business operator shall not use any of the following means to infringe upon business secrets: #34

(1) obtaining an obligees business secrets by stealing, luring, intimidation or any other unfair means; #35

(2) disclosing, using or allowing another person to use the business secrets obtained from the obligee by the means mentioned in the preceding paragraph; or #36

(3) in violation of the agreement or against the obligees demand for keeping business secrets, disclosing, using or allowing another person to use the business secrets he possesses. #37

Obtaining, using or disclosing another's business secrets by a third party who clearly knows or ought to know that the case falls under the unlawful acts listed in the preceding paragraph shall be deemed as infringement upon business secrets. #38

?/FONT>Business secrets as mentioned in this Article refers to any technology information or business operation information which is unknown to the public, can bring about economic benefits to the obligee, has practical utility and about which the obligee has adopted secret-keeping measures. #39

Article 11 #40

A business operator shall not, for the purpose of pushing out their competitors, sell their commodities at prices lower than costs. #41

Any of the following shall not be deemed as an unfair competition act: #42

(1) selling perishables or live commodities; #43

(2) disposing of commodities near expiration of their validity duration or those kept too long in stock; #44

(3) seasonal sales; or #45

(4) selling commodities at a reduced price for the purpose of clearing off debts, change of business or suspension of operation. #46

Article 12 #47

A business operator may not, against the will of purchasers, conduct tie-in sale of commodities or attach any other unreasonable conditions to the sale of their commodities. #48

Article 13 #49

A business operator shall not engage in any of the following lottery-attached sale activities: #50

(1) lottery-attached sale conducted by such deceptive means as falsely declaring to have prize or intentionally making a designated insider win the prize; #51

(2) lottery-attached sale employed as a means to sell goods of low quality at a high price; or #52

(3) lottery-attached sale in form of lottery-drawing with the highest prize exceeding 5 000 yuan. #53

Article 14 #54

A business operator shall not fabricate or spread false information to injure his competitors commercial credit or the reputation of his competitors commodities. #55

Article 15 #56

Bidders shall not act in collusion with each other so as to force up or down the bidding prices. #57

Bidders and tender-invited* shall not collude with each other so as to push out their competitors from fair competition. #58

Chapter III - Supervision and Inspection #59

Article 16 #60

Supervision and inspection departments at or above the county level may carry out supervision over and inspection of unfair competition acts. #61

Article 17 #62

Supervision and inspection departments shall, in supervising and inspecting unfair competition acts, have the right to exercise the following functions and powers: #63

(1) to interrogate the business operators under inspection, interested persons, or witnesses in accordance with the prescribed procedures, and require them to provide testimonial materials or other materials relating to the unfair competition acts; #64

(2) to inquire about and duplicate the agreements, account books, invoices, documents, records, business letters and telegrams or other materials relating to the unfair competition acts; and #65

(3) to inspect the property involved in the unfair competition acts under Article 5 of this Law; and, when necessary, to order the business operators under inspection to explain the source and quantity of the commodities, suspend the sale and await the inspection thereof, and the property involved shall not be transferred, concealed or destroyed. #66

Article 18 #67

Functionaries of supervision and inspection departments shall, when supervising and inspecting unfair competition acts, produce their inspection certificates. #68

Article 19 #69

Business operators under inspection, interested persons and witnesses shall truthfully provide relevant materials or particulars when the supervision and inspection departments supervise and inspect unfair competition acts. #70

Chapter IV - Legal Responsibility #71

Article 20

#72

A business operator who violates the provisions of this Law and thus causes damage to the infringed business operators, shall bear the liability of compensation for the damage. If the losses of the infringed business operator are difficult to estimate, the damages shall be the profits derived from the infringement by the infringer* during the period of infringement. And the infringer shall also bear the reasonable expense paid by the infringed business operator for investigating the infringers unfair competition acts violating his lawful rights and interests.

#73

A business operator whose lawful rights and interests are infringed upon by unfair competition acts may bring a suit in a peoples court.

#74

Article 21

#75

A business operator who counterfeits another's registered trademark, uses without authorization the name of another enterprise or person, forges or counterfeits authentication marks, famous-and-excellent-product marks or other product quality marks, forges origin of the products or makes false and misleading indications regarding the product quality shall be punished in accordance with the provisions of the Trademark Law of the People's Republic of China and the Law of the People's Republic of China on Product Quality.

#76

In case a business operator uses for a commodity without authorization the name, package or decoration of a famous commodity or the name, package or decoration similar to that of a famous commodity and thereby confuses the commodity with another's famous commodity and leads the purchasers to mistake the former for the latter, the supervision and inspection department shall order the business operator to stop the illegal act and confiscate the illegal earnings and may, in light of the circumstances, impose a fine of not less than one time but not more than three times the illegal earnings; if the circumstances are serious, his business license may be revoked; and if the commodities sold are fake and inferior, and the case constitutes a crime, he shall be investigated for criminal responsibility according to law.

#77

Article 22

#78

A business operator, who resorts to bribery by offering money or goods or by any other means in selling or purchasing commodities and if the case constitutes a crime, shall be investigated for criminal responsibility according to law; if the case does not constitute a crime, the supervision and inspection department may impose a fine of not less than 10 000 yuan but not more than 200 000 yuan in light of the circumstances and confiscate the illegal earnings,

#79

if any.

Article 23

#80

In case a public utility enterprise or any other business operator occupying monopoly status according to law restricts people to purchasing commodities from a designated business operator in order to push out other business operators from fair competition, the supervision and inspection departments at the provincial level or of cities divided into districts shall order the ceasing of the illegal acts and may impose a fine of not less than 50 000 yuan but not more than 200 000 yuan in light of the circumstances. If such designated business operator takes advantage of his monopoly status to sell goods of low quality at high prices or indiscriminately collects fees, the inspection and supervision department shall confiscate the illegal earnings and may impose a fine of not less than one time but not more than three times the illegal earnings in light of the circumstances.

#81

Article 24

#82

In case a business operator makes false and misleading publicity of his commodities by advertisement or any other means, the supervision and inspection department shall order the said business operator to stop his illegal acts and eliminate the bad effects, and may impose a fine of not less than 10 000 yuan but not more than 200 000 yuan in light of the circumstances.

#83

In case an advertisement agent acts as agent for, or designs, produces or releases, a false advertisement though the agent clearly knows or ought to know the falsehood, the supervision and inspection department shall order the ceasing of the illegal acts, confiscate the illegal earnings, and impose a fine according to law.

#84

Article 25

#85

In case a business operator violates the provisions of Article 10 of this Law and infringes upon trade secrets, the supervision and inspection department shall order the ceasing of the illegal acts and may impose a fine of not less than 10 000 yuan but not more than 200 000 yuan in light of the circumstances.

#86

Article 26

#87

In case a business operator engages in lottery-attached sale in violation of the provisions of Article 13 of this Law, the supervision and inspection department shall order the ceasing of the illegal acts and may impose a fine of not less than 10 000 yuan but not more than 100 000 yuan in light of the circumstances.

#88

Article 27

#89

Where bidders act in collusion with each other to force up or down the bidding price, or a bidder colludes with a tender-inviter* for the purpose of pushing out their competitors, the successful bid shall be invalid, and the supervision and inspection department may impose a fine of not less than 10 000 yuan but not more than 200 000 yuan in light of the circumstances.

#90

Article 28

#91

In case a business operator acts in violation of the order of stopping the sale or forbidding the transfer, concealment or destruction of the property involved in the unfair competition acts, the supervision and inspection department may impose a fine of not less than one time but not more than three times the price of the property sold, transferred, concealed or destroyed.

#92

Article 29

#93

In case a party is not satisfied with the punishment decision made by the supervision and inspection department, it may apply for reconsideration to the competent department at the next higher level within 15 days from receipt of the decision; and if the party is still not satisfied with the reconsideration decision, it may bring a suit in a people's court within 15 days from receipt of the decision; and the party may also directly file a suit in a people's court.

#94

Article 30

#95

Where a government or its subordinate departments, in violation of the provisions of Article 7

#96

of this Law, restrict people to purchasing commodities from a designated business operator or impose limits on other business operator's rightful operation activities or the normal circulation of commodities between different areas, the supervision and inspection department at higher levels shall order them to make corrections; and if the circumstances are serious, the persons held directly responsible shall be given administrative sanctions by the relevant department at the same or higher levels; if the designated business operator takes advantage of his status to sell goods of low quality at high prices or indiscriminately collects fees, the supervision and inspection department shall confiscate the illegal earnings and may impose a fine of not less than one time but not more than three times the illegal earnings in light of the circumstances.

#97

Article 31

#98

Where a State functionary engaged in supervision over and inspection of unfair competition acts abuses his power or neglects his duty, and if the case constitutes a crime, he shall be investigated for criminal responsibility according to law; if the case does not constitute a crime, he shall be given an administrative sanction. #99

Article 32 #100

Where a State functionary engaged in supervision over and inspection of unfair competition acts practices favoritism or irregularities and intentionally harbors a business operator whom he clearly knows to be guilty of a crime committed by violating the provisions of this Law and attempts to shield him from prosecution, he shall be investigated for criminal responsibility according to law. #101

Chapter V - Supplementary Provisions #102

Article 33 #103

This Law shall enter into force as of December 1, 1993. #104

Endnotes

中华人民共和国反不正当竞争法

（ 1 9 9 3 年 9 月 2 日第八届全国人民代表大会常务委员会第三次会议通过 1 9 9 3 年 9 月 2 日中华人民共和国主席令第十号公布 自 1 9 9 3 年 1 2 月 1 日起施行 ）

第一章 总 则

第二章 不正当竞争行为

第三章 监督检查

第四章 法律责任

第五章 附 则

第一章 总 则

第一条 为保障社会主义市场经济健康发展，鼓励和保护公平竞争，制止不正当竞争行为，保护经营者和消费者的合法权益，制定本法。

第二条 经营者在市场交易中，应当遵循自愿、平等、公平、诚实信用的原则，遵守公认的商业道德。

本法所称的不正当竞争，是指经营者违反本法规定，损害其他经营者的合法权益，扰乱社会经济秩序的行为。

本法所称的经营者，是指从事商品经营或者营利性服务（以下所称商品包括服务）的法人、其他经济组织和个人。

第三条 各级人民政府应当采取措施，制止不正当竞争行为，为公平竞争创造良好的环境和条件。

县级以上人民政府工商行政管理部门对不正当竞争行为进行监督检查；法律、行政法规规定由其他部门监督检查的，依照其规定。

第四条 国家鼓励、支持和保护一切组织和个人对不正当竞争行为进行社会监督。

国家机关工作人员不得支持、包庇不正当竞争行为。

第二章 不正当竞争行为

第五条 经营者不得采用下列不正当手段从事市场交易，损害竞争对手：

（一）假冒他人的注册商标；

（二）擅自使用知名商品特有的名称、包装、装潢，或者使用与知名商品近似的名称、包装、装潢，造成和他人的知名商品相混淆，使购买者误认为是该知名商品；

（三）擅自使用他人的企业名称或者姓名，引人误认为是他人的商品；

（四）在商品上伪造或者冒用认证标志、名优标志等质量标志，伪造产地，对商品质量作引人误解的虚假表示。

第六条 公用企业或者其他依法具有独占地位的经营者，不得限定他人购买其指定的经营者的商品，以排挤其他经营者的公平竞争。

第七条 政府及其所属部门不得滥用行政权力，限定他人购买其指定的经营者的商品，限制其他经营者正当的经营活动。

政府及其所属部门不得滥用行政权力，限制外地商品进入本地市场，或者本地商品流向外地市场。

第八条 经营者不得采用财物或者其他手段进行贿赂以销售或者购买商品。在帐外暗中给予对方单位或者个人回扣的，以行贿论处；对方单位或者个人在帐外暗中收受回扣的，以受贿论处。

经营者销售或者购买商品，可以以明示方式给对方折扣，可以给中间人佣金。经营者给对方折扣、给中间人佣金的，必须如实入帐。接受折扣、佣金的经营者必须如实入帐。

第九条 经营者不得利用广告或者其他方法，对商品的质量、制作成分、性能、用途、生产者、有效期限、产地等作引人误解的虚假宣传。

广告的经营者不得在明知或者应知的情况下，代理、设计、制作、发布虚假广告。

第十条 经营者不得采用下列手段侵犯商业秘密：

- （一）以盗窃、利诱、胁迫或者其他不正当手段获取权利人的商业秘密；
- （二）披露、使用或者允许他人使用以前项手段获取的权利人的商业秘密；
- （三）违反约定或者违反权利人有关保守商业秘密的要求，披露、使用或者允许他人使用其所掌握的商业秘密。

第三人明知或者应知前款所列违法行为，获取、使用或者披露他人的商业秘密，视为侵犯商业秘密。

本条所称的商业秘密，是指不为公众所知悉、能为权利人带来经济利益、具有实用性并经权利人采取保密措施的技术信息和经营信息。

第十一条 经营者不得以排挤竞争对手为目的，以低于成本的价格销售商品。

有下列情形之一的，不属于不正当竞争行为：

- （一）销售鲜活商品；
- （二）处理有效期限即将到期的商品或者其他积压的商品；
- （三）季节性降价；
- （四）因清偿债务、转产、歇业降价销售商品。

第十二条 经营者销售商品，不得违背购买者的意愿搭售商品或者附加其他不合理的条件。

第十三条 经营者不得从事下列有奖销售：

- （一）采用谎称有奖或者故意让内定人员中奖的欺骗方式进行有奖销售；
- （二）利用有奖销售的手段推销质次价高的商品；
- （三）抽奖式的有奖销售，最高奖的金额超过五千元。

第十四条 经营者不得捏造、散布虚伪事实，损害竞争对手的商业信誉、商品声誉。

第十五条 投标者不得串通投标，抬高标价或者压低标价。

投标者和招标者不得相互勾结，以排挤竞争对手的公平竞争。

第三章 监督检查

第十六条 县级以上监督检查部门对不正当竞争行为，可以进行监督检查。

第十七条 监督检查部门在监督检查不正当竞争行为时，有权行使下列职权：

（一）按照规定程序询问被检查的经营者、利害关系人、证明人，并要求提供证明材料或者与不正当竞争行为有关的其他资料；

（二）查询、复制与不正当竞争行为有关的协议、帐册、单据、文件、记录、业务函电和其他资料；

（三）检查与本法第五条规定的不正当竞争行为有关的财物，必要时可以责令被检查的经营者说明该商品的来源和数量，暂停销售，听候检查，不得转移、隐匿、销毁该财物。

第十八条 监督检查部门工作人员监督检查不正当竞争行为时，应当出示检查证件。

第十九条 监督检查部门在监督检查不正当竞争行为时，被检查的经营者、利害关系人和证明人应当如实提供有关资料或者情况。

第四章 法律责任

第二十条 经营者违反本法规定，给被侵害的经营者造成损害的，应当承担损害赔偿责任，被侵害的经营者的损失难以计算的，赔偿额为侵权人在侵权期间因侵权所获得的利润；并应当承担被侵害的经营者因调查该经营者侵害其合法权益的不正当竞争行为所支付的合理费用。

被侵害的经营者的合法权益受到不正当竞争行为损害的，可以向人民法院提起诉讼。

第二十一条 经营者假冒他人的注册商标，擅自使用他人的企业名称或者姓名，伪造或者冒用认证标志、名优标志等质量标志，伪造产地，对商品质量作引人误解的虚假表示的，依照《中华人民共和国商标法》、《中华人民共和国产品质量法》的规定处罚。

经营者擅自使用知名商品特有的名称、包装、装潢，或者使用与知名商品近似的名称、包装、装潢，造成和他人的知名商品相混淆，使购买者误认为是该知名商品的，监督检查部

门应当责令停止违法行为，没收违法所得，可以根据情节处以违法所得一倍以上三倍以下的罚款；情节严重的，可以吊销营业执照；销售伪劣商品，构成犯罪的，依法追究刑事责任。

第二十二条 经营者采用财物或者其他手段进行贿赂以销售或者购买商品，构成犯罪的，依法追究刑事责任；不构成犯罪的，监督检查部门可以根据情节处以一万元以上二十万元以下的罚款，有违法所得的，予以没收。

第二十三条 公用企业或者其他依法具有独占地位的经营者，限定他人购买其指定的经营者的商品，以排挤其他经营者的公平竞争的，省级或者设区的市的监督检查部门应当责令停止违法行为，可以根据情节处以五万元以上二十万元以下的罚款。被指定的经营者借此销售质次价高商品或者滥收费用的，监督检查部门应当没收违法所得，可以根据情节处以违法所得一倍以上三倍以下的罚款。

第二十四条 经营者利用广告或者其他方法，对商品作引人误解的虚假宣传的，监督检查部门应当责令停止违法行为，消除影响，可以根据情节处以一万元以上二十万元以下的罚款。

广告的经营者，在明知或者应知的情况下，代理、设计、制作、发布虚假广告的，监督检查部门应当责令停止违法行为，没收违法所得，并依法处以罚款。

第二十五条 违反本法第十条规定侵犯商业秘密的，监督检查部门应当责令停止违法行为，可以根据情节处以一万元以上二十万元以下的罚款。

第二十六条 经营者违反本法第十三条规定进行有奖销售的，监督检查部门应当责令停止违法行为，可以根据情节处以一万元以上十万元以下的罚款。

第二十七条 投标者串通投标，抬高标价或者压低标价；投标者和招标者相互勾结，以排挤竞争对手的公平竞争的，其中标无效。监督检查部门可以根据情节处以一万元以上二十万元以下的罚款。

第二十八条 经营者有违反被责令暂停销售，不得转移、隐匿、销毁与不正当竞争行为有关的财物的行为的，监督检查部门可以根据情节处以被销售、转移、隐匿、销毁财物的价款的一倍以上三倍以下的罚款。

第二十九条 当事人对监督检查部门作出的处罚决定不服的，可以自收到处罚决定之日起十五日内向上一级主管机关申请复议；对复议决定不服的，可以自收到复议决定书之日起十五日内向人民法院提起诉讼；也可以直接向人民法院提起诉讼。

第三十条 政府及其所属部门违反本法第七条规定，限定他人购买其指定的经营者的商品、限制其他经营者正当的经营活动，或者限制商品在地区之间正常流通的，由上级机关责令其改正；情节严重的，由同级或者上级机关对直接责任人员给予行政处分。被指定的经营者借此销售质次价高商品或者滥收费用的，监督检查部门应当没收违法所得，可以根据情节处以违法所得一倍以上三倍以下的罚款。

第三十一条 监督检查不正当竞争行为的国家机关工作人员滥用职权、玩忽职守，构成犯罪的，依法追究刑事责任；不构成犯罪的，给予行政处分。

第三十二条 监督检查不正当竞争行为的国家机关工作人员徇私舞弊，对明知有违反本法规定构成犯罪的经营者故意包庇不使他受追诉的，依法追究刑事责任。

第五章 附 则

第三十三条 本法自1993年12月1日起施行。