



Leo W. Gerard
International President

December 10, 2007

VIA FAX

The Honorable Nancy Pelosi
Speaker of the House of Representatives
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Harry Reid
Senate Majority Leader
U.S. Senate
Washington, D.C. 20510

Dear Speaker Pelosi and Leader Reid:

I am writing on behalf of the more than 850,000 members of the United Steelworkers Union (USW) to urge that quick and comprehensive action take place on a number of priority trade issues in the context of U.S.-China trade relations.

America faces a trade crisis: Our trade deficit with China is expected to once again reach new historic highs. Millions of manufacturing jobs have been lost as factories have shuttered and workers have been forced to find new jobs – all too often at lower wages with few, if any, benefits. Company after company has picked up and moved operations to China with the goal of reaping the benefits of low wages, unsafe working conditions and no workers rights. Many of these companies have transferred technology which has helped accelerate China's position as an export powerhouse. Indeed, almost 60% of China's exports to the U.S. come from foreign-invested enterprises.

The upcoming bilateral Strategic Economic Dialogue will inevitably result in few, if any, concrete gains. Results must be measured not in the number of words contained in press releases and communiqués, but by the jobs and opportunities that are created for working people across this country. We cannot talk our way out of this problem. China's unwillingness to take anything more than baby steps to address the intractable problems cannot be ignored any longer: Congress must act.

The USW is the largest industrial union in North America. Our membership spans industries ranging from steel to paper to chemicals to furniture to rubber and many, many others. We have been on the frontlines of the trade battles that have been waged by our foreign competitors who often seek to gain access to the U.S. market through unfair and

predatory trade practices. We have also been a consistent and passionate advocate for the expansion of trade and the enforcement and expansion of fair rules that will enable workers in all countries to share in the fruits of their labor and to know that, when they work hard and play by the rules, they will have a fair chance to compete and prosper.

Our priority should be to address the skyrocketing trade deficit, to demand that other nations play by the rules and to enact policies that strengthen our manufacturing base. As a start, the US-China trade imbalance and its unfair and predatory trade practices must be addressed. Furthermore, U.S. failures effectively subsidize and support China's violations – such as allowing for hundreds of millions of dollars in legally assessed duties to go uncollected. We simply cannot afford to continue following the *status quo* approach.

Congress has the opportunity to enact strong legislation to address many of the unfair and predatory practices of our trading partners and to ensure that our trade laws are effectively enforced. The American people spoke out forcefully on this issue all across the country roughly a year ago when they gave control of the Congress to the Democrats. Our members cannot wait any longer for Congress to act.

As leadership reviews what proposals are appropriate for immediate action, we want to raise a number of points for your consideration that must be included in any final package for it to be truly effective for American manufacturers and their workers:

- * **Government induced currency misalignment.** We strongly support the provisions contained in the bipartisan Ryan-Hunter Currency Reform for Fair Trade Act (H.R. 2942) in its strengthened form. Government induced currency misalignment has had an extremely corrosive impact on our nation's manufacturers and their workers. Congress must enact provisions that ensure prompt action, that do not require proof of "intent," and that allow for currency manipulation to be considered an illegal subsidy or in antidumping proceedings, among other provisions.

- * **Countervailing duty/nonmarket economy (CVD/NME) legislation.** Congress should enact statutory ratification of efforts to ensure that our countervailing duty laws are applicable and effective in addressing the practices of non-market economies like China. Passage of this legislation is vital to attack the pernicious and pervasive subsidies which China regularly employs to assist its producers. China has failed to adequately abide by its international commitments in this important area and the devastating impact of its actions must not go unchallenged. Authority should be expanded to ensure that we can effectively respond. Congress should also ensure through legislation that the application of the antidumping law is unaffected by a finding that the countervailing duty applies to a NME country. In

addition, the valuation of the factors of production methodology must be strengthened.

- * **Zeroing.** The World Trade Organization (WTO), has, once again, overreached in its efforts to limit the ability of the U.S. to use the “zeroing” methodology in antidumping proceedings. To use a speeding analogy, in essence, the WTO wants to require the U.S. to give credit to a speeding driver (the dumping entity) for driving under the speed limit in another jurisdiction. It’s just plain wrong and unacceptable. Legislation to suspend the implementation of the WTO’s efforts to restrict zeroing and to address this through negotiations must be pursued.

- * **Bratsk.** Congress must act to reverse the Federal Circuit’s recent decision in Bratsk Aluminum Smelter, et al. v. U.S., et al. where new obligations imposed by the court on the International Trade Commission will make it much more difficult for domestic parties to offset the impact of unfair trade. The Court chose, essentially, to impose the view that a mugger should not be convicted for a mugging because, in that neighborhood, you were probably going to get mugged anyway. A producer and their workers who get “mugged” in international trade deserve to know that their government is going to stand by them and that a remedy can be applied.

- * **Market Economy Status.** The Department of Commerce is currently considering whether it should apply market-economy treatment to individual companies in antidumping cases involving China. Commerce should be prohibited from taking such action as there is no evidence that China is a market economy and one cannot disassociate individual sectors, industries or companies from the overall impact of China’s policies. Indeed, when China joined the WTO it agreed to be subject to non-market economy treatment for a period of up to 15 years. There is no reason to accelerate this process on a country-wide or more limited basis. Such action would seriously weaken our trade laws and our ability to fight for our members’ jobs. Also, the Administration must not act without Congress, by joint resolution, approving any revocation or alteration of NME status.

- * **Dumping enforcement.** Our trade laws exist to ensure that unfair and predatory trade practices will not go unanswered. Unfortunately, utilizing our trade laws often requires that domestic parties expend substantial resources to fight for their interests. Yet, even after our trade laws have been found to have been violated and that a remedy should be applied, the fight may not be over. Between 2001 and 2006, more than \$700 million in duties were not collected by Customs and Border Protection. Of this amount, almost 80% of the uncollected duties were from imports from China. It’s no wonder that support for our nation’s trade policies is at such a low level: no one has confidence that our trade laws will be properly applied and strictly enforced. Congress must act to ensure that our laws work for our people.

- * **Strengthening U.S. trade laws.** It's time to update our trade laws to ensure that they effectively address foreign unfair and predatory trade practices and that our laws are faithfully implemented to fight for the interests of our workers, farmers and businesses. Section 421 was created as part of China's WTO accession to give the U.S. a tool to respond to surging imports. On four occasions, the International Trade Commission held that the threat of injury was clear and that relief should be granted. In each instance, the President turned his back on U.S. producers and their employees. In two of those cases it was our members whose lives were irrevocably altered when they lost their jobs. The President's discretion in this and other areas must be reduced, if not eliminated.

In another vital area, we find that our trade laws may act to penalize U.S. industries that seek to reduce the impact of foreign unfair trade on their operations while also seeking to avail themselves of the trade laws that we have on the books. A good case in point is the recent coated free sheet paper case where dumping margins were announced by the Department of Commerce but the International Trade Commission found that injury had not occurred. The ITC's misguided approach was based on the fact that injury had *already* occurred to USW members and employment had dropped and other downsizing had taken place.

There are other areas that demand updating to respond to the challenge posed by China as well as other nations' practices. When foreign companies fail to provide information in the form and manner required to the conduct of a proper proceeding, the agency must have broader authority to penalize them so they cannot game the system in their favor.

- * **Illegal logging.** Statutory guidance must be enacted to ensure that our government acts to stop imports of products made with illegally harvested timber – either in the country engaging in the illegal harvesting or through downstream purchasers of those products. Many press stories have identified China's actions in using illegally harvested logs and wood products in the products with which they flooded world markets. Illegal logging has not only had devastating environmental repercussions, but has resulted in the loss of thousands of Steelworker represented jobs here in the U.S. in the paper and wood product sectors. Updating the Lacey Act is an important first step, but more must be done.

- * **Food and product safety.** The dramatic rise in the flow of trade has brought with it a concomitant rise in the number of unsafe and unhealthy products entering our country. We must have adequate standards, rules and enforcement tools to ensure the health and safety of our people. As Secretary of Health and Human Services Michael Levitt said, "we cannot inspect our way to safety". Therefore, while we must do our best to enhance our inspection and interdiction infrastructure, we must apply market-based principles to ensure that importers are liable for the products they bring into

this country. Only they have the power to go up the stream of commerce to demand that their suppliers engage in safe practices when they provide them with the products they import, and the need to enforce that power must be legislatively mandated.

The above represent the core issues that must be dealt with in any Congressional trade initiative to begin to effectively address our nation's trade problems with China so our members can compete on a level playing field. The list is, by no means, comprehensive as there is no "silver bullet". We would welcome the opportunity to work with you and others in Congress to develop a comprehensive action plan to achieve real results.

Sincerely,

A handwritten signature in black ink, appearing to read "Leo W. Gerard". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Leo W. Gerard
International President

LWG/pak