



Leo W. Gerard
International President

February 4, 2008

VIA FAX

The Honorable Charles Rangel
Chairman, Committee on Ways and Means
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Sander Levin
Chairman, Subcommittee on Trade
U.S. House of Representatives
Washington, D.C. 20515

Dear Chairman Rangel and Chairman Levin:

On behalf of more than 850,000 active members of the United Steelworkers Union (USW), I write to urge the Committee on Ways and Means, in considering legislation to address government-induced currency misalignment, to adopt the remedies contained in the bipartisan Ryan-Hunter Currency Reform for Fair Trade Act (H.R. 2942).

The USW is the largest industrial union in North America and has been fighting on the front lines against foreign governments and companies seeking to gain an unfair competitive advantage by violating the rules of trade. One such unfair competitive advantage is government-induced currency misalignment. This particular anticompetitive action has had an enormously corrosive effect on our nation's manufacturers and their workers and, without doubt, has disproportionately contributed to the skyrocketing trade deficits we now face – in particular the massive imbalance with China.

H.R. 2942 would meaningfully address this critical problem by strengthening our trade remedy laws. H.R. 2924 contains a countervailing duty remedy and also an antidumping duty remedy, both of which are WTO-compliant and critical to addressing the misaligned currencies of our trading partners. First, the countervailing duty remedy would be implemented upon an affirmative finding by the Department of Commerce (Commerce) of currency misalignment, which would be considered an export subsidy. Secondly, the antidumping duty remedy would permit Commerce to consider whether currency misalignment in antidumping cases results in price discrimination between markets. If so, that discrimination would be in violation of U.S. law and the rules of the World Trade Organization (WTO). Importantly, neither remedy would require a finding of "intent" by a foreign government before action could be taken, yet neither remedy could be applied unless the International Trade Commission (ITC) finds injury. We firmly believe that the ability to apply antidumping or countervailing duty remedies to counter anticompetitive currency misalignment would not negatively impact currency markets or financial markets generally.

Currency manipulation, however, is not the only trade issue that Congress must address in considering trade legislation. As noted in the USW's letter to House Speaker Nancy Pelosi and Senate Majority Leader Harry Reid of December 10, 2007, Congress must meaningfully address several other outstanding trade issues.

Suspending Implementation of Erroneous WTO Decisions on Zeroing:

The World Trade Organization (WTO) once again has improperly overreached in its efforts to limit the right of the United States to rely on "zeroing", a method that takes full account of the level of dumping. The WTO Appellate Body is just plain wrong and its decisions on zeroing unacceptable. Congress must pass legislation to suspend the implementation of such decisions until zeroing is addressed adequately in the Doha Round Rules negotiations. Failure to address this improper action by the WTO through legislation will totally eviscerate the usefulness of our trade laws for our members and their employers.

Reversing Bratsk Federal Circuit Decision:

Congress must reverse the Federal Circuit's recent decision in Bratsk Aluminum Smelter, et al. v. U.S., et al., 444 F.3d 1369 (Fed. Cir. 2006), where the court imposed new obligations on the ITC that make it exceedingly difficult for domestic manufacturers and their workers to offset the negative impact of unfair trade. H.R. 2714 would properly address both zeroing and the Bratsk decision.

Applying Anti-Subsidy Remedy to NME Countries:

Congress should act to ratify recent decisions by Commerce to apply the countervailing duty law to counter the deliberate and targeted use of anticompetitive subsidies by governments in nonmarket economy countries, particularly China, as contemplated in H.R. 1229. To ensure the full application of that remedy, Congress should enact legislation that provides for alternative methodologies to identify and fully calculate a subsidy benefit, including the use of market economy benchmarks without adjustment, and that also fully captures nonrecurring benefits based on the average useful life of the equipment in the industry at issue and without regard to the date of WTO accession or any other arbitrary measure. Congress should also ensure through legislation that the non-market economy (NME) provisions of the antidumping law are unaffected by the application of the countervailing duty law and indeed are applied robustly by strengthening the NME methodology applied to value the factors of production. Also, Congress should provide a check over the authority of Commerce to graduate a non-market economy to market economy status, as there is no judicial review of that agency decision. H.R. 1229 addresses this by requiring approval of such agency decision by a joint congressional resolution.

Our members producing paper products, off road tires and standard pipe -- members whose very jobs are being affected by unfair competition from government-subsidized industries -- need Congress to make sure that Commerce's decisions result in effective and full enforcement of the trade remedy laws.

Prohibiting Market Economy Status for Individual Chinese Companies:

While it is vitally important that the anti-subsidy law apply to China, it does not follow that individual companies within China now should be treated as though they were operating in a market economy country under the antidumping law. Such treatment would stand the statute on its head by permitting the use of costs and prices *in* China to determine the amount of dumping, even though there is no evidence that China is a market economy under the antidumping law and even

though individual companies operating in China cannot be de-linked from the overall impact of the economic policies of the People's Republic of China. Yet, Commerce currently is contemplating making such a change for Chinese companies despite that agency's August 2006 80-page determination that China is an NME under the antidumping statute. Congress should enact legislation that prohibits Commerce in an antidumping case from treating individual companies operating in China as though they were operating in a market economy country so long as China does not meet the statutory criteria required for market economy status under the antidumping law.

Strengthening Section 421: The China Safeguard Law:

Section 421 was created as an integral part of China's accession to the WTO to give a tool to the United States to respond in a meaningful manner to import surges from China as trade barriers were lifted as a result of accession. Given the nature of that developing country's rapid development as the world's leading manufacturer, it was understood as critical for acceptance of China's accession that this safeguard provision be available for our domestic manufacturers. However, despite the fact that on four occasions the ITC held that market disruption to a domestic industry was clear and relief should be provided, in each instance, the President refused to give any relief. In two of those cases, USW members lost jobs because of the President's refusal to act. Congress should enact legislation that eliminates presidential discretion.


Addressing Imports Produced From Illegal Logging:

Illegal logging has had a devastating environmental impact globally and also has resulted in the loss thousands of USW manufacturing jobs in the paper and wood product industries here. Updating the Lacey Act is an important first step to address the environmental destruction, but is inadequate to counter the harmful consequences of imports produced from illegally harvested timber that flood our market and cause harm to our manufacturers and USW workers. Any legislation considered by the Ways and Means Committee should include a satisfactory means to address this issue so that the most egregious kind of unfairly traded good does not continue to wreak havoc on our paper and wood sector and USW workers.

In addition to these outstanding trade issues, the USW urges the Ways and Means Committee to also include in any legislation it considers strong measures to ensure the safety of imports by providing for bonding to cover the costs of product recalls and damages, as accomplished in WTO-compliant fashion in H.R. 5069, the Food and Product Responsibility Act.

Thank you for your continued attention to these critical trade matters.

Sincerely



Leo W. Gerard
International President

LWG/ctl

c: Ways and Means Committee