



**Testimony of**

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**Before the**

**Senate Finance Committee**

**Trade Enforcement Challenges and Opportunities:  
Using Trade Rules to Level the Playing Field for U.S. Companies and  
Workers**

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Chairman Wyden, Ranking Member Hatch, Members of the Committee. I want to thank you for inviting me to testify today on the critical issue of trade enforcement.

My name is Leo Gerard and I am the International President of the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union – the Steelworkers or USW for short. There are 850,000 members of our union and we are the largest industrial union in North America.

Other than assembling cars and light trucks or airplanes, our members are involved in virtually every facet of manufacturing from hard rock and metals mining to fiber optics. They are employed by pharmaceutical and chemical companies, by tire manufacturers and glass companies, by farm implement companies and aluminum smelters, by tool makers and consumer goods producers. Across this great country, our members help keep American factories humming, buildings safe and secure, producing the critical fuels and machinery that keeps our nation moving in the air, on the ground and in the water, and providing secure and stable power supplies to every corner of the country. Roughly 350,000 USW members make products that may end up in a car or light truck ranging from tires and windshields to more “traditional” auto parts.

And, of course, we produce steel. Our members are the most productive steelworkers in the world, producing steel at less than one-man-hour per ton. Our steel plants produce one-third less carbon per ton of output than producers in China. Billions of dollars of investments have increased productivity, ensured the highest technology and the cleanest factories.

When many Americans think of steel, they think of an I-beam on a crane being lifted into place on a skyscraper. But, today’s steel industry, while still producing those basic products, also produces products at tolerances unheard of even a decade ago. When you go to a factory, you may see roll after roll of steel, thinking you’re seeing identical products. But, each may be produced to different tolerances with different metallurgic properties for countless applications.

Mr. Chairman, Members of the Committee. I’m sorry to say that by necessity I’ve become one of the country’s leading experts on trade enforcement. I’m pleased to appear before you today on the topic but, to be honest; I wish I had a positive story to tell you.

USW members and non-union workers alike know firsthand the pain inflicted by foreign predatory, protectionist and unfair trade practices. In industry after industry, they have seen other nations target the U.S. market to fuel their own economic policies, to create jobs for their people and capture the dollars of our consumers. These practices have increasingly resulted

in the downsizing of manufacturing and the loss of good family supportive jobs, as companies have offshored and outsourced their production.

The USW has been as successful as it can be in its efforts to counter unfair trade, but it's a losing game. Indeed, the only way we win is by losing. Lost profits, lost jobs, closed factories, hollowed out communities – that is the price the trade laws demand to show sufficient injury to provide relief. In the year or more it takes to bring a trade case and obtain relief, foreign companies can continue to flood the market. By the time that relief may be provided, the industry is often a shadow of its former self, too many workers have lost their jobs and their families and the communities in which they live have paid a heavy, and often irrevocable, price.

We've had to expend countless resources to bring these trade cases. In the past, that was often done with our employers. Today, more and more, we find that the USW has to go it alone.

Our government should be taking more of the lead. While we appreciate what they *are* doing, it is far from sufficient. And, let's recognize that some of the most successful efforts, like the Section 421 case on tires, were because the USW initially brought the case. We'd vastly prefer that government do *its* job so our members can do *their* jobs.

Mr. Hatch, it might surprise you to hear me sing the praises of former President Ronald Reagan. But, on trade, and I emphasize, on trade he was one of our best Presidents. He made clear that America was interested in trading with other nations but that he would deal, resolutely, with cheating and predatory practices. During his Administration, he helped support Harley Davidson, the auto industry, the steel industry and others. He responded to foreign targeting of our semiconductor industry by helping to create Sematech. He authorized the MOSS – Market Oriented Sector Specific – talks with Japan. We need similar action today.

This Administration has done more to improve our nation's trade enforcement efforts since any Administration since the Reagan years. We're proud of our work with them, and the President deserves credit for creating the Interagency Trade Enforcement Committee to focus more attention on the issue and ensure better coordination of effort. But, the problem is a Herculean one and we are still far from having the approach, infrastructure and resources that are needed.

Government must set priorities. And, to me, manufacturing has to be the single most important focus of our trade enforcement – and our job creating - efforts.

Today's manufacturing sector is not the smoke-belching, rust-belt of memories. Far from it. If you go into a steel factory today, you'll probably see more workers actively managing and monitoring multiple computer control panels than workers down on the shop floor. Factories across a broad spectrum of industries across the U.S. are a model of productivity, ingenuity and efficiency and are manned by workers with skills, creativity and a work ethic unmatched by our competitors. U.S. companies have invested billions of dollars in new equipment, new technologies and upgraded their facilities to produce the cutting edge products demanded by customers and consumers around the globe.

Mr. Chairman, Members of the Committee. You know the facts about the importance of manufacturing, but let me highlight a few:

- Manufacturing jobs pay significantly more, on average, than service sector jobs – 22 percent higher than the average compensation in service industries.
- The manufacturing sector accounts for roughly 70 percent of all research and development spending in the U.S. and a comparable percentage of patents.
- Manufacturing is a major contributor to the U.S. economy. The National Association of Manufacturers estimated that every \$1.00 in industrial output generates an additional \$1.37 of economic activity which is more than any other sector.
- Manufacturing has the highest employment multiplier of any sector with each manufacturing job creating three or more jobs, with some industries having a significantly higher multiplier effect.
- Manufacturing is critical to homeland and national security.

And, despite the fact that most staff and policymakers here in Washington have never worked in a factory and some have never stood on a shop floor, it is not surprising that the view here about the importance of manufacturing is dramatically different from the views held by citizens across this country. According to a bipartisan poll conducted on behalf of the Alliance for American Manufacturing that was released earlier this year,

- Voters reject the idea that manufacturing jobs can be replaced by high tech and service jobs by a 62-34 margin.
- 72 percent of voters are "worried the most" or a "great deal" about manufacturing job loss, a level of concern matched only by the federal budget deficit.
- 65 percent of voters consider outsourcing as the reason for a lack of new manufacturing jobs. Only 28 percent of voters cite a potential shortage of skilled workers for the lack of new manufacturing jobs in the U.S.
- 65 percent of voters would encourage manufacturing as a career choice, though only 25 percent strongly encourage such a career choice.

- Among voters who would not encourage manufacturing as a career choice, the top reasons cited were the desire to get a four year college degree and the belief that those jobs won't be there in the future.

I am, of course, passionate, about the importance of manufacturing to this nation's economy, not only because of the workers I represent, but because of a heartfelt belief that it is central to a growing, sustainable and more equitable economy. Every nation on earth aspires to be able to produce goods for its people and have a robust manufacturing sector. Some, of course, have not succeeded and, as a result, often are faced with an unsustainable and precarious future.

But, the hearing today is not about manufacturing, it is about trade enforcement. It is, however, the lens through which I view the enforcement issue. If manufacturing were not critical, enforcing trade rules would be less important.

Before I go into what I hope is a structured approach to the issue before the Committee today, let me highlight a couple of things.

First, as many of the Members of the Committee know, the USW is fighting to ensure that the Department of Commerce carefully review the facts in the Oil Country Tubular Goods (OCTG) case in which they issued a preliminary finding that imports from South Korea would not be subject to dumping margins. We believe this preliminary finding is flawed. Indeed, 57 Senators sent a letter to the Administration asking for a careful review and that effort was mirrored by more than one-third of the House joining in that call.

Korea only produces OCTG for export – the vast majority of which is targeted at the U.S. market. OCTG is the product used in advanced hydrocarbon extraction and oil exploration to bring the product to the surface. As our energy boom has expanded, the use of the product has as well. Unfortunately, U.S. producers have lost sales, laid off workers and announced indefinite closures of facilities producing the product because of dumping by Korea.

Commerce made critical mistakes in its preliminary finding. Indeed, the law provides for a preliminary finding so that the parties to the case can ensure that the facts are appropriately considered. In this case, because the product is only produced for export, and there is no domestic market, Commerce chose to use a very low margin product – essentially a low-grade type of construction pipe – for comparison purposes. While the discretion exists, that was not the intent of Congress in providing discretion to prepare a "constructed value" analysis. Their decision is just plain wrong and needs to be altered to help restore fair prices to the market.

The second issue, and a critical one, is the issue of currency manipulation. China is the worst culprit, but other nations are following their lead. China has been able to essentially subsidize its exports and tax imports into its market through currency cheating.

Everyone knows it. Every six months the Treasury Department issues a report saying that China isn't doing the right thing, it's not based on market principles but stops short of making the critical finding that would only require consultation. This Administration and the last said that dialogue and engagement were the appropriate course to pursue.

Some say that China is taking steps to bring its currency into equilibrium. They point to a widening of the trading bands. Well, China's currency is still dramatically undervalued and is a tool China uses to fuel its export-led growth strategy and limit imports into its market. China makes small changes when political pressure rises here but then goes right back to business as usual.

Some experts opine that asking China to do more will only destabilize its economy. Well, I'm sick and tired of American workers and domestic industries having to pay the price for China's trade and economic policies. The time for talk is over. If the Administration won't act, Congress must prioritize passing legislation to give private parties the power to seek relief from China's currency manipulation, or that of any other country. Congress must not leave town for campaign season before passing this critical legislation. If it can act earlier, great, but, at election time, this Congress will be judged by our members on whether they stood by their sides, or continued to allow China and others to cheat them out of their jobs and their futures.

Currency manipulation and the active OCTG case are just two of the critical issues that must be dealt with right now. Enforcement can't be divorced from what the rules actually are. Let's be honest. The USTR's principal focus is negotiating new trade agreements, not enforcing the ones that they've already signed. And, while the USTR is not the only agency with responsibility for trade, Commerce has always played a secondary role. And, indeed, the Administration's trade policy efforts – including enforcement – are overseen by USTR as it chairs both the Trade Policy Review Group (TPRG) and Trade Policy Staff Committee (TPSC). So, in essence, USTR determines what actions on trade – negotiations, implementation, monitoring and enforcement – take place.

Today, America's trade agenda sounds like an alphabet soup of initiatives: TPP, TTIP, BIT, EGA, TISA and AGOA to name a few. And, to me, that agenda is focused more on foreign policy interests than enhancing domestic production and job creation and retention. Indeed, last week Ambassador Froman at the Council on Foreign Relations highlighted that trade policy is a major tool of foreign policy and, earlier this year, at West Point, President

Obama identified that chief among America's core interests was maintaining the free flow of trade.

My experience has always been, first with NAFTA and with virtually every trade agreement since, that when it becomes clear to the Administration that touting their trade policies as promoting U.S. economic interests falls on domestic deaf ears, they turn to the "foreign policy card". This time, they're playing that card before the agreements are even done.

Again, we're here today to talk about trade enforcement. But, let's be clear: Trade enforcement is not a substitute for a good trade policy: Far from it. Enforcing inadequate trade agreements is like giving struggling students new air conditioning in their under-staffed school while their text books are 40 years old. It may make them feel good and comfortable, for the moment, but their long-term outlook for academic success remains grim.

Our nation's trade policies are in dramatic need of updating and reform. That, of course, is a separate topic as is the question of the Congressional procedures – fast track – that govern the delegation of Congress' Constitutional authority over trade. But, it is very difficult to separate the issues as they are inextricably intertwined. The underlying rules – the rules that are to be enforced – set the framework for compliance.

Let me provide a specific example. If a foreign nation, in a protocol of accession, negotiates terms that will forever preclude American companies from exporting to that market, or provides advantages to domestic producers there, it's not actionable. The entertainment industry often complains about lack of access to the movie theaters in China that serve its 1.3 billion citizens. But, in the original protocol of accession, the USTR agreed to limits on U.S. exports of movies to that market. It's just one of many examples of bad rules.

That, of course, doesn't reach many of the other existing rules, or those that are now being negotiated in the alphabet soup of trade agreements I mentioned earlier, which will lock the U.S. into rules that are far from the free trade ideal that proponents tout. The U.S. is the most open market in the world and foreign goods flood our market. Trade agreements, done right can help provide new export markets for our products and correct the terms of trade which, all-too-often are stacked against the U.S.

In 2008, then candidate Obama, speaking at the Steelworkers convention said, "success should be measured not by the number of [trade] agreements we sign, but the results they produce."

I couldn't agree more. Unfortunately, the results of today's trade policies are measured by unacceptably high trade deficits, shuttered factories and shattered dreams. Some may point out that exports are rising, and that's a good thing. But, they fail to mention that imports are rising as well and the difference means lost jobs, lost production, lower growth and rising income inequality.

It's like fans at the World Cup mentioning that Switzerland scored 2 goals and failing to mention that France scored five. At the end of the day, everyone knows who won.

So, what role does enforcement play in all of this, and what should we do?

Our view is that there is a clear path forward to improving the enforcement regime. That doesn't mean that it will be easy to accomplish. It will take a coordinated and concerted action plan. It will require resources. And, it will require resolve.

But, in essence, the plan consists of the following steps:

1. Negotiate agreements that advance America's interests.
2. Implement those agreements aggressively.
3. Monitor compliance.
4. Enforce provisions where our trading partners violate the rules.

I've already discussed the first issue but, would be more than happy to go into much greater detail.

Implementation is key. That means preparing a comprehensive strategy to identify the commitments that our trading partners have made – multilaterally, plurilaterally, bilaterally or unilaterally – and keep them to their word.

That, of course, is not an easy feat. But, it should be a higher priority than it is today and, I believe, there are critical implementation enforcement opportunities that can be expanded or developed.

Right now, the question of whether the trade promises of our trading partners are being lived up to is, unfortunately, largely left to the private sector to follow. For major companies with substantial resources, and their armies of well-paid lawyers and lobbyists here in town, that may be acceptable. They have the resources, and the tools, to follow these issues on a daily basis and their teams often have access, at the highest levels, here in Washington to make sure they can bend the right person's ear.

But most of the rest of America isn't so fortunate. To a small or medium-sized entity, they may not know that an opportunity might exist, even though it's embedded in a trade agreement. And, if confronted by a market barrier overseas, they often decide that the rules are stacked against them, that it's too costly to fight another country and it's not worth pursuing.

Every barrier is a lost opportunity either to maintain or create a job here.

The first step in this process is ensuring that access to the commitments and the rules of trade is readily available, clearly defined and regularly reviewed.

During the consideration of Permanent Normal Trade Relations with Russia, the Steelworkers, working with Senators Brown, Schumer, Stabenow and Rockefeller and Congressman Mike Michaud, supported legislation – The Russian World Trade Organization Commitments Verification Act to provide specificity, accountability and transparency around Russia's entry into the World Trade Organization (WTO) and the terms of its accession agreement. The legislation was rather simple: It called upon the Administration to take the 800-plus page working party report and summarize it, identifying the commitments that were made and the schedule of their implementation. It then called upon the Administration to identify what specific actions Russia took to fulfill their commitments and, where there was non-compliance, what would be done about it. It left to the Administration the discretion to do nothing, but required them to publicly indicate that.

Sunshine is a great disinfectant. Let's publicize what's going on. Our view is that this approach would help ensure accountability. It would make the provisions of the agreement more accessible to those companies that don't follow the negotiations and may not know of an opportunity.

It would take the burden off the private sector from determining whether a provision has been implemented. It would have let Russia know that compliance and implementation mattered. Going forward, it can be an important tool with other agreements, especially complex, comprehensive agreements that may take years to fully implement.

Unfortunately, the Administration opposed the effort and Congress did not give it proper consideration. To us, it was a common sense approach. One official actually asked the question: "so, you want us to enforce every provision?" Yes. Otherwise, why are we reaching these agreements?

Second is taking the catalog of market access barriers published year-after-year in the annual National Trade Estimates report issued by the USTR as a plan for action. It's a

roadmap of the impediments US firms and their workers face in selling their goods and services overseas. Since it was first required as part of the 1988 Act, it has grown from to more than 400 pages. If you track the report year-by-year you will find few items that are taken off the inventory, but more are added.

Why does Congress allow this? Why are we spending so much time trying to reach new agreements before we actually address the backlog of issues that continue to mount from existing agreements?

What are we doing to reduce the backlog of unfair trade barriers? That, to me, is a critical issue that Congress should make a priority. Some have suggested that we renew Super 301 authority and, in my opinion, that would be a useful step to require that we put a priority on addressing those actions that will make a real difference in terms of promoting domestic production and employment. But, that should be the start, not the end, of the effort.

When the Steelworkers work on developing new policies to address today's current challenges facing the manufacturing sector, often the first question we're asked by leaders here in Washington is "is it WTO legal?" I think that policy makers in many other countries ask the question: "how long can we get away with it?"

Under today's approach, the answer to that question is, all-too-often, a long, long time.

Take, for example, the case of China's prohibited export restraints. Under the terms of China's WTO accession, they were allowed to apply export prohibitions to 103 products. But, in 2014 they are applying export prohibitions on more than 346 -- all publicly listed. USTR did nothing to address this issue until for many years, bringing a case on a small subset of products. The US won the case at the WTO.

But, after winning the case, the Administration continued to review the facts. It was only after the USW filed a Section 301 case that included claims about China's export prohibitions on rare earth minerals and other products that action went forward. Today there are still another 162 products for which China's export prohibitions are clearly WTO noncompliant but are unchallenged.

And, as on other actions the USW has brought on clean energy technology and auto parts with China, many of the issues continue to remain under review.

We are still waiting.

As another example, under the terms of China's WTO accession, they were supposed to provide a notification of their subsidy programs. Twelve years after that requirement was scheduled to have been met, the Chinese still had not complied. The USTR issued a counter notification, which China has never responded to.

The USW is proud of its efforts in this area and has been public in commending the Administration for doing more than any previous Administration in making enforcement more important. There have been real successes, like in the Section 421 case on Chinese tires.

But, much, much, much more needs to be done. And, we can never let up. Right after relief ended under the Section 421, China resumed flooding our market with tires – dumped and subsidized tires. Just a few weeks ago, the USW filed an AD/CVD case against Chinese tires which have increased from about 24 million units to more than 50 million. Their market share has doubled. During that period, domestic production has gone down as China captured all of the market growth, and then some.

## **MONITORING**

Another critical issue is data. What's going on? What does the data tell us? How can we do a better job of identifying trends and then follow up to determine whether changes in trade flows reflect basic competitive factors, increasing demand and changing market forces or are the changes something that bears further scrutiny?

The USW has proposed that the Administration update its approach to get with the times – the so-called “big data” approach. The Administration has the ability to harness numerous and disparate data sets that, taken together with proper analytical tools, might give us enormous insight into what's happening in markets around the world, with trade flows, with foreign trade and economic policies.

To the USW this is, again, just common sense – harnessing the information that we already have to identify challenges and opportunities. Again, to date, no one in the Administration has engaged us on this idea.

It also means ensuring that the data that is valuable continues to be available. There are efforts to rewrite the methodologies and change the reporting of data. One of those efforts is driven by the WTO which is seeking to have trade reported based on a value-added methodology. This approach raises not only important measurement issues, but also would dramatically redefine trade flows and undermine the operation of our trade laws. Maybe that's the goal of the WTO. But, it is an effort that must not be implemented any time soon, if at all.

On top of that, the Administration has eliminated or indicated that it will end the collection and publication of a number of sources of data vital to understanding the nature and impact of current trade flows as well as other critical information. For example, the Bureau of Labor Statistics announced that it will be terminating its export price series. Census terminated the Current Industrial Reports.

Another example is the issue currently under consideration by the Office of Management and Budget to change the definition and methodology used for the collection and publication of certain economic data. The proposal is known as “factoryless goods production.” Think about that term – producing a good without a factory.

Essentially, their approach would change the definition of who qualifies as a manufacturing entity so that an entity that merely designs a product, but has someone else produce it, even offshore, would be considered to be a manufacturing entity. A holding company, merely by assuming the risk, could be considered a manufacturing entity.

This is a complex issue and economists and statisticians are right to constantly seek out new ways to understand what's happening in the world around us. But, in this instance, I believe the approach is totally misguided and could have perverse and, potentially, devastating consequences.

Here's an example. Let's take the example of a smart phone company which contracts out all the production of its phone to a contract supplier in China. Let's assume that there are some parts that are exported by the company to China for inclusion in the phone. Today, the importation of that assembled phone would count as a manufacturing goods import. The net amount would be the value of the imported smart phone minus the value of the exported parts from the U.S.

But, under the OMB proposal, there would be no goods export recorded by the government and no import recorded. But, instead, there would be an import of services reported equal to the value-added component by the contract manufacturer – the value of the intellectual property embodied in the product. As I understand it, the reason for this is that the smart phone's ownership of the product didn't change as it was only a contract with a "manufacturing service provider". So, with just a flick of the wrist, manufacturing imports drop.

In the case of that product being exported from China to the EU, however, the value-added component of the contract manufacturer would count as a service export from China and the smart phone sold to the EU would be counted as a manufactured good export *from the United States*. In this scenario, manufactured exports from the U.S. would be recorded as rising. And the manufacturing sector in the US would appear to grow without any increase in actual manufacturing.

Someone needs to explain this and how it does anything other than skew the data and inflate our exports and reduce our imports. We are all for proper measurement of what's happening in the world economy, but this idea is far from ready for prime time and the implications could be dramatic, with significant repercussions. This proposal deserves significant study and attention and should not be rushed through the process.

In addition to what's happening in our government, the private sector is altering the collection and reporting of data making it more difficult to identify changing patterns of production and sourcing. As an example, Automotive News announced that General Motors will cease reporting North American auto production. We can only guess why GM is choosing that approach.

Just eliminating the data or changing how it's reported doesn't change the facts, no matter how hard people try. Too much of our production is being offshored or outsourced and our trade laws aren't doing enough to ensure that the rules are fair.

Another critical issue is simply using the words and actions of our trading partners to identify what they're up to. Sometimes, of course, it's difficult to discern or identify what they're up to. But, in many cases, they are quite open about it.

China is way ahead of others on this point. It has published its 12<sup>th</sup> Five Year Plan which clearly indicates what its priorities are and what it intends to do. It announced that it will spend \$1.5 trillion to achieve those goals. It has developed lists of national champions and strategic sectors that it will support. It has many other open source documents identifying technological roadmaps, performance stands, export credits in violation of OECD standards and countless other programs.

Why don't we take them at their word? Why aren't we taking those lists and determining what our interests are.

A perfect example was identified by the New York Times just last week. In the past several years, the U.S. has indicated that it wants to phase-out the use of incandescent lighting in the U.S. and move towards more energy-efficient technologies like LEDs. China has taken this technology, developed by the U.S., and created a mammoth production base to try and fill their own needs, and those of others around the globe. They are building up extensive capacity and can soon be expedited to flood the U.S. and world markets with these products that will probably be sold at dumped and subsidized prices.

Yet, no one acts. Isn't it time we took trade seriously and did more to build public confidence that trade agreements are in their interest rather than just pathways for companies to outsource and offshore production?

## **ENFORCEMENT**

There's a reason that trade agreements and topics like fast track are viewed so negatively by the public. Trade isn't working for them.

The Steelworkers have taken action where we can and are proud that we have been the single-leading force in seeking to have trade rules properly enforced and that the terms of trade are fair. Since 2000, we have filed or supported dozens of cases. Among them are:

- Section 201 safeguard action on steel.
- Coated free sheet paper cases.
- Section 301 action against Chinese currency manipulation.
- Section 301 action on Chinese workers' rights violations.
- Section 301 case on Chinese protectionist and predatory actions on green technology.
- Identification of Chinese predatory trade practices in the auto parts sector.

- Section 421 case on Chinese tires.
- Oil Country Tubular Goods antidumping case.

We do not look at filing trade cases as a sign of success: Far from it. Under our trade laws, there has to be injury, often significant injury or threat of injury, before any relief might be offered. In essence, we win by losing.

A perfect example of this is the coated free sheet paper trade problem. The USW filed a case and, while dumping was found, the injury was determined not to be significant enough for relief. Several years later, we filed essentially the same case but, by that time, more than 7,000 workers had lost their jobs, capacity was shut down and companies were on the brink. Relief was provided and many of the remaining workers have their jobs as a result. But, a substantial portion of the industry will never come back.

These cases are difficult to bring and expensive to pursue. There are countless issues that must be addressed and, these days, many companies refuse to participate. Some refuse because they have offshored their production, abandoning the U.S. market and want to protect the subsidized and dumped products they now sell in the U.S. that they use to make here.

Other companies are worried about retaliation. Several years ago, in a sector that will remain nameless, an antidumping/subsidy case was being prepared that the Chinese found out about. The Chinese government called in the managers of foreign-invested enterprises operating in China in the sector and indicated that, if a case went forward, those companies' operating permits would be revoked. None of those companies, of course, dared come forward.

Under our trade laws, if a company refuses to provide data, it may be tough to develop the information needed to pass the injury test. So, as companies become more globalized, the workers, families and communities who are at risk from foreign predatory and protectionist trade practices may find that they have no recourse.

Those standards underlying how a trade enforcement case can be brought, who has standing, and other intricacies of the law need to be updated. For example, state and local governments should be given standing under our trade laws as participants. Often, the only entity that has standing under the trade law that actually cares about jobs in America are workers and their representatives. That's why the USW is the lead on so many cases.

But, state and local governments also care whether their local plants are being victimized by unfair trade. They should have the ability to be petitioners in trade cases. And

certainly, necessary information must be made available to injured parties and not kept secret behind corporate walls.

There are many other issues which the trade bar is working on deserving serious consideration by this Committee and the Congress. It's time to update our laws as they haven't been seriously reviewed in more than 25 years. And, it's vital that Congress recognize the damage that unfairly priced and traded imports have had all across this country. Importers don't care whether America makes anything, they only care about the profits they can make from the products they sell. It's important to view all of these changes by asking the question: "Whose side are you on?"

Enforcing our trade laws is in our nation's interests.

A study prepared for the Alliance for American Manufacturing by Greg Mastel, a former chief international trade advisor and economist for this committee, along with Andrew Szamosszegi, John Magnus and Lawrence Chimerine: *Enforcing the Rules: Foundation of a Sound American Trade Policy*, found significant benefits from trade enforcement. The study looked beyond the simplistic identification of the tariffs that might be applied, to the economy-wide impact of trade enforcement. The study examined 10 sectors from shrimp and garlic to lumber and steel. "In each case examined...the various costs of dumping and subsidies exceeded the pure increase in consumer benefits." In short, while there might be a lower price for a consumer shopping at Wal-Mart, the overall negative economic impact exceeds that so-called "benefit".

Today, U.S. manufacturers face new threats, ones that didn't really exist 25 years ago or, in some cases, even 5 to 10 years ago.

For example, the rise of Chinese State-Owned Entities, along with those in other nations, pose a significant competitive threat. SOEs aren't commercial entities they are driven by the goals of their home countries. So, in some industries, a SOE that comes here and produces might be able to help block a trade action. They should be precluded from doing so, or there should be a rebuttable presumption that they are acting on behalf of the state and their interests will not be protected by our trade laws.

And SOEs that come here and create greenfield facilities pose unique challenges. The SOE receives support from the state often in the form of low, or no-cost, loans, reduced priced inputs and other forms of support. If the products produced by those entities were to be traded across our border, the trade laws could, potentially, provide some relief. But, if the SOE invests here, as they are increasingly doing, there is no existing effective legal remedy to address the competitive challenges facing U.S. firms. The USW proposed an approach on

this issue but, I'm sorry to say, more than a year later we are still awaiting a reaction from the Administration.

Now, we also face a cyber-threat that is robbing America of tens of billions of dollars in intellectual property and opportunity every year.

Recently, the federal government indicated 5 Chinese individuals for cyber espionage. Six victims were identified in the case, including the Steelworkers. As the matter is before the courts, I will not comment on any specifics of the issue.

But, some have asked what next? While we would hope that the alleged Chinese hackers would present themselves to the authorities to give them their day in court, I'm not going to hold my breath. And, while the indictments vindicate those who have been highlighting China's use of every tool in the tool box approach – legal and illegal – to gaining a competitive advantage, we take little pleasure in that fact.

My view is that we should be using our trade laws to "reach" those who actually profited from the cyber espionage. The indictment identifies "tasking order" – the actual requests from Chinese companies for information to assist them in their commercial activities. The products of those companies, their exports to the U.S. market, the contracts they may have won, the value of the IP they stole should all be actionable under today's trade laws and, if not, Congress should quickly update our laws.

Congressmen Doyle and Murphy offered an amendment in the House which asked for a report by Commerce, USTR and the ITC on what existing authorities they have to confront this challenge. It also asked them to provide information on what authorities might be appropriate if they felt that current law did not give them the tools they needed. The amendment was withdrawn because of a potential point of order but it is a vital approach to giving our government, and those injured by economic cyber espionage, the tools they need to seek compensation and, hopefully, make clear that it's got to stop.

We all know that, in this time of tight budgets, that government funds are not easily found. But, in my opinion, there is a significant return on each dollar of investment in trade enforcement. Some of which was identified in the study I mentioned earlier by the Alliance for American Manufacturing. But, the impact is much greater. Greater corporate profitability. More jobs and more income. Greater research and development. All leading to higher tax revenues, lower transfer payments, greater economic growth and activity.

Indeed, every billion dollars of trade deficits costs thousands of jobs and reduces U.S. economic growth. So, starving our enforcement infrastructure of the resources needed to

implement, monitor and enforce our trade policies and laws may be penny-wise, but is certainly pound foolish.

Congress should provide statutory authority to the Interagency Trade Enforcement Center created by President Obama and aggressively fund it, along with other agencies and offices responsible for trade enforcement. Those funds make a difference.

Congress also has a role in all of this, not just in terms of direction, funding and oversight. The Congress – especially the Finance and Ways and Means Committees, have authority to call for the initiation of cases under a number of sections of our trade laws. Congress should use those authorities. Certainly, this Committee doesn't want to be a "help desk" for every company or worker with a trade complaint. At the same time, the Committees must do more to utilize their authority to act, when an Administration doesn't.

Let me turn now to the critical issue of workers' rights. This is not just an issue for organized labor, although we certainly have been its greatest proponents. Free trade is supposed to be conditioned on free markets and allowing workers to bargain collectively, freely associate and strike are all part of what a free market should provide. Each "input" should be able to obtain a just return.

Unfortunately, too many companies scour the globe looking for the cheapest place to produce, even if it means despoiling the environment or trampling on workers' rights. Proper enforcement of workers' rights helps create opportunity, helps ensure a growing middle class, helps reduce the economic divide and, indeed, promotes *greater* trade.

The fight for workers' rights being treated appropriately in trade agreements is far from over. The so-called May 10<sup>th</sup> Framework might have been a step forward, but there is still a long journey ahead for workers to have internationally recognized rights exist not just on paper, but in practice.

Enforcement, however, can send a message to other countries that the U.S. is serious about obligations and commitments in this critical area. Only one workers' rights case, outside of the NAFTA context, has been brought forward by an administration and that case was initially filed by the AFL-CIO against Guatemala 6 years ago. Just recently, another extension was granted in pursuing the case. Much more needs to be done.

There are several approaches that could help. First, any free trade agreement must be accompanied by resources and resolve. First, in any country where the basic rules and operations in this area are not deemed sufficient, there should be additional State and Labor Department officials funded to provide on-the-ground assistance to facilitate the changes that

the domestic labor rights experts deem is necessary and they should provide support and advice to existing and nascent trade unions. This should be coupled with a regular review – every six months – of concrete actions they have been taken and what else needs to be done. These reports should not simply proclaim that “progress is being made” but should be specific in their analysis and recommendations.

In addition, labor rights should be given greater attention at both the USTR and DOL. The people who work at DOL and USTR are all well-meaning but Guatemala is not the only labor rights violator with whom we have a FTA. Colombia, South Korea and many other countries demand attention.

We must also place a greater priority on intellectual property protection. Some find that strange coming out of a labor leader’s mouth. But, the linkage between intellectual property and production is clear. Researchers, inventors, scientists all want to be close to the shop floor to help ensure that their ideas will become reality. And, for a company that may want to invest half a billion dollars in a plant to produce a new product based on a single, or set of patents, they will want to know that they will get a fair return on their investment. If not, they might as well license it with, more than likely, production to occur offshore.

So, for me, intellectual property *is* a manufacturing issue and I look forward to working with the Members of this Committee and Congress in trying to develop more effective policies and actions to ensure that America’s IP is adequately protected.

Mr. Chairman, Ranking Member Hatch, Members of the Committee. Once again, I want to thank you for the opportunity to testify. Enforcement is a critical issue and the USW has experience in this area that we wish we didn’t. Despite the length of this testimony, I must admit that I have more to add and other approaches and ideas to offer. We stand ready to work with you to update and reform our laws, identify new approaches and argue for the resources that are necessary to ensure that the trade deals that are reached on behalf of our people and the laws that are passed are put to good use.

But, as noted, trade enforcement is dependent on the quality of the agreements that the Administration negotiates and the laws that are passed by Congress. A bad agreement, no matter how well it’s enforced, will yield negative results. Today’s policies have added to the decimation of America’s manufacturing base where more than 5 million workers are still out of work since 2000 and more than 60,000 factories have padlocked their gates. To be a strong country, to ensure a strong middle class, manufacturing is vital and trade policies are a critical element in the success, or demise, of our manufacturing sector.

Thank you.