



**Testimony**

**of**

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**for the**

**Subcommittee on Trade**

**of the**

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**Hearing on**

**“Countering China’s Trade and Investment Agenda:  
Opportunities for American Leadership”**

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## Introduction

Chairman Smith, Ranking Member Blumenauer thank you for the opportunity to testify at today's hearing and USW International President Tom Conway gives his regards. The United Steelworkers or USW is the largest manufacturing union in North America and our members mine and make everything from aluminum to zinc. Countering China's Trade and Investment Agenda will require USW members and the American labor movement at the table facilitating a collaboration between Business and Government, ensuring democratic values and our ideals move across the globe as much as goods on ships or planes.

This challenge is great and the union has long highlighted the problems with unfettered trade with the People's Republic of China (PRC) could have on workers, communities and our country's ability to compete.<sup>1</sup> Choices by past elected leaders fed American dollars into the PRC which allowed the Communist party regime to concentrate power and set economic plans which built manufacturing and mineral processing capacity that can now swing global markets and, without proper policy, undermine millions of American jobs.

The challenge cannot be underestimated and we cannot compete with classic free trade tools that were developed in the 1970's in a naïve hope that unfettered trade would push back authoritarian governments. Russia's invasion of the Ukraine and China's exports to Russia increasing by double digits in the last year expose the limits of this flawed model.

My testimony will focus on a number of issues falling under three broad categories including modernizing trade agreement rules, updating our trade tools to better account for China's outward expansion, and at every step of the way ensuring workers across the globe have similar democratic rights to freedom of association and independent labor unions.

### **Modernizing Trade Agreement Rules to Counter Authoritarianism**

Updating how the U.S. approaches trade agreements requires Congress to dramatically rethink the tools it has traditionally used to pass trade agreements. The USW and the broader labor movement have long opposed Trade Promotion Authority or Fast Track procedures as a process that did not ensure adequate labor and environmental standards, limited debate, and gave too much authority over trade to the Executive Branch.

The U.S. withdrawal from the TPP, a flawed trade agreement, was finally a recognition that a new model on trade was needed. Setting aside the fact that seven of the countries in the TPP already have trade agreements with China, the rules of

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<sup>1</sup> <https://www.govinfo.gov/content/pkg/CHRG-106shrg67840/html/CHRG-106shrg67840.htm>

origin that the TPP contained provided significant access for China's manufactured goods. This committee produced a 2016 report highlighting that only 35 percent of a vehicle would have had to originate in the TPP zone, meaning up to 65 percent of a vehicle's components could come from outside the party countries and from non-partner countries like China. The TPP and its successor the CPTPP show how weak that trade tool is at countering China as the country now looks to dock on to the agreement.<sup>2</sup>

Recent advancements regarding U.S. trade policy in this and the prior administration have sown significant potential that Congress could harvest to set a future trade agenda that increases market access, while limiting the negative impacts of trade for domestic workers. For the USW all future trade agreement discussions will need to include at a minimum:

- Rule of origin provisions which raise content thresholds and limit goods from countries of concern.
- Contain and improve upon the Labor Value Content (LCV) provisions which were built into the auto rule of origin in USMCA.
- Build on the Rapid Response Mechanism in the USMCA – this provision allows for targeted enforcement related to labor rights at a facility level.
- Clear enforceable commitments to ban child and forced labor.
- Disciplines on Non-Market Economy and excess capacity goods.
- U.S. financing initiatives which encourage U.S. Exports or indigenous production.
- Workers' rights provisions that ensure independent, democratic labor unions.

The labor movement has written extensively on a host of trade provisions over the years and I encourage the committee to review those comments as it continues to think on the future of trade negotiations.<sup>3</sup> In addition, below are brief comments regarding four trade initiatives that the Committee will need to consider and where USW has engaged in servicing our members. Each initiative has potential in countering the PRC's trade and investment agenda if completed properly.

**Indo-Pacific Economic Framework (IPEF)** – The United States Trade Representative and the Department of Commerce are leading this significant non-traditional trade engagement effort. USW President Conway as chair of the Labor Advisory Committee provided comments in 2022 and the union continues to be engaged in the negotiating process.<sup>4</sup> As this is a framework the administration has focused not on an old school market access agreement but on methods of improving

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<sup>2</sup> <https://www.bloomberg.com/opinion/articles/2023-04-12/uk-s-deal-to-join-cptpp-sets-a-high-bar-for-china?sref=HEwoTbCT>

<sup>3</sup> <https://aflcio.org/sites/default/files/2017-11/LAC%20Report--Final%2012-2-15%20As%20Adopted.pdf>

<sup>4</sup> <https://www.regulations.gov/comment/USTR-2022-0002-1187>

the flow of trade in a sustainable way. For example, getting party countries to modernize their customs forms and eliminating non-market barriers to trade will provide straightforward and common-sense reforms without the negative impacts related to traditional free trade agreements. The inclusion of labor rights throughout the various “pillars” currently in discussion is a positive development, and recognizes that many of our trading partners in IPEF will need to increase worker protections and economic freedoms enjoyed by U.S. workers.

**Global Arrangement on Steel and Aluminum** – The suspension of 232 duties against the European Union (EU) and the establishment of a tariff rate quota (TRQ) on steel and aluminum products coming from the EU was combined with a negotiation process to potentially limit non-market economy and carbon intensive steelmaking from entering the EU and U.S. Since these regions both have high import penetration, and some of the most modernized steel and aluminum industries, it is important we set a level playing field against non-market and dirty commodities. The USW continues to engage in this process with the relevant agencies and encourages Congress to engage thoughtfully in the negotiation process as well. There is real opportunity in these sectors to ensure economic security while accounting for the investments our respective markets have made at reducing greenhouse gas emissions and maintaining free and fair open markets. The arrangement is also an experiment at addressing trade in specific commodities that receive significant state support.

**General Systems Preference/Miscellaneous Tariff Bill (GSP/MTB)** – While efforts were made to renew these preference programs last Congress and the House bill in the 117<sup>th</sup> Congress contained a number of important updates on labor rights, the USW has done further analysis of the GSP preference program and sees the need for additional reforms to ensure American jobs are not undermined in key sectors. We must also ensure that the rules of origin standards do not let PRC content through GSP countries duty free.

The current rule of origin (ROO) provisions in the GSP preference program is set at 35 percent – meaning 65 percent of an article could come from non-GSP beneficiary countries, like China.<sup>5</sup> If we are trying to foster economic development in lower income countries through lower tariffs, then we should encourage higher GSP ROO standards that are 60 percent or greater.

Commodities that have faced trade impacts should also be added to the import sensitive list in GSP. As the largest union in tire manufacturing, the USW has taken the threat of dumped and subsidized tire imports seriously. The union has supported or led on five anti-dumping and countervailing (AD/CVD) duty cases and two recent

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<sup>5</sup> <https://ustr.gov/sites/default/files/GSP%20Guidebook%20Nov%202012.pdf>

sunset reviews. The success of these petitions shows that dumped and subsidized imports of tire products have caused material injury to the domestic industry.

The impact of increased imports on the domestic tire industry has been well documented through International Trade Commission and Commerce Department investigations against specific countries. USW urges Congress in a GSP renewal to add tires to articles that may not be designated as eligible articles in section 19 U.S. Code § 2463(b)(1).

Regarding a possible MTB renewal, which generally allows for tariff exemptions of product components if they are not available in the United States, the union believes final manufactured products should not qualify for duty free status under this program. Historically, the MTB has been drafted only to allow components into the U.S. tariff-free if they were unavailable domestically but necessary for the production of final products manufactured here. The USW encourages Congress to maintain the historical standard.

**Critical Minerals Agreements** – Critical minerals will be vital in the changing economy and building supply chains which are not beholden to the PRC's influence requires active global engagement by the U.S. For example, it is estimated that the demand for nickel in EV vehicle batteries and stainless steel will increase 44 percent to 6.2 million tons by 2030.<sup>6</sup> Current U.S. and Canadian mining production alone is less than 200,000 tons per year and our reserves are not nearly as substantial as some of our other trading partners.<sup>7</sup> We will need trade allies in this new commodity race, but we must consider this effort a marathon not a sprint. While China has poured over \$14 billion into developing nickel reserves in Indonesia, they have done so with little concern for the health and safety of the workers at those mines. The Indonesian Morowali Industrial Park has seen a horrifying rate of accidents and deaths every year.<sup>8</sup> When combined with the carbon intensive nature of the coal-reliant processing, deforestation, and pollution of waterways, there must be a dramatic re-centering of values that we expect from our trading partners.<sup>9</sup> Mining and processing development will need to address occupational health and safety and occupational disease rates along with labor and environmental standards to ensure we are not exploiting workers and communities like our trade competitors.

The USW strongly believes that critical mineral mining and processing should occur domestically and with high labor and environmental standards. The Critical Minerals Agreement negotiated with Japan has a limited number of critical minerals included

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<sup>6</sup> <https://www.reuters.com/markets/commodities/vale-sees-44-increase-global-nickel-demand-by-2030-2022-09-07/>

<sup>7</sup> <https://pubs.usgs.gov/periodicals/mcs2022/mcs2022-nickel.pdf>

<sup>8</sup> <https://www.industrialunion.org/urgent-need-to-stop-mine-accidents-at-indonesia-morowali-industrial-park>

<sup>9</sup> <https://www.brookings.edu/blog/up-front/2022/09/21/indonesias-electric-vehicle-batteries-dream-has-a-dirty-nickel-problem/>

and a review mechanism. Congress and the Administration should cooperate to ensure implementation maximizes domestic job creation.

## **Domestic Trade Tools to Account for China's Outward Expansion and Market Concentration**

The Ways and Means Committee will also need to strengthen the tools we use to defend against unfair trade practices and the committee should also consider the six proposals below to better account for the PRC's ability to negatively impact U.S. producers and workers. A number of legislative proposals already exist which could aid in defending American workers and employers. For example USW strongly supported Representative Terri Sewell and Bill Johnson in the last Congress introduced the "**Leveling the Playing Field Act 2.0**". The legislation would:

- Make it easier for U.S. workers/companies to stop repeat offenders and speeds the process so manufacturers, agriculture workers, and miners can focus on producing American made goods.
- Target "Belt and Road Initiative" Subsidies – right now China is spending billions out of the country to build factories that will dump into the U.S. and other markets.
- Improve enforcement – Importers constantly pull tricks to try and lower or evade duties. The Leveling the Playing Field Act 2.0 will clarify processes and timelines making government more efficient in stopping dumped and illegally subsidized goods.

**De Minimis** – Using another tool that would realign our de minimis threshold reducing direct trade from China should also be a priority. Currently, individual shipments into the U.S. are exempt from duties and tariffs so long as they are valued below the "de minimis" threshold of \$800 USD. This threshold is far too high and has allowed a new model of direct-to-consumer imports, particularly from China which can allow circumvention of the Uyghur Forced Labor Prevention Act.

**Reauthorize and improve on Trade Adjustment Assistance** – Allowing U.S. workers to retool after a trade impact has been a priority of this government since the Kennedy Administration and will ensure U.S. workers reskill to compete against the PRC. Just this past month more than a thousand workers in Pactiv Evergreen in North Carolina worked with the state to file a TAA petition in the hopes that Congress will act. The petition highlights that imports from China and other countries have impacted their mill. The appropriations committee has even set aside over \$490 million for the program for FY 2023. Nearly half a billion dollars in worker training dollars is sitting dormant, and workers' futures like those in Waynesville, North Carolina are just a little less secure because of an idle Congress.

**National Critical Capabilities Defense Act** – Another step to counter China’s investment agenda is to ensure U.S. firms are not fostering and economically hindering future U.S. capabilities by passing legislation like the National Critical Capabilities Defense Act (NCCDA). The legislation would review a tailored set of outbound investments in specific sectors. This screening process for outbound investments and the offshoring of critical capacities and supply chains would ensure that the United States can quickly detect and address supply chain vulnerabilities and prevent the offshoring of critical production capacity and intellectual property to our foreign adversaries like the PRC and the Russian Federation.<sup>10</sup>

**Foster domestic firms which are facing market concentration in the PRC.** – Chinese shipyards now account for 45 percent of the global orderbook of shipyards.<sup>11</sup> These same shipyards are also producing military ships for the PRC’s navy, including the type 003 aircraft carrier which is expected to be the largest and most advanced aircraft carrier ever built outside the U.S.<sup>12</sup> Meanwhile we disarmed our commercial subsidies, meaning our ability to build a merchant fleet if there was ever a larger conflict could lead to an inability to deploy resources.

Yet shipbuilding is not the only item where the PRC has an outsized role that can negatively impact U.S. firms. Recently, in large part because of Chinese firms swamping the global cobalt marketplace, an Idaho cobalt mining project was halted.<sup>13</sup> China currently processes about 80 percent of the world’s cobalt and as such is effectively able to set the price at the expense of all other producers.<sup>14</sup> This sort of market concentration in a host of commodities including aluminum, steel, rare earths, fiber optics and a host of goods allows the country to quickly negatively impact producers, with small and medium sized businesses suffering the most.<sup>15</sup>

The CHIPS Act and the IRA are significant steps in retooling our economy to address market concentration in select sectors. We should make every effort to replicate the successes that come from these legislative tools in other sectors that face high market concentration by the PRC.

**Ensure Air, Water, Labor Standards are Countervailable in Anti-Dumping and Countervailing Duty Investigations** – The USW testified in December of last year on how land and water pollution from industrial sectors should be considered an

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<sup>10</sup> <https://delauero.house.gov/media-center/press-releases/delauro-pascrell-fitzpatrick-spartz-introduce-national-critical>

<sup>11</sup> <https://maritime-executive.com/article/bimco-chinese-shipyards-achieve-market-share-record-in-2022>

<sup>12</sup> <https://www.csis.org/analysis/chinas-opaque-shipyards-should-raise-red-flags-foreign-companies>

<sup>13</sup> [https://missoulian.com/news/local/construction-stops-on-idaho-cobalt-mine-about-to-ship-ore/article\\_a902c284-ce6d-11ed-afd9-2f05ae9d45fa.html](https://missoulian.com/news/local/construction-stops-on-idaho-cobalt-mine-about-to-ship-ore/article_a902c284-ce6d-11ed-afd9-2f05ae9d45fa.html)

<sup>14</sup> <https://www.nationaldefensemagazine.org/articles/2022/8/3/united-states-seeking-alternatives-to-chinese-cobalt>

<sup>15</sup> <https://www.banking.senate.gov/imo/media/doc/Houseman%20Testimony%2012-16-20.pdf>

illegal subsidy.<sup>16</sup> A steel beam made with no regard to the pollution it creates or without regard to workers' rights and safety should not be considered a "like product" in today's globalized world.

## **Conclusion**

Among the largest differences between the U.S. and the PRC trade and investment agendas are the values we put behind our country's trade expansion efforts. Ensuring our trade initiatives do not exploit workers globally and that U.S. workers benefit from our country's trade initiatives must be at the forefront of policymakers' decisions. President Regan recognized this in 1981 when workers in Poland rose up and fought for their rights to have an independent trade union.<sup>17</sup> Congress should begin to defend American workers through a pro-active trade agenda that is built on fostering exports and deflecting China's market concentration in commodities from washing up on our shores.

Thank you for your time and I look forward to any questions you may have.

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<sup>16</sup> <https://waysandmeans.house.gov/event/hearing-on-promoting-sustainable-environmental-practices-through-trade-policy/>

<sup>17</sup> <https://www.presidency.ucsb.edu/documents/radio-address-the-nation-solidarity-and-united-states-relations-with-poland>