



Testimony

of

**Thomas O'Shei
President of Local 135L
The United Steel, Paper and Forestry, Rubber,
Manufacturing, Energy, Allied Industrial and Service
Workers International Union (USW)**

for the

Committee on Ways and Means

Field Hearing on

**"Trade in America: Securing Supply Chains and Protecting
the American Worker – Staten Island"**

May 9, 2023

Chairman Smith and Ranking Member Neal, thank you for the opportunity to testify today and United Steelworkers' International President, Thomas Conway, sends his regards. My name is Tom O'Shei and I am the President of United Steelworkers Local 135L, which represents workers at the Sumitomo tire plant in Buffalo, New York.

Our plant employs over 1,400 workers, including 1,100 members of the USW. I was hired at the plant in 1990, and for most of the last 33 years, I have been building tires. My facility builds for the replacement and OEM market a wide range of tires from passenger vehicle, light truck (PVLT) tires to motorcycle, truck, and bus tires. We also export tires to Europe. Since 2021 our facility has been in the process of updating and upgrading. We are looking to add tire capacity that will allow our location to build up to 17,500 tires per day.¹

I can sit before you today talking about plant expansion, and tell you that I recently posted on my Facebook page about job openings at the plant that start at \$25.33 an hour with benefits, not just because of our union's collective bargaining agreement, but also because the USW fought against illegally dumped and subsidized imports from a host of countries.

For the last 14 years, the union has used every tool available to defend a domestic industry, which has manufacturing facilities in 19 states and employs nearly 100,000 workers.² Since the USW has significant density in the tire industry we are able to file multiple trade cases without employers. Since many tire manufacturers in the U.S. are global manufacturers, there has been hesitancy in filing trade cases because of potential retaliation. But for the union, this is about our jobs and attaining a level playing field.

The union filed the only successful 421 petition against China in 2009 that lasted until 2012 on PVLT tires. Then in 2014, the union filed an anti-dumping and countervailing duty case because when the 421-relief expired, Chinese producers flooded the U.S. market with imports going from about 24 million units to more than 50 million.³ The reason for the gap between 2012 and our trade case filing in 2014 is because our trade laws require a showing of 3 years of harm before we can win at the U.S. International Trade Commission (ITC).

We won that PVLT tire case in 2015, which continues today. In 2017, the union won duties against bus and truck tires from China. My union brothers and sisters joined Titan tire in winning a trade case against imports of Off the Road (OTR) tires that started all the way back in 2008. The union, in 2021, also won what we call a

¹ [Powder and Bulk Solids](#), "Sumitomo Rubber Commits \$122M to Upgrade US Plant", April 2, 2021.

² [Coalition for Future Mobility](#), "U.S. Tire Manufacturers", Accessed May 6, 2023.

³ [United Steelworkers](#), "14 06 25 Testimony – Trade Enforcement Challenges and Opportunities", June 25, 2014.

“follow on case” against 4 countries on PVL T tires. All told, there are now 12 cases that have led to duties on six different countries.

Millions of dollars and thousands of hours have been spent defending American workers because we believe in fair trade. However, Congress could do more to ensure a level playing field.

First, after 12 trade cases won against six countries, what more evidence does Congress need to see that tire products are an import sensitive commodity? Congress should add tires to the Generalized System of Preferences (GSP) import sensitive list. We should not unilaterally drop tariffs on tires when, for example, a Chinese tire company invested nearly a billion dollars into a GSP country, which could then come in tariff free.⁴

We need to make it easier to address third country subsidies, like China’s Belt and Road Initiative, and we need to recognize that global companies can quickly shift dumping from one country to another, undermining U.S. manufacturing jobs. Congress should take up and pass bills like the Level the Playing Field Act 2.0 introduced last Congress by Representatives Terri Sewell and Bill Johnson.

Second, workers negatively impacted by trade should have access to training programs like Trade Adjustment Assistance (TAA), which provides up to two years of job retraining benefits. The last Congress appropriated nearly half a billion dollars in job training benefits for the program, and this Committee should quickly reauthorize the program to show workers that they are willing to help them retrain when trade negatively impacts American jobs.

Additionally, the following items would aid domestic workers in competing in a globally connected world and ensure fair and responsible trade:

De Minimis: The U.S. has one of the highest de minimis thresholds on the globe. Set at \$800, this allows for significant volumes of direct to consumer imports to enter the U.S. market from international locations. The lack of reciprocity means that U.S. businesses and workers do not have the ability to compete. In addition, such a high de minimis threshold means that significant manufactured goods, like tires, could go straight to consumers without properly accounting for duties. Legislation like the Import Security and Fairness Act, introduced in the 117th Congress by Ways and Means Trade Subcommittee Ranking Member Earl Blumenauer, would close this loophole.

Increased Evasion Enforcement: Duty evasion by importers is a constant threat to U.S. jobs. For example, in 2020 there were indictments of individuals for evading duties on both OTR and PVL T tires from China by allegedly falsifying documents. These importers were declaring that tires were from companies with lower

⁴ [Tire Technology International](#), “Linglong selects Serbia for US \$994 tire factory”, September 7, 2018.

tariff rates when they were not.⁵ The criminal case has been delayed until September of this year, and the civil case at the Court of International Trade (CIT) is still pending the final outcome of the criminal case.

The USW has endorsed legislation called the Fighting Trade Cheats Act of 2023 introduced by Representatives Sewell and Mike Bost, which would increase financial penalties for violating customs' laws, allow action against individuals committing customs fraud, and exclude individuals who have committed fraud from participating in the importer of record program.⁶

Imports Must Account for Foreign Manufacturers' Air and Water Pollution: U.S. manufacturers and workers protect our country's water and air as required by law. For example, since the passage of the U.S. Clean Water Act, government and industry have invested over \$1 trillion to abate water pollution, roughly \$100 per person per year. While challenges remain domestically, the country has made marked improvements in water quality. This is reflected at the Sumitomo Buffalo plant. For example, in 2021, the facility submitted a site management plan which highlights the work done to ensure that historical waste disposal areas are monitored and maintained to standards to protect regional water quality.⁷

Meanwhile, laws and regulations in foreign countries are not monitored or enforced. This lack of enforcement means pollution impacts workers and communities and creates significant economic advantage for foreign producers. The union has received reports regarding an Indonesian tire producer that highlights living conditions near the plant where witnesses comment the river water is black, smelly, and doesn't flow. Workers nearby described the smell that comes out of the river as much more pungent during the dry season. When Indonesia has some of the lowest waste water treatment rates internationally, imports from the country are exploiting a low regulatory enforcement process that can impact U.S. manufacturing competitiveness. It is estimated that Indonesian discharge of industrial wastewater is responsible for 7.24 percent of the pollution of surface water bodies in the country.⁸ Products imported from locations with low environmental enforcement should not be considered "like" products by global trading standards, and penalties should be ascribed to ensure that U.S. companies and workers are not negatively impacted.

Improved Labor Rights Enforcement: Similar to environmental pollution, the ability of workers to freely bargain with their employers and to uphold their rights at work should also be improved in U.S. trade law. Future trade discussions should

⁵ [U.S. Department of Justice](#), "15 Named in \$26 Million International Trade Fraud Scheme", December 15, 2020.

⁶ [U.S. Congress](#), "H.R. 2667 – Fighting Trade Cheats Act of 2023", Accessed May 6, 2023.

⁷ [NY Department of Environmental Conservation](#), "Revised Periodic Review Report and Institutional Controls Certification - Site No. 915018", August 20, 2021.

⁸ [Ken Research](#), "Indonesia Industrial Waste Water Treatment Mark Research Report 2027F: Ken Research", October 19, 2022.

incorporate United States, Mexico, Canada Agreement (USMCA) trade provisions like the Rapid Response Mechanism (RRM), which allows workers to file facility specific allegations regarding labor rights violations. In addition, artificially suppressed wages from country-controlled unions should also be accounted for in trade enforcement regimes. Existing U.S. policy regarding Non-Market Economy (NME) status should be factored into other trade initiatives. For example, 19 USC § 1677(18)(A) and (B) contains the definition “the extent to which wage rates in the foreign country are determined by free bargaining between labor and management”. In a globally connected world, our workers’ wages should not be the advantage in “comparative advantage”.

Strong Rules of Origin: Trade discussions must strengthen rule of origin (ROO) standards to ensure that non-partner countries do not gain duty-free market access. The current rule of origin 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.⁹ 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.

Similarly, trade agreements must have stronger ROO provisions. One of the many reasons the USW opposed the Trans-Pacific Partnership (TPP) is because of the terrible ROO standards in the agreement. This committee produced a 2016 report highlighting that only 35 percent of a vehicle would have 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 agreement is at countering China as the country now looks to dock on to the agreement.¹⁰

Conclusion

The union appreciates the opportunity to provide additional written comments for today’s field hearing on Trade in America: Securing Supply Chains and Protecting the American Worker. USW also encourages the committee to reference previous written testimony submitted to this committee and the Senate Finance Committee regarding the Indo Pacific Economic Framework (IPEF), the Uyghur Forced Labor Prevention Act¹¹, the Global Arrangement on Steel and Aluminum, Critical Mineral Agreements, and other trade initiatives.¹² We welcome the opportunity to provide

⁹ [Office of the U.S. Trade Representative](#), “U.S. Generalized System of Preferences (GSP) Guidebook”, November 2012.

¹⁰ [Bloomberg](#), “Don’t Give China a Pass on Pacific Trade Pact”, April 12, 2023.

¹¹ [U.S. Senate Finance Committee](#), “Testimony of Joe Wrona for Committee on Finance Hearing on ‘Fighting Forced Labor: Closing Loopholes and Improving Customs Enforcement to Mandate Clean Supply Chains and Protect Workers’”, March 18, 2021.

¹² [U.S. House Ways and Means Committee](#), “Testimony of Roy Houseman Jr. for Subcommittee on Trade Hearing on ‘Countering China’s Trade and Investment Agenda: Opportunities for American Leadership’”, April 18, 2023.

additional written comments on trade initiatives like those previously mentioned, and stand ready to aid American workers compete globally.