



Testimony of

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before the

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Good afternoon. On behalf of the 850,000 active members of the United Steelworkers (USW), I would like to thank Chairman Sanders and the subcommittee for holding this hearing on the effect of trade issues and trade policy on the development of the clean energy economy. I am Leo Gerard, the International President of the USW. The members of our union, the largest manufacturing union in North America, are hard at work every day making the products that both enable how we live today and also how we will move into the future.

USW has long embraced the potential for robust economic growth in America spurred by a commitment to the development of the clean energy economy. Thousands of good, family-supporting jobs can, should, and must be created in this sector if the global environment is to be preserved and if the United States is to secure its role as a clean energy leader.

For decades, USW has been a leader in the labor movement on both the protection of the environment and the development of clean energy. In 1990, we published “Our Children’s World” stating our union’s environmental policy and the need to address climate change, and in 2006 reaffirmed our union’s commitment to environmental responsibility through the publication of “Securing Our Children’s World.”

USW’s specialty is in working through collaborative partnerships with sometimes strange bedfellows to forge sensible, workable policy options. For example, USW is a founding member of the Blue-Green Alliance (BGA), a coalition of labor unions and environmental groups. BGA and its partners are striving to plan a new way forward for America through the promotion of policy solutions that spur growth and investment in clean energy technologies and products produced here in America. Similarly, last year USW formed a Partnership for Progress with the American Wind Energy Association (AWEA), to develop solutions to accomplish our shared goal of a thriving wind energy sector powered by turbines and components produced here in America by American workers.

Our union has also been one of the most active organizations in America with respect to enforcing our trade laws. USW understands that all the incentives, market forces, and money in the world will not create the jobs we need here in America if predatory and illegal trade policies by our foreign competitors are left unchecked. American trade laws and international treaties are designed to prevent the sort of market distortions that are sadly common. However, in order to be effective, they must be enforced with the vigor and consistency that the current economic situation requires.

Too often, USW is forced to act virtually alone to push for enforcement of these laws. Many companies and other groups fall victim to the intimidation that is part of these coordinated attacks on American companies and workers. It is regrettable that this is the case, but USW is able and proud to be the ones who stand up. We can take it. We are American workers, after all - but we can only take so much – one of the tragedies of US trade law is that relief can be given only after there is injury. And that “injury” takes the form of lost jobs, broken families and hollowed out small towns all across America. Instead of waiting for the damage to occur before acting, we need to look for proactive solutions to our jobs crisis.

Last September, USW filed a petition with the U.S. Trade Representative (USTR) seeking an investigation into an array of policies used by the Government of China to distort trade and investment in clean energy technologies. In October, the petition was accepted and an investigation was opened. USTR has now moved to the consultations phase with China at the World Trade Organization (WTO) on a subset of these issues, which may result in a request for the formation of a dispute settlement panel if consultations do not resolve matters. With regard to the remaining issues, USTR has committed to work with the USW and other stakeholders to further investigate the claims and hold China accountable for its practices.

These are not undue or unjust actions, as some opponents of the investigation would have you believe. They are the only way American workers will share in the promise of clean energy technology manufacturing. And they are, quite simply, the rules and standards that China agreed to when it joined the WTO and the international trading community

Of course, these false insinuations are just a few of many being spread by opponents of the investigation. Much is at stake – President Obama has indicated that the clean energy technology sector is key to our future. The Steelworkers’ petition is the largest, in terms of trade volume, filed against a sector of the Chinese economy. Ultimately, hundreds of billions of dollars in goods and services are at stake.

The petition and the ensuing investigation have generated a lot of attention and commentary, much of it false and some of it deliberately so. I am glad to have the opportunity to tell the real story.

The petition and the investigation cover a wide range of practices in five broad areas:

1. Export Restrictions on Rare Earth Materials and Other Key Raw Materials for Clean Energy:

The group of 17 minerals often referred to as “rare earths” are key raw materials for the production of a wide variety of high tech products, from cell phones to lasers. They are also key ingredients in most clean energy technology products, such as solar cells and hybrid car batteries. China dominates world production of rare earths, and is using that fact to restrict the growth of clean energy technologies in other countries. The restrictions China places on exports of rare earths force producers to shift production to China in order to avoid the cost disadvantages that arise from this severe restriction of exports. The result of this has been a stultifying effect on the development of clean energy industries all over the world, and an increase in the cost of all clean energy products unless they are produced in China.

The rare earths issue is also instructive in seeing what China is doing in response to these charges. Shortly after the petition was filed, reports surfaced that China had placed an embargo on rare earth shipments to the U.S.¹ Eventually, shipments resumed but then word came that

¹ See, e.g., *China Said to Extend Rare Earths Embargo to West*, The New York Times (Oct. 19, 2010).

China was planning to reduce its export quotas of rare earths in 2011 and would increase its export tax on rare earths to almost double what it was before.² And just last week came reports that the Chinese government is stockpiling these minerals.³ These are not the actions of a country acting in good faith with the international community. These are not the actions of a country that pursues market-oriented policies. These are, rather, the actions of a country which is reacting to criticism of its predatory rare earths policy by doubling down and expanding that policy in an attempt to force the world to back down.

2. **Forced Technology Transfer:** As has been discussed, the goal of these policies is to force companies to shift production to China in order to access the Chinese market. Once there, foreign companies find that they are not permitted to do business unless they enter into a joint venture with a Chinese partner. The foreign company must then license its technology to the joint venture, which basically hands that technology to the Chinese partner as the cost of being able to do business in China.
3. **Discrimination Against Foreign Firms and Companies:** By requiring, for example, operators of Chinese wind and solar power plants to purchase Chinese-made equipment, China is giving unfair protection to Chinese producers and illegally shutting out foreign producers. This not only puts foreign companies at a disadvantage and requires them to move production to China if they want to access the Chinese electricity market, it subverts the competitive market for technology. The best technologies do not necessarily win in such a market, just the homegrown ones regardless of merit.

This is very different from domestic sourcing rules like the “Buy America” laws the U.S. has or the “Buy China” laws that China has. Those laws and rules only cover government procurement, requiring that government spending for a public purpose give preference to domestically-produced products over imports. By contrast, the rules under investigation mandate preference by commercial entities. Government procurement domestic preferences are legal under WTO rules, but government mandates requiring commercial entities to show preference are not.

4. **Prohibited Subsidies Based on Export Performance and/or Local Content:** Similar to the discrimination against foreign firms, the Chinese government provides different levels of subsidies to producers of clean energy technologies conditioned on the use of Chinese components or specifically to enhance export performance. Both of these artificially undercut competitors in other markets, both in America and in third-party countries. These export subsidies are both illegal under WTO rules and are counterproductive in the development of a strong, functioning market for clean energy technology. We have already seen the deleterious effect of Chinese export subsidies in other areas. When export subsidies artificially drive the cost of products down low enough, those products will gain market share even if they are

² *China to Tighten Limits on Rare Earth Exports*, The New York Times (Dec. 28, 2010).

³ *China Moves to Strengthen Grip Over Supply of Rare-Earth Minerals*, The Wall Street Journal (Feb. 7, 2011).

substantively worse than other competitive products. This is how we end up with lead in children's toys and poisonous food.

5. **Domestic Subsidies That Cause Serious Prejudice to Trading Partners:** The deleterious effect of China's subsidies is not limited to its prohibited export and domestic content subsidies, however. The subsidies it grants to its clean technology producers are so massive that they distort trade and investment flows, hurting producers in other countries. Unlike the smart development domestic subsidies provided by the U.S. and other countries, Chinese domestic subsidies are predatory in nature and seek to leverage China's size to corner markets. For example, in 2009 China's subsidies to its solar industry kept production increases high at the same time the global financial crisis was leading to reduced growth in global energy use. The result of this was a glut in the market for solar cells that caused the price of them to crash. The price crash in solar cells, in turn, led several U.S. makers of solar cells to close down or move to China, where they could stay afloat thanks to the same Chinese subsidies that made their U.S. operations unsustainable.

Each of these is a violation of international law and China's WTO obligations. However, the tactic that the Chinese government is taking to respond to the President's investigation of these illegal practices is a deliberate attempt to confuse the issue. It is an attempt to conflate the laudable aspects of certain Chinese clean energy policies – of which there are several – with the identified illegal practices.

It is unquestionably the case that China has admirably moved in many ways to develop demand for clean energy in their country, which has the potential to have a positive impact on global carbon emissions. For example, China has a national renewable electricity standard (RES). This is an excellent policy option to encourage increased use of clean energy, and USW supports the development and adoption of an electricity standard in the United States. This could either take the form of an RES, as has been proposed in several USW-endorsed energy bills in recent years, or a Clean Electricity Standard (CES) as President Obama described in the State of the Union.

Still, it is untrue that this investigation seeks to penalize China for policies like its RES, feed-in tariffs, and support for alternative and hybrid vehicles and high-speed rail in public transportation programs (alt: support for new solar and wind installations that do not discriminate against imported goods) . These are positive policies that the U.S. would do well to adopt, since they are smart solutions that reduce emissions and spur investments in the technologies of tomorrow.

However, and this cannot be stressed enough, those policies are not part of this investigation.

That has not stopped opponents of the investigation from engaging in a huge propaganda campaign that seeks to confuse the issue by falsely suggesting that the investigation is into these good policies, not the illegal practices actually at issue. It seeks to create the premise that the investigation is attacking all Chinese clean energy development policies, even those that the U.S. also has in place.

This is, simply, false.

Does the United States subsidize and encourage the development of clean energy technology? Certainly, but it does so in a WTO-legal way and our hope is that the U.S. will continue its efforts and, in fact, increase that investment.

But does the United States restrict China's access to key raw materials? No, it does not.

Does the United States pursue WTO-prohibited export or domestic content subsidies? No, it does not.

Does the United States discriminate against foreign goods and companies? No, it does not.

Does the United States force Chinese companies to transfer technology to American companies as the cost of doing business here? No, it does not.

Does the United States grant such massive subsidies that it distorts the entire world market for these products? No, it does not.

We all share a common commitment to economic revitalization and the development of new technologies to create millions of new, good, desperately-needed jobs. Government encouragement and investment in clean energy technology – here and in China and all over the world – can help speed the development of this as quickly as possible to the benefit of everyone.

These practices by the Chinese government, however, are not positive investments. These are not designed to improve the efficiency and competitiveness of clean energy technologies. These policies are not about creating lower-price or higher-quality products at all. China's policies are designed simply to corner the market on clean energy based on country of origin, not quality or efficacy. They seek to subvert – not support – the development of a functioning, competitive, innovative, and robust global market in clean energy technology.

I hope that organizations like ours, policymakers, companies, and the American people can come together soon on an answer to the question of how America will meet its energy challenges. This answer, however, will clearly not be one silver bullet. Rather, it will come from a carefully constructed, sustainable, and rational suite of policies that maximize domestic energy production in as clean a manner as possible. Also, it will provide a clear timeline for the ramping-up of new clean energy technologies. And it will put the foremost emphasis on making sure that the domestic supply chain and manufacturing base for these technologies is encouraged and developed.

If we do this, the potential reward for America is almost limitless. If we put American workers in a position to succeed, they will succeed. I agree with the words of President Obama about the character

of America. We do big things, and this will be the biggest of our lifetimes. Our sleeves are rolled up, and it's time to go to work.

Thank you again, Mr. Chairman, for holding this hearing. The United Steelworkers and I look forward to working with you and the subcommittee to make the clean energy revolution the opportunity that we all hope it will turn out to be economically, environmentally and to increase the energy security of our nation for a brighter future.