



**INTERNATIONAL
BROTHERHOOD
OF ELECTRICAL
WORKERS.**

900 Seventh Street, NW
Washington, DC 20001
202.833.7000
<http://www.ibew.org>

EDWIN D. HILL
International President

LINDELL K. LEE
International
Secretary-Treasurer

November 15, 2010

Mr. Eric Garfinkel
Chief Counsel for China Trade
Office of the United States Trade Representative
600 Seventeenth Street, NW
Washington, DC 20508

**RE: IBEW Comments on USTR's Section 302 Investigation: China-Acts,
Policies and Practices Affecting Trade and Investment in Green
Technology (Docket No. USTR-2010-0028)**

Dear Mr. Garfinkel:

On behalf of the approximately 725,000 members of the International Brotherhood of Electrical Workers (IBEW), I submit these comments in strong support of USTR's investigation of China's policies affecting trade and investment in green technology.¹ The IBEW represents members who work in a wide variety of fields, including utilities, construction, telecommunications, broadcasting, manufacturing, railroads and government.

IBEW members produce a broad range of products for the energy sector, including renewable energy, such as conduits, switches, circuit breakers, generators, and more. The emerging renewable energy sector can stimulate demand for thousands of manufactured inputs with high value added and innovative technologies. The IBEW believes the development of a viable domestic supply chain for these goods will be essential to the future of its manufacturing sector here in the United States, as well as to our nation's future energy independence and security.

Unfortunately, the ability to develop a viable industry in this area is being undermined by the Government of China's deliberate strategy to dominate global production of clean energy technologies. The United Steel Workers' (USW) petition documents the variety of means that China has employed in pursuit of this goal: export restraints on essential raw materials, prohibited and trade-distorting subsidies, technology transfer requirements for foreign investors, and policies that discriminate against foreign firms and goods.

These policies not only give China's producers of the end products that generate renewable energy an unfair advantage in the marketplace, they also serve to stimulate and protect Chinese producers of the key components that go into those end products. For example, the petition includes a subsidy program to large wind turbine manufacturers in China that requires the manufacturer to submit copies of its supply agreements with Chinese component producers in order to receive government grants for research and development. This subsidy not only helps the turbine manufacturer by covering his substantial research and development costs, it also gives Chinese component producers a leg up because their customers will only

¹ See *Initiation of Section 302 Investigation and Request for Public Comment: China—Acts, Policies and Practices Affecting Trade and Investment in Green Technology*, 75 Fed. Reg. 64776 (USTR Oct. 20, 2010).



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Mr. Eric Garfinkel
November 15, 2010
Page 2

receive the subsidy if they source domestically. Both U.S. turbine manufacturers and U.S. component suppliers are directly harmed by this program.

In addition, the petition includes an example of a supply agreement with a Chinese state-owned turbine company under which its U.S. supplier agrees to shift the production or sourcing of converters – a key component – to China based on a schedule agreed to as a condition of the supply contract. Given the significant state ownership in China's renewable sector, such conditions may be affecting sourcing decisions in a broad array of supposedly commercial contracts. When China joined the World Trade Organization (WTO), it committed that its state-owned enterprises would act on commercial terms and not discriminate against imported goods. These contract conditions are a direct violation of the commitment.

The petition also describes local content requirements that apply to new wind energy and solar energy generation facilities in China. It is important to distinguish such requirements from permissible domestic preferences that may apply in the government procurement context, such as Buy America laws, which apply only when a government is purchasing goods for its own non-commercial use. Such preferences are exempt from basic WTO disciplines and subject to only limited commitments by some countries under a plurilateral WTO agreement. The policies China is employing are very different. The Chinese government is not merely requiring that the solar panels or wind turbines that it buys for its own non-commercial use be sourced domestically. The Chinese government is requiring *any* company (including private firms) that wishes to build a wind or solar power plant to get government approval, and the government conditions its approval on that company using domestic over imported goods. This is a clear violation of China's WTO commitments.

These policies are causing serious and irreversible harm to the development of a healthy renewable energy supply chain here in the United States. We cannot afford to let these policies proliferate any longer. We urge USTR to pursue each of the claims included in the USW's petition to the fullest extent, by requesting consultations with the Government of China on each claim, and, if necessary, invoking the WTO's dispute resolution procedures to resolve those claims.

Thank you for the opportunity to provide input in this important case.

Sincerely yours,

Edwin D. Hill
International President

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