

## Submission by United Steelworkers to Global Affairs Canada Consultations on a Possible Canada-China Free Trade Agreement

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The United Steelworkers is one of Canada's largest industrial unions, representing more than 225,000 workers across the country. We are one of Canada's most diverse unions, representing men and women working in every sector of Canada's economy including mining, forestry, healthcare, education and telecommunications.

We commend Global Affairs Canada (GAC) for initiating these consultations as it examines whether Canada should initiate negotiations with China towards a free trade agreement (FTA). This is a welcome change from recent trade and investment agreements negotiated on Canada's behalf, such as the FIPA, CETA and TPP, which were noteworthy for their secrecy and lack of public consultation. We hope that the government will continue to consult Canadians, including trade unions, First Nations, and other civil society groups as it develops and pursues this and other policy initiatives.

That said, the USW emphatically asserts that it is not currently in Canada's interest pursue a free trade agreement with China. We acknowledge that in recent years China has demonstrated a willingness work with other countries to pursue a variety of bilateral trade and investment treaties. However, in our view, China's interest in furthering trade with Canada does not spring from a desire to adhere to the rules-based regimes which Canada has played such an important role in establishing and maintaining. Rather, China's pursuit of free trade agreements stems from an aggressive trade policy and an overall desire to become a global trading leader.

Public polling suggests that a majority of Canadians are apprehensive about a free-trade deal with China. This is largely because China is a rising geopolitical



superpower, which is governed by a notoriously authoritarian and oppressive regime. We share many Canadians' concerns about China's abuses of human rights and labour rights, environmental degradation caused by Chinese industries and weak rule of law. China's state-driven development model, moreover, is motivated as much by China's political ambitions as it is by profit; and it has not played by the rules where trade is concerned. Given these realities, the USW asserts that negotiating a trade agreement with China would inevitably require that Canada compromise Canada's national interest or its values, or both. We believe that it is Canada's workers who will suffer most as a result.

Since China's ascension to the WTO in 1995, China has consistently shown itself to be a violator of global trade rules and norms. China's government plays an oversized role in influencing the county's economy and unfairly subsidizes industries to be more competitive and encourage full-employment. Chinese state-owned enterprises (SOEs) have also been complicit in the outright theft of intellectual property. Since 1995, 840 anti-dumping measures have been levied by domestic governments against Chinese exports. This is more than 25% of all anti-dumping measures initiated globally over this period and nearly four times more than South Korea, the next worst violator of anti-dumping rules.

Steelworkers have borne the brunt of China's unfair trading practices. In steel, Chinese over-production, itself a result of state-led direction and policies meant to drive China's overheated economy to full employment, has depressed prices globally. But China continues to build its productive capacity in steel and other sectors and illegally



dumps these products in other markets, including Canada. China currently has more than 400 million metric tons of steel making capacity—nearly 40 times the size of the Canadian steel industry—and Chinese steel producers are offered a variety of export incentives by the government to dump that steel into North America. As a result, dumping has displaced Canadian steel in the crucial NAFTA market and Canadian steel exports to the US have decreased by 16% since 2008, representing a total loss to producers of \$966 million. Opening Canadian steel markets further to China's state-led exporters will only further decimate what is left of the Canadian steel sector as well as other important industries, including aluminum, paper, glass, and auto parts.

In spite of all this, China boldly asserts that it should be granted market economy status by all of its trading partners. In free trade discussions with Australia in 2005, China required that Australia recognize it as a Market Economy as a pre-condition to initiating formal negotiations. In nearly every trade agreement to which China is a party, the recognition of China's alleged Market Economy Status (MES) has been established as a pre-condition to formal negotiations. We are concerned that China will make similar demands of Canada.

There is simply no evidentiary support to conclude that China qualifies as a "market economy." Awarding China MES would grant it the same market status as the US, EU and Canada when it comes to anti-dumping investigations at the WTO. Such a determination would ensure that Canadian trade remedies would be far less effective at counter-balancing the injuries to Canadian industries caused by China's unfair trade



practices. Since China's input prices are artificially low, dumping margins under "market economy" rules would be effectively reduced to zero or close to zero.

The harm to the NAFTA steel industries and economies, including Canada, would be significant. The USW therefore urges the government to continue to treat China as a non-market economy until such time as China can demonstrate that its economy is operating in manner consistent with market principles. Only then should Canada consider negotiating a free trade agreement with China.

We are also concerned that a free trade agreement with China will accelerate the ongoing decline in Canadian manufacturing. Since 2000, Canada has lost 547,000 manufacturing jobs and real hourly wages in manufacturing have grown by just 6.8%, or under 0.5% per year. It is true that the trade deficit with China is not the only reason for the manufacturing crisis, although it is a major one. Canada currently runs a large bilateral trade deficit with China of \$44 billion in 2016. Of this, exports amounted to \$20.1 billion, and were overwhelmingly composed of resources and raw materials. Imports from China, on the other hand, consisted almost entirely of manufactured goods and amounted to \$64.3 billion. Canada has also lost a significant share of the huge US market for manufactured goods to China. Between 2002 and 2016, the China share of all United States merchandise imports rose from 11% to 21%, while the Canadian share fell from 18% to 13%.

While Canada continues to push trade liberalization, China pursues activist state policies to protect and develop its value-added sectors. China recently launched a "China Manufacturing 2025" development plan, characterized by profit-led state



investment, active industrial policy and export discipline. The policy will focus on developing advanced manufacturing sectors alongside complimentary producer services, service oriented manufacturing and green technology. As Kozul-Wright and Poon write, "China appears poised to boost investment significantly in a range of new and advanced technology in strategic sectors, while retaining equity stakes as they are developed and commercialized." Many of the sectors China plans to develop are the very same industries that some Canadian trade boosters have identified as in Canada's value-added competitive advantage, such as aerospace and aviation equipment, agricultural technology and services. xii

Canada's experience under the recently negotiated Canada-South Korea FTA is instructive in this regard, since both China and South Korea maintain active industrial policies relative to Canada. Under the Canada-South Korea FTA, Korean merchandise exports to Canada have grown by 47% since January 1, 2015. In contrast, Canadian exports to Korea have grown by just 5%, reflecting an increase in Canada's trade deficit with South Korea to \$6.3 billion at the end of 2016. In fact, South Korea has shipped an additional \$3.2 billion worth of manufactured goods into Canada since the deal came into force, while Canada has exported back only \$200 million. Given these conditions, we fear that an FTA with China will further entrench Canada's over-reliance on the export of primary commodities to the detriment of our value-added manufacturing base.

On investment, the USW also has several areas of concern. First, we fear that the government has already conceded considerable ground to Chinese investors, particularly SOEs. The Canada-China Foreign Investment Promotion and Protection



Agreement (FIPA), for instance, made considerable concessions on labour and environmental standards, and delivered little of benefit to Canadian investors in China.xiii In fact, many of China's corporations, most notably in its financial and telecommunications sectors, are considered off limits to foreign investment.

Second, we are concerned by the Canadian government's apparent willingness to relax export controls on high-technology to China and to end national-security tests for foreign takeovers by Chinese companies, including SOEs.\*\* The current Liberal government has already committed, unilaterally, to reduce the frequency of "net benefit" tests with respect to foreign investment in Canadian enterprises or infrastructure. This year, the government increased the threshold for review of foreign investment in Canadian firms from \$600m to \$1b.\*\* Recent takeovers of Canadian companies by firms linked to the Chinese state, including Anbang's purchase of a B.C.-based retirement home chain and the recent reversal of a divestment order issued by the previous government to a company that bought a Quebec firm with military-grade technology, exacerbate our concerns in this area.

The Chinese negotiating position on such issues has been boldly stated by Chinese Ambassador Lu Shaye, who states that "all enterprises should be treated equally ... No matter if they are state-owned enterprises or private enterprises, they are equal. They are both Chinese enterprises." We are not convinced. State-owned enterprises are known to act in the interests of Beijing and have been accused stealing foreign technology. A November 2016 security review report to the U.S. Congress concluded, for example, that President Xi Jinping has expanded China's control over



state-owned firms and exerted influence over private companies to ensure they promote state goals. The report further suggested that the United States must guard against "Chinese companies' record acquisition of U.S. assets, in particular, their drive to acquire U.S. technology firms." Moreover, the report notes, China continues to steal technology through cyber-espionage. \*\*vii\*\*

Finally, we fear enhanced labour mobility provisions as part of negotiations towards an FTA with China. China has made it clear that the right to bring Chinese workers to work on Chinese-financed investments is a top priority. We can look to Australia for a sample of what China will likely demand in negotiations with Canada. Chapter 10 of the China-Australia FTA removes the requirement of local labour market testing for temporary skilled workers from China and a further side letter removes skills assessment for several trades occupations without a clear means of assessing whether Australian certifications and/or standards will be met. Most troubling however, is the language governing Investment Facilitation Arrangements (IFAs), which enables Chinese investment projects meeting the low threshold of \$150A million to bypass local workforces and employ unlimited numbers of temporary workers with no clear means of skills assessments or monitoring of wages and working conditions.

The problems of Canada's Temporary Foreign Worker Program and International Mobility Program are already well-documented. But China's interest in labour mobility goes further. It is fundamental to a Chinese model of globalization that hinges on the importation of low cost Chinese labour to staff infrastructure projects overseas. Even if the appropriate domestic legal frameworks were developed to prevent exploitation



under such programs, we believe it unlikely that Chinese migrant workers, particularly those employed by state-linked enterprises, will risk filing complaints and it is doubtful that exploitation will be uncovered by the authorities. Chinese demands for labour mobility provisions that increase the ability of Chinese workers to access the Canadian labour market without sufficient regard for the necessary regulatory framework to protect these workers from exploitation or to safeguard Canadian job opportunities, wages and conditions must be rejected by Canadian negotiators.

The Liberal government has proudly proclaimed, but not clearly articulated, its "progressive trade" agenda. In a recent April 28 interview, Trade Minister Francoise-Philippe Champagne asserted Canada would pursue chapters on labour rights, environment and gender rights with China as part of the Liberal government's "progressive trade agenda":

Well we are making steady progress, but I would say we have put on the table that what Canada wants is a modern, comprehensive agreement, and I think the Chinese side understands that. We said we want to have a chapter on labour. We want to have a chapter on the environment, on gender equality, but that's why they want to deal with Canada. Canada's progressive trade agenda is resonating around the world. That's what we're pushing forward.

The USW agrees that governments can and must use trade negotiations as a means to press developing countries on embrace Canadian values, including environmental protections, rule of law, human rights, and labour rights. We agree that Canada cannot be too willing to compromise our own values in order to achieve an FTA with China. However, given China's bargaining power, and interest as authoritarian economy driven by state-interests, we fear that in order to reach an FTA with China Canada must inevitably compromise its "progressive" values. As we have discussed,



China is not just any developing country and, in these negotiations, it is Canada which is the smaller partner. It is worth noting that the recently ratified China-Australia FTA (ChAFTA) contains no chapters on labour rights or environmental commitments, no commitment not to reduce labour or environmental standards, and no commitment to implement internationally recognized ILO fundamental labour rights.<sup>xx</sup>

Surveys show that a majority of Canadians want Ottawa to link human rights to potential talks toward a free-trade deal with China, and for good reason. In China, sweeping national security laws and regulations continue to be drafted and enacted, giving greater powers to the authorities to silence dissent, restrict or censor information and harass and prosecute human rights defenders. The enforcement of these laws combined with weak domestic intuitions creates systemic problems in the criminal justice system, which has resulted in widespread torture, other ill-treatment and unfair trials. Human rights advocates also point to China's network of approximately 909 forced labour camps, as a particularly egregious instance of China's human rights transgressions. These *Laogai* currently contain between 3 and 5 million prisoners and are widely considered to have violated several provisions of the *Universal Declaration of Human Rights*.

China, a founding member of the ILO, has ratified only four of eight core conventions and two of four governance conventions. China has refused to compromise on freedom of association and collective bargaining, which is one of the four fundamental rights outlined in the 1998 Declaration on Fundamental Principles and Rights at Work ("1998 Declaration"). Although China has signed the 1998 Declaration,



which states that all member states have an obligation "to promote and realize" the four fundamental rights, it nonetheless continues to maintain that it is not bound by the conventions it has not ratified. \*xxiv\*

In fact, China's export led growth model is built on the systematic denial of fundamental worker rights including freedom of association, the right to collective bargaining and the right to strike. The All-China Federation of Trade Unions (ACFTU) is the only legal trade union in China and the majority of local officials in ACFTU are appointed by the Central government. The ACFTU does not support strike action and critics say that it fails to assist worker in disputes that arise with employers. Strikes, when they do occur, are most often wild-cats (walk-outs), which are met with brutal and sometimes lethal force by police.

Since coming to power in 2012, President Xi Jinping responded to challenges to the ruling Communist Party by systematically repressing protests, dismantling labor rights organizations and imprisoning activists. Local governments have also cracked down on labour activists helping workers win payment of back wages and unpaid benefits in disputes against employers. The International Trade Union Confederation (ITUC) has reported that at one factory last year, approximately 50 labour activists were detained by authorities, seven were criminally charged and four of those were sentenced. According to the ITUC, the charges were intended to intimidate the activists and, by extension, the workers and worker organizations they supported. \*\*xv\*

In spite of this record, Chinese officials have made it known that China will not entertain discussions of human rights as part of trade negotiations with Canada. Mr. Lu



Shaye, Chinese Ambassador to Canada has said China would find it "difficult" to negotiate a far-reaching free-trade deal if Ottawa linked human rights to the exploratory trade talks and that he would not want Canada to use human rights as a "bargaining chip". "XXVI" Unfortunately, it appears that the Canadian government has already conceded on this position. Canadian Ambassador John McCallum, for instance, agreed with his Chinese counterpart in an interview with *The Globe and Mail*, saying that trade talks may touch on environment and labour issues, but that "it's not clear to me that human rights, per se, are part of a free-trade agreement."



Furthermore, as Ed Broadbent recently noted, human rights violations concerning China's lack of labour rights enforcement provide Chinese companies with a disturbing trade advantage, especially in relation to manufacturing and other labour intensive industries. Negotiating an FTA with China would, in effect, reward violations of labour rights by granting preferential market access to Canadian markets. It would set a precedent for other trade negotiations and limit Canada's ability to negotiate binding human rights commitments into future agreements with developing countries.

Finally, we have great concerns regarding Canada's ability to negotiate a meaningful environmental chapter into a trade agreement with China. While China is making significant investment in renewal energy and clean tech, China's record on environmental protection leaves much to be desired. One tonne of steel made in China and imported to Canada has a carbon footprint that is close to 3 times the carbon footprint of a similar tonne of steel made in Canada. As Canadian governments move to implement carbon pricing regimes, we have great concerns that a Canadian carbon price will put Canadian industry at a severe disadvantage when compared to energy intensive high GHG Chinese industry. The only way to remedy this imbalance would be to impose carbon border adjustments on imported Chinese goods, a measure which would seem at odds with a free trade regime.

In conclusion, the USW does not support a free-trade agreement with China at this time. Neither side, in our view, is in a position to negotiate a truly "progressive" trade agreement that will benefit Canadian workers. On the one hand, China's state-led development model and authoritarian governance regime has and will continue to come



into conflict with Canadian interests and values. On the other hand, Canada's trade with China is already both quantitatively and qualitatively unbalanced. We see little evidence to suggest that a traditional FTA with China will do anything to resolve that.

We urge the government to shake itself free of the decades-old Team Canada trade mission approach. As we wrote in our submission to the House of Commons Standing Committee on Industry, Science and Technology's Study on Canada's Manufacturing Sector last year, the USW firmly believes that trade policy and manufacturing/industrial policy must be approached as one comprehensive economic policy challenge. We believe that, in large part, Canada's focus on unsustainable commodity exports and the lack of a comprehensive industrial strategy are the result of an ideologically driven, rather than evidence driven, international trade agenda. What we have seen from the government to date does little to make us believe that Canada's trade strategy is anything more than trade liberalization for liberalizations' sake, with no coherent strategy for manufacturing, steel or any other strategically important sector.

We hope that the government will take a patient, measured approach to furthering its trade agenda. Before moving forward on any trade negotiation, including with China, we urge the government to conduct a balanced, honest and comprehensive feasibility study which includes not just growth estimates, but also sectoral and distributional projections as well as human rights, labour and environmental impact assessments. Finally, we call on the government to clearly detail the specific components, principles and provisions which make up what it has called its "progressive trade agenda." In that way, Canadians will be able to participate more fully in the policy



process and our trading partners may have a clear understanding of where Canadians really stand on these important policy issues.

<sup>i</sup> Fife, Robert and Steven Chase (2017) "Canadians wary of trade with China: poll." *The Globe and Mail*. April 11.

https://www.ic.gc.ca/app/scr/tdst/tdo/crtr.html

Bulloch, Douglas (2016) "China Doesn't Deserve Its 'Market Economy' Status by WTO." Forbes. December 12.

WTO (2016) "Anti-dumping measures: by exporter" WTO: Anti-Dumping. https://www.wto.org/english/tratop e/adp e/adp e.htm

Gerard, Leo (2016) "Testimony: Policy Recommendations on the Global Steel Industry Situation and Impact on U.S. Steel Industry and Market." *United States Trade Representative (USTR)*. April 12. 
Volume of Canada (2017) Canadian Total Exports – HS 73 Articles of Iron and Steel,"

Haley, Usha C.V. (2008) Shedding Light on Energy Subsidies in China: An Analysis of China's Steel Industry From 2000–2007. Alliance for American Manufacturing; Haley, Usha C.V. (2009) Through China's Looking Glass: Subsidies to the Chinese Glass Industry From 2004–08. Economic Policy Institute, Briefing Paper #242; Haley, Usha C.V. 2010. No Paper Tiger: Subsidies to China's Paper Industry From 2002–2009. Economic Policy Institute, Briefing Paper #264; Haley, Usha C.V. (2012) Putting the Pedal to the Metal: Subsidies to China's Auto-Parts Industry from 2001 to 2011. Economic Policy Institute, Briefing Paper #316.

vii In order to calculate anti-dumping margins, it is necessary to have prices in the home market that reflect market forces, not government industrial plans, subsidies and government depressed input costs. With China, the same market distortions that lead to dumping are also the same distortions that prevent the use of Chinese prices in dumping calculations

viii According to one recent study, prematurely treating China as a market economy would have a deleterious effect on the Canadian economy. It estimates a near-term loss of up to 60,000 jobs; a permanent, long-term reduction in GPD by between C\$4.1 and C\$7.6 billion; a permanent reduction in nonresidential fixed investment in the range of C\$0.9 and C\$1.7 billion annually; and a permanent decline of federal government tax revenues by between C\$0.5 and C\$0.9 billion. See, Ruiz, Manuel Molano, Robin Somerville and Andrew Szamosszegi (2015) Assessment of the Probable Economic Effects on NAFTA of Granting Market Economy Status to China. November 10.

<sup>&</sup>lt;sup>ix</sup> Jackson, Andrew (2017) "Canada-China trade agreement no deal for middle class, blue collar Canadians." The Globe and Mail. May 9

<sup>&</sup>lt;sup>x</sup> Jackson, Andrew (2017) "Canada-China trade agreement no deal for middle class, blue collar Canadians." The Globe and Mail. May 9.

xi Richard Kozul-Wright and Daniel Poon. "Learning from China's Industrial Strategy." Project Syndicate. April 28, 2017. https://www.project-syndicate.org/commentary/china-industrial-strategy-lessons-by-richard-kozul-wright-and-daniel-poon-2017-04.

xii Libin, Kevin (2017) "If Canadians think 'free trade' with Trump is a pain, just wait till we deal with China." May 2.

viii Van Harten, Gus (2015) Sold Down the Yangtze: Canada's lopsided investment deal with China. International Investment Arbitration and Public Policy (IIAPP).

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**MÉTALLOS** 

xiv Fife, Robert and Steven Chase (2017) "China pushes to expedite exploratory free-trade talks with Canada." *The Globe and Mail.* April 19

xxii https://www.amnesty.org/en/countries/asia-and-the-pacific/china/report-china/

Article 4: 'No one shall be held in slavery or servitude'; Article 5: 'No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment'; Article 9: 'No one shall be subjected to arbitrary arrest, detention or exile'; and Article 18: 'Everyone has the right to freedom of thought, conscience and religion'. Although goods produced in Laogai camps are subject to Chinese legislation prohibiting their export, this law receives little enforcement in China.

\*\*XIV\*\* Petrovic, J., & Grunberg, B. (2017). Intersecting Trade, Politics and Human Rights: The Negotiation

Petrovic, J., & Grunberg, B. (2017). Intersecting Trade, Politics and Human Rights: The Negotiation Phase of the Australia-China Free Trade Agreement. Journal of World Trade, 51(1), 67-104

xxv https://business-humanrights.org/en/china-at-least-19-labour-activists-detained-by-authorities-china-

<u>labor-watch-releases-statement-on-those-who-assisted-lide-shoe-factory-workers</u>
The charges lead to a complaint filed to the International Labour Organization that stated:

[They] have been subject to repressive measures by the Government including arrest, detention, interrogation, seizure of documents and computers, surveillance at home and office and verbal and physical harassment. The [International Trade Union Confederation] believes that the charges levelled against them are not genuine but are intended to intimidate them and, by extension, the workers and worker organizations they have supported.

xxvi Fife, Robert and Steven Chase (2017) "Ottawa urged to reject Chinese trade demands," *The Globe and Mail.* March 25.

Fife, Robert and Steven Chase (2017) "Canadians wary of trade with China: poll." *The Globe and Mail. April 11.* 

Likewise, the government's notice for these consultations suggests that a "free trade agreement with China would not deter Canada from urging and working with China to meet its international obligations" in the areas of "environment, labour, gender equality, rule of law and human rights." See, Government of Canada (2017) *Canada Gazette*. 151.9. March 4. http://www.gazette.gc.ca/rp-pr/p1/2017/2017-03-04/html/notice-avis-eng.php#ne15.

xxviii "The human-rights component of our foreign policy is fundamental, has been forever," he notes, "And

"The human-rights component of our foreign policy is fundamental, has been forever," he notes, "And I don't think we're going to sacrifice that for economic reasons." (Vanderklippe, Nathan (2017) "China extradition talks 'long way' off." The Globe and Mail. April 4).

This discussion is adapted from English, Tony, Curt Anderssen and Geoff Upton (2017) "An Australia-China Free Trade Agreement: Managing an Elephant. *Taiwanese Journal of Australian Studies*. 6.

\*\*\* It was perceived that "if New Zealand challenges China on an issue that it regards as crucial, Beijing is likely to respond by removing trade and other privileges. Because of this, New Zealand officials are

<sup>&</sup>lt;sup>xv</sup> Wakil, Omar (2017) "Expect more inbound foreign investment from the Trudeau Government." *Mondaq Business Briefing*. February 14.

xvi Fife, Robert and Steven Chase (2017) "Beijing pressing for full access to Canada's economy in trade talks." *The Globe and Mail.* March 24

xvii US-China Economic and Security Review Commission (2016) *Annual Report to Congress*. November 2016

Nuttall, Jeremy (2016) "Trudeau's China Trip Sparks Fears of Bad Deal for Workers." The Tyee. Aug 29

xix See, Howe, J. (2015). The impact of the China–Australia free trade agreement on Australian job opportunities, wages and conditions. Report commissioned by the ETU, The University of Adelaide, Adelaide, SA. Australia.

Petrovic, J., & Grunberg, B. (2017). Intersecting Trade, Politics and Human Rights: The Negotiation Phase of the Australia-China Free Trade Agreement. Journal of World Trade, 51(1), 67-104 Fife, Robert and Steven Chase (2017) "Canadians wary of trade with China: poll." *The Globe and Mail.* 

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cautious to avoid offending Chinese sensibilities." (Brady, Anne-Marie (2008) New Zealand-China Relations: Common Points and Differences, 10(2) New Zealand Journal of Asian Studies. 1.18. Manthorpe, Jonathan (2017) "From Down Under, a warning on the perils of getting cozy with China." *iPolitics*. March 29.

xxxii Broadbent, Ed (2017) "Let's make human rights central to a new NAFTA." *The Globe and Mail*. May 5.