



## **Questions & Answers**

### **USW Section 421 Trade Case Against China Consumer Tires Petition Date: April 20, 2009**

- 1. Should the ITC agree with the petition and should President Obama grant temporary relief, won't that be a sign that the United States is becoming more protectionist?**
  - *No. Section 421 is a trade remedy law that China itself agreed to be subject to as a condition for its joining the WTO. It is included in China's Protocol of Accession and is therefore entirely in compliance with international trading rules.*
  - *If anything, it is precisely during uncertain economic times that trading nations should be especially diligent in honoring rights and obligations of the rules-based trading system. Popular support for international trade rests on the principle that it is conducted in a fair manner and that there are mechanisms to prevent catastrophic economic dislocation and soften the impact of market forces. The last thing the global trading system needs right now is declining support for trade from workers and citizens in trading nations.*
  - *Trade remedy laws are only used to address extraordinary import surges. In fact, trade remedies generally impact only about 1/2 of 1 percent of total U.S. trade. Trade remedies are designed to address large imbalances and simply level the playing field.*
  - *As a general matter, trading nations accept a certain amount of control in the flow of goods as part of well-functioning, rules-based global trading system.*
  - *The United States and other nations have not – and should not- abandon their rights to prevent injury to their domestic industries and workers because of the current economic downturn. The exercise of these rights under the global trading system is simply one aspect of that system's functioning, and not a rejection of that system.*
  - *In short, the recession has not negated our right to help American workers adversely affected by trade.*

**2. What happens when the relief comes to an end and the imposed limits disappear? How do we know a limit will actually help retain jobs and preserve the ability of companies to compete in the long term?**

- *Managers from several companies have acknowledged that imports have decreased their profitability and therefore, their ability to invest in new capital equipment. Short-term relief will allow them to maintain revenue flows. This, in turn, will allow them to make improvements in plants and equipment so that they will have a better shot at being able to compete in the domestic market in the years ahead.*
- *Also keep in mind that this statute is scheduled to expire at the end of 2013, at which point China will hopefully have completed its transition to a market economy country, and the factors that currently contribute to the uncontrolled surges in imports such as we have seen in consumer tires will have dissipated.*
- *More importantly, we do know that without relief, we will only see more plants close, more jobs disappear, and more facilities go without needed upgrades for the competition in years to come. We should not allow yet another industry to be sacrificed on the altar of free trade.*

**3. What happens if tire makers are given only limited relief? Will they be able to hang on?**

- *We cannot entertain hypothetical scenarios. The petition makes a solid case for reasonable relief through limited quotas over a three-year period.*
- *We hope the ITC will consider it carefully and recommend the relief sought to the president.*

**4. President Bush was criticized when he granted temporary relief for steel producers in 2001. Workers and companies said he acted too late and he removed the tariffs just as they were starting to work. Steel consuming industries accused him of caving to political pressure, and U.S. trading partners saw the move as an unwelcome departure from his free-trade position. Doesn't President Obama face a similar no-win situation with this petition?**

- *First of all, the relief provided to the steel industry actually did work. The industry went through painful adjustments but wound up being much more profitable at the end of the process.*
- *We trust President Obama to look at the matter objectively and decide the appropriate remedy on the merits. There's no question that he and his Administration support strong trade enforcement efforts. He understands that the United States cannot walk away from its role in the international marketplace. He also understands that the government cannot walk away from its workers and their families.*

- *We are confident that the President will find the proper balance between free and fair trade. He cares deeply about restoring a rising standard of living for the American people and supports preserving and enhancing our industrial base.*

**5. Why are there no companies that have joined the petition with the USW?**

- *The USW is looking after the interests of its workers. While the USW obviously has no control over the actions of the tire companies with respect to deciding whether to join a petition or not, we are hopeful that the companies will express support for relief.*

**6. Won't this invite a spate of new petitions?**

- *If there are other industries that are being harmed by surges in imports from China, then they have every right to seek relief just as the USW is doing for its members working in the tire plants.*
- *It is the job of the ITC and the President to determine what to do with those requests for relief. This case needs to be addressed on its merits. Are the U.S. consumer tire industry and its workers being materially injured. If as we believe injury is occurring then they are entitled to relief under the law.*

**7. Section 421 cases often involve a balance of competing interests. How can we be sure, there will not be industries harmed and jobs threatened in the auto industry or tire dealerships that might rely on competitively priced imports?**

- *The premise of the question is incorrect. The statute says that, where market disruption is found, the President "shall" grant relief unless he determines that granting relief would have an adverse impact on the U.S. economy that is "clearly greater" than the benefits of relief. When Congress passed the law in 2000, it said that where the ITC makes an affirmative finding of market disruption, there is a presumption in favor of relief.*
- *The USW believes that the costs to the industry in terms of additional plant closures, jobs lost, lost sales and profits, etc. that will occur in the absence of relief significantly outweigh any costs to other "competing interests." Granting temporary relief will, in fact, enable domestic tire companies to make investments in their plant and equipment that will make their tires more competitive in the long run, which will benefit consumers.*

**8. President Bush rejected the ITC's recommendations on all 421 petitions that reached his desk. Is this petition intended as a test case for President Obama's stated intention to step up enforcement activities when it comes to trade?**

- *This Section 421 case is important to the future of an entire industry in this country. The stakes are too high here to play games with a "test case." This is about an industry using the remedies provided for in the law to stay in business, keep people employed, and compete in the domestic market.*

**9. How long does the ITC have to consider the petition? Is there a hearing process? When does the president have to make a decision? Can he simply ignore the ITC recommendation?**

- *One of the great advantages of Section 421 is its accelerated time table. The ITC has 60 days from the date of filing to complete its investigation and make its decision on market disruption. Parties will have the opportunity to prepare and submit written briefs and to participate in a public hearing. Assuming the ITC makes an affirmative determination, the President must make his decision on a remedy within 150 days of the filing of the petition. The remedy phase goes through the interagency process, headed by USTR. During that time, parties will also have the opportunity to submit comments and participate in a hearing on remedy. USTR must submit a remedy recommendation to the President within 135 days of the petition's filing. As noted earlier, there is a presumption in favor of relief where market disruption is found to exist. The President may decide to grant relief that differs from the remedy recommendations from the ITC.*

**10. How do you expect this petition to affect legislative proposals to limit the president's discretion in deciding how to respond to a petition?**

- *This petition is not linked to these proposals.*

For More Information:

- U.S. International Trade Commission (ITC): [www.usitc.gov/](http://www.usitc.gov/).
- United Steelworkers (USW): [www.usw.org/](http://www.usw.org/).

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