



## INFORMATION UPDATE #36

October 11, 2011

### **Local 1005 USW Convoles Information Meeting to Consider Tentative Agreement**

**Wednesday, October 12, 2011 – 7:00 pm  
Michaelangelo's Banquet Centre  
1555 Upper Ottawa St., Hamilton**

Local 1005 USW is calling on all active members and pensioners to attend an Information Meeting to consider the tentative agreement reached between Local 1005 USW and U.S. Steel on Monday, October 10.

This is the third Information Meeting held to inform steelworkers about the state of affairs in the negotiations with U.S. Steel for a new contract. Previous meetings have also provided the negotiating committee with guidelines on how to proceed in the Union's attempts to achieve a negotiated settlement.

As you know, the Union has stood united as one behind its Negotiating Committee in its opposition to company attempts to dictate concessions and its refusal to take up its social responsibilities towards its Hamilton Works labour force. Local 1005 has stood as one behind the steadfast attempts of the Negotiating Committee to reach a negotiated settlement with U.S. Steel which the workers feel they can accept.

Finally, on Monday, after eleven months of a phony

lockout and repeated decreed "final offers," some headway was made and negotiations finally took place producing a tentative agreement. This will be provided to you for your consideration at the Information Meeting on Wednesday, October 12, 2011.

If this entire experience has given us anything at all, it is the confidence that today Hamilton steelworkers can proudly and confidently exercise an informed vote, fully aware of the situation they face and of their responsibilities towards not just themselves and their families, but also towards the retirees, the future generation of workers, their union and their community, as well as the plight of Canada itself whose steel industry is now in foreign hands. We are also confident that this experience has prepared us further for the challenges which lie ahead.

See you all on Wednesday so that together we can deliberate on whether or not this tentative agreement meets our needs at this time.

### **U.S. Steel's Attempts to Argue "Common Sense" in Federal Court Backfire**

#### ***When Arrogance and Stickhandling Give Rise to Abject Humiliation***

*Abject: adjective*

- 1. (of a situation or condition) Extremely bad, unpleasant, and degrading.*
- 2. contemptible; despicable; base-spirited; an abject coward. 3. shamelessly servile; slavish.*

*Synonyms: miserable - mean - vile - wretched - despicable - poor*

*Information Update* is happy to report that on October 6, steelworkers won a small victory in federal court. All the definitions of the word **abject** above apply to what steelworkers witnessed there when U.S. Steel lost its appeal for the second time. "It was truly amazing to see the mighty U.S. Steel brought to its knees for its incredible arrogance of thinking that it could appeal a second time the same decision it already lost once despite having absolutely no new law to argue," Local 1005 USW President Rolf Gerstenberger, present in the court, told *Information Update*. "It was truly embarrassing to

see U.S. Steel's high paid Canadian lawyer try to stickhandle in the most pathetic way, putting his very integrity as a lawyer on the line instead of standing up to U.S. Steel's shenanigans which hold Canadian law and courts in utter contempt. This is the very same Mr. Barrack who represented Stelco in Justice Farley's *Company Creditor's Arrangement Act* (CCAA) Court. Justice Farley's justice was not real justice and he let Stelco get away with a fraudulent claim for bankruptcy protection for purposes of letting it dispossess all its creditors and common shareholders and to try to blackmail Local 1005 into giving

up its pension. But this time Mr. Barrack's own bankruptcy went too far. He got what he deserved for his willingness to give up all notions of professional integrity, to do the bidding of U.S. Steel," Rolf said. "And let's face it," he added, "In the case of lawyers, it's not as if standards of integrity are that high to begin with!"

Local 1005 Executive Jake Lombardo, who was also in the court to witness the proceedings, said that for steelworkers it is very shocking that courts can decide to declare the demands of workers illegal within days and issue injunctions

### Report on October 6 Court Hearing

On October 6, three judges of the Federal Court of Appeal summarily dismissed another one of U.S. Steel's appeals in the Attorney General of Canada's lawsuit. The judges were so peeved at U.S. Steel for wasting the court's time they ordered the company to pay maximum costs.

The judges were obviously not amused with the antics of high priced U.S. Steel attorney Michael Barrack. They speedily and without ceremony interrupted his very poor stickhandling to ask him on exactly what new legal argument was he basing this second appeal. Under the authority of what law are you making this case, asked Justice Stratas, sounding rather annoyed, constitutional or common law?

Barrack, who admitted before he began that he would probably "not have an easy Thursday in court," seemed lost for words and replied sheepishly, "Under common sense." To the very end he tried to assure the judges his presentation was going to be brief and he did not intend to waste their time. Despite this, people in the court rolled their eyes when Barrack compared the amendment's demand for monthly production and employment commitments with the original agreement for annual commitments, as being like "arresting somebody for speeding and then sentencing him for not mowing the lawn." In fact, the entire court was scandalized by this attempt to waste the Court's time on the basis of this so-called common sense! (See notes below on the amendment U.S. Steel was appealing for the second time.)

The judges appeared annoyed at Barrack's comparison and began to glance at their watches. Barrack shuffled his

such as those against Local 1005 when members and supporters were trying to stop U.S. Steel from shipping out Hamilton's coke while refusing to produce steel. But when it comes to declaring illegal the activities of U.S. Steel, it's an entirely different ballgame that drags on for years and years.

Now that U.S. Steel has been brought to order yet again, can we now hope that the main case against U.S. Steel for breaking its production and employment commitments under the *Investment Canada Act* (ICA) may proceed?

papers and, trying to strike a serious tone of someone who knows how to run a steel mill, said one cannot ask for monthly commitments in production and employment because there are months where there are shutdowns for maintenance for example and it may be that during such a month zero steel is produced and zero workers are employed.

"Uh oh," said the steelworkers in the court. Since U.S. Steel took over Stelco that was precisely the problem: month after month zero steel is produced and zero workers are employed. This "common sense" argument was so incredibly silly, it was hard to believe their ears, they told *Information Update*.

The judges abruptly called for a 15 minute recess but after half an hour had still not returned. The court was buzzing with the expectation that the judges were writing their ruling and that would be it. Someone remarked that it was because of this kind of U.S. Steel stalling tactic that a justice ruled last November for the amendment. The court case has now dragged on well past the three year period of U.S. Steel's commitments under the ICA from November 1, 2007 to October 31, 2010.

The judges returned to the court and told John Syme, the lawyer for the Attorney General, that it was pointless for him to present the Attorney General's defence of the amendment as they had already written up their dismissal of the appeal and did not want to spend any more time on the matter. They then agreed with Syme that U.S. Steel should pay maximum costs. Justice Stratas concluded that this was now the third level of court hearing dedicated to this amendment, implying openly that they hoped it would be the last.

### Notes on the Amendment

The Amendment drawn up by Prothonotary (Justice) Martha Milczynski November 25, 2010 because of the stalling of U.S. Steel states that monthly commitments under the authority of the ICA will come into effect following the conclusion of the court case if the company loses the lawsuit. The amendment could force U.S. Steel to find ways to meet the original production and employment commitments following the date of the final ruling or face mounting financial penalties for a full three years.

The amended paragraph 3 of the application now requests the Court to issue an order directing U.S. Steel to:

"a. Produce X million tons of steel at the Canadian Business, as defined in this Application, at a rate of 4.345 million tons per year following the issuance of the Court's order in this matter where:

"X= Y-Z; Y= 13.035 million tons; Z= total tons of steel produced by the Canadian Business in those months during the Term, as defined in the Application, where steel production equalled

or exceeded 362,083 tons; and

"b. maintain an average employment level of 3,105 employees on a full time equivalent basis over X months following the issuance of the Court's order in this matter, where:

"X=Y-Z; Y=36 months; Z= the number of months during the Term in which the Canadian Business's average employment level equalled or exceeded 3,105 employees on a full time equivalent basis."

(Federal Court - February 25, 2011)

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