

The Honorable Ron Wyden

Opening Statement

Subcommittee on International Trade, Customs, and Global Competitiveness Hearing:

“Enforcing America’s Trade Laws in the Face of Customs Fraud and Duty Evasion.”

Senate Committee on Finance

May 5, 2011

Remarks as prepared for delivery:

As the Senate Subcommittee on International Trade, Customs and Global Competitiveness it is our job to promote trade laws and policies that give American businesses and workers the best opportunity to compete globally. It is also this subcommittee’s job to ensure that those laws and policies are being properly implemented and enforced.

For almost a century, Democratic and Republican Administrations have promoted and protected America’s anti-dumping and countervailing duty laws. These laws recognize the reality is that foreign competitors don’t always play by the rules. Some employ unfair and unscrupulous trade practices that put American businesses at a serious disadvantage. So, when it comes to ensuring that American businesses and workers have a level playing field to compete - anti-dumping and countervailing duty laws are the first line of defense.

But it is not enough to just pass these laws, they need to be enforced. Duties don’t work unless they are assessed and collected.

Today we will hear from Senators of both political parties and companies from across this nation that the anti-dumping and countervailing duties that protect American business and workers from grievous economic harm are being evaded and flouted by foreign suppliers and dishonest importers.

For more than a year, the staff of this subcommittee has engaged with industry, workers and relevant government agencies to determine the magnitude and scope of the problem of the evasion of AD/CVD orders and how the executive branch is responding.

In one effort, staff created a fictitious import company called AvisOne Traders Inc. With little more than a Gmail account, staff were able to identify numerous Chinese suppliers so brazen in their willingness to avoid U.S. anti-dumping duties that they sent emails detailing how they would falsify documents or transship products through third-party countries in order to get around U.S. laws. Many of the suppliers even post online advertisement boasting of their ability to help U.S. importers avoid paying anti-dumping duties. All this take place under the very sleepy eyes of U.S. Customs and Border Protection, or CBP.

Our staff also learned that it often takes CBP nearly a year to ask its sister agencies for investigatory help when it is needed and when CBP does refer a case to an outside agency they don't follow-up to ensure that it gets handled. It generally takes years for the government to conclude an investigation into evasion and reassess the appropriate duties that should have been collected.

While agencies are dragging their feet to enforce our trade laws, this country's domestic manufacturers are being hammered by foreign trade cheats.

And it's not like the cheaters wait around to get caught and pay their fines, they disappear long before the so-called government watchdogs arrive.

There are two principal American government agencies that are supposed to police this beat. In my view, one of them, CBP, treats allegations of duty evasion like junk mail. The other, Immigration and Customs Enforcement, has been more visible on the issue of alleged illegal movie downloads than taking steps to protect tens of thousands of manufacturing jobs that are threatened by unfair trade.

Witnesses today will describe the relief they won from unfair trade practices and how that relief was undermined by duty evasion and a disinterested and disengaged government. They will describe what basically amounts to bureaucratic water torture. These firms started getting clobbered by dumped imports, so they provide to the International Trade Commission that they are being harmed and they prove to the Department of Commerce that dumping is occurring. They do all this to finally get some relief from the unfair imports only to find that it was meaningless because the same corrupt suppliers

are driving what amounts to a Mac Truck through the enforcement loopholes of the federal government.

Last year, I was pleased to join with Senator Snowe to introduce The ENFORCE Act that would discipline the government to quickly begin and conclude investigations into evasion of AD/CVD orders. As many in this room are aware, many of my colleagues and I are working to build off and improve that proposal so that it effectively helps to combat and deter evasion and circumvention of AD/CV duties without frustrating legitimate trade. We will shortly be in a position to move a bill through the Senate and get it to the President's desk for his signature.

This is a critical issue to address. The Administration needs to credibly assure Congress that it is doing all it can to enforce the trade laws at a time when the President is asking the Congress to consider the merits of three Free Trade Agreements and Russia's accession into the World Trade Organization.

But that is not going to happen if the view is that Chinese and other suppliers are going to launder their merchandise through our FTA partners to avoid duties, particularly those in place to remedy dumping and government subsidies.

I now yield to a new Member of the Finance Committee and my new Ranking Member, Mr. Thune.

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