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**Testimony of Senator Robert C. Byrd
Before the U.S.-China Economic and Security Review Commission
Hearing on Assessing China and the WTO**

**Congressional Perspectives II:
The Continued Dumping and Subsidy Offset Act of 2000**

I would like to begin by explaining the purpose of the Continued Dumping and Subsidy Offset Act, also known as “CDSOA,” and why it is so important to our nation.

This law was enacted five years ago to give U.S. companies injured by unfair foreign trade -- including unfair trade with China -- the ability to invest in their factories and workers with funds collected by the Customs Service on unfairly traded imports.

Under other U.S. trade laws, Customs imposes antidumping and countervailing duties on dumped and unfairly subsidized foreign products in an attempt to force foreign exporters to charge a fair price. But in spite of these efforts, many foreign traders, including Chinese producers, refuse to trade fairly. Instead, they continue dumping – year, after year, after year. And the prices of these dumped Chinese and other foreign imports continue to unfairly undercut the prices of American-made products sold here in the United States. Faced with loss of U.S. market share, American producers struggle to stay afloat, unable to invest in new plants and equipment, and unable to meet their payrolls or provide necessary health and pension benefits for their workers. This is particularly true for small businesses and our nation’s farmers, ranchers, and aquacultural producers. Continued dumping damages our companies and robs our workers of their livelihoods.

CDSOA was enacted to prevent these losses by restoring conditions of fair trade, so that jobs and investment that should be made in the United States are not sent overseas or “outsourced” as a result of unfair competition.

Each year, our Customs Service collects duties imposed on unfairly traded imports from nations like China, which continue to ignore our trade laws. Under CDSOA, these collected duties are held in special accounts at Customs until the fall of the year, when companies that have been unfairly injured by foreign trade can apply for, and receive, these funds as reimbursement for their having invested in themselves and their workers.

American manufacturers of axes and shovels, like the family-owned firm of Warwood Tool Company in Wheeling, West Virginia, and producers of lumber, wheat, shrimp, catfish, bearings, mushrooms, crawfish, pasta, steel, raspberries, furniture, and a long list of other industrial and agricultural producers, stand to be reimbursed under the law for having borne the costs of bringing successful trade cases against illegally traded imports.

Now the WTO is trying to force the United States to repeal CDSOA and rewrite our trade laws to allow wave after wave of dumped and unfairly subsidized goods from China and elsewhere flood the U.S. market.

We cannot and will not allow it! The United States is a sovereign nation. It cannot be forced to comply with yet another wrong-headed WTO decision. The WTO was overzealous in striking down CDSOA; it overreached. This WTO ruling was technically beyond the scope of the WTO's legal mandate. The WTO had no authority to issue a ruling against our law. Instead, the WTO incorrectly read into international agreements a prohibition against CDSOA that was never approved by any WTO negotiator—certainly none empowered to negotiate for the United States!

The WTO cannot force the United States to repeal its law. No WTO official has a vote in the United State Senate, and no WTO panel can force us to abandon our law! CDSOA continues to have the support of an overwhelming majority of the U.S. Senate and enjoys strong backing in the U.S. House of Representatives. American companies in nearly every state of the Union are currently entitled to distributions under its provisions, and they deserve to continue to receive these funds so long as foreign traders keep dumping. If our trading partners want to eliminate distributions under the law, I have two simple words of advice: stop dumping!!

In the Fiscal Year 2004 and 2005 Consolidated Appropriations Acts, both Houses of Congress directed the Bush Administration to undertake negotiations in the WTO to resolve this dispute. The Administration has put CDSOA on the table in those negotiations, but our negotiators are not giving these negotiations the priority they deserve. Unbelievably, the Administration is not moving aggressively to defend innocent American companies and their workers, even though their economic future depends on these negotiations. The Administration needs to stop stalling and start negotiating. It needs to make it clear that WTO Members have the right to distribute duties collected on unfairly traded products as they deem appropriate.

Nothing in the WTO Agreements precluded the enactment of CDSOA. And no faceless WTO bureaucrat can force us to abandon it. American industries and their workers support the law and will not condone its repeal.

At a time when the United States is losing millions of manufacturing jobs, now is NOT the time to let foreign traders sabotage another U.S. trade law. This is a law that is working to keep American jobs here at home. Workers with jobs have the best chance to pay taxes, obtain health and pension benefits, and contribute to a stronger economy.

When CDSOA was first considered, some claimed it would lead to the filing of a greater number of U.S. trade cases against other nations. But that never happened, and even the WTO recognized that the law has not resulted in more cases. In fact, the number of cases filed under the law has actually declined. Unfortunately, this might be because some companies have simply given up and shut down.

More and more it appears one of the reasons companies are closing their doors is because Customs has been unable to collect millions of dollars in duties from Chinese importers in particular. And we've only learned of this because these companies could not obtain distributions under CDSOA. Without CDSOA, it is possible we would never have known that \$130 million in Customs duties were never collected in Fiscal Year 2003, and another \$260 million were not collected in Fiscal Year 2004. Of that \$390 million in uncollected duties, \$255 million pertains to the dumped imports of a single product – crawfish tail meat from China. I presume Senator Landrieu will address that issue, today, because it is the crawfish producers in her state who are being hurt by this. But duties have also not been collected on Chinese imports of honey, garlic, mushrooms, and others –decimating entire sectors of the U.S. economy.

In view of the ballooning U.S. trade deficit with China, I and other Senators have repeatedly asked Customs to focus on solving this problem of non-collection, but we have received no meaningful response or plan of action.

Thus, Senators Cochran and I last year introduced a bill to address this problem, which passed the Senate by unanimous consent. Our bill requires the posting of cash deposits instead of bonds in “new shipper” antidumping reviews, so Customs gets its money “up front,” and is not left holding the bag when Chinese importers later claim they cannot honor the bonds they have posted. They refuse to pay millions of dollars in duties they owe the U.S. government. Let's recognize that, at the end of the day, when Customs is left holding the bag, the American worker is left holding a pink slip.

This inability of our government to hold the Chinese accountable shows that what we need to do is improve the enforcement of our trade laws; not modify or repeal them. I will therefore continue to beat my drum in support of CDSOA. I will defend it against all enemies, and I will urge my colleagues in Congress to join me in asking the Administration to expedite negotiations on CDSOA, to make certain that this law

continues to be a valuable weapon in our nation's arsenal against unfair trade from China and other nations around the globe.

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