



Consuming Industries
Trade Action Coalition

**BEFORE THE COMMITTEE ON WAYS AND MEANS
Subcommittee on Trade**

**Testimony of David H. Phelps
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(CITAC)**

Good afternoon. I am Dave Phelps, President of the American Institute for International Steel (AIIS) and a Member of the Board of the Consuming Industries Trade Action Coalition (CITAC). CITAC's membership includes American manufacturers and retailers of a wide variety of industrial and consumer goods, from auto parts to household items. Our member companies employ hundreds of thousands of workers and have a tremendous positive impact on the U.S. economy. I am pleased to appear before the Subcommittee today to talk about CITAC's position on the application of countervailing duties to non-market economies.

First, neither CITAC nor the AIIS condones trade-distorting subsidies. But we do not believe that this end justifies unlimited means. CITAC supports the right of all U.S. industries, manufacturers and retailers, to compete in the global economy and believes that any legislation or policy choice that affects competitiveness should consider the impact on consuming industries. In that vein, CITAC very much appreciates the opportunity to participate in today's hearing.

In short, while CITAC does not oppose the application of countervailing duties to offset injurious distortive subsidies under market economy rules, we strongly oppose putting consuming industries in the United States at risk with HR 1229. The bill before you would put American businesses and workers in jeopardy for the following reasons:

1. It is fundamentally unfair to U.S. consuming industries. Instead of import competition making American industry more competitive globally, it will make industries in other countries more competitive. The bill offers no guidance to the Commerce Department in calculating subsidies in non-market economies. Requiring the Department of Commerce to impose countervailing duties on China and other non-market economies will present Commerce with an intolerable burden; it cannot fairly and accurately calculate subsidies in situations the Department has never faced. Principally for this reason, the Department has declined to calculate countervailing duties for non-market economies in the past. Given this history, we are opposed to a sudden change in policy which would only result in increased

burdens and restrictions on consuming industries in the United States that rely on competitively priced imports if they are to succeed in the global marketplace.

2. The WTO Subsidies Agreement prohibits "double counting" of subsidies in the guise of antidumping duties. We do not see any prohibition on double counting in this bill, which we view as a significant problem. Indeed, as we read H.R. 1229, double counting is practically required. We cannot support a bill that does not explicitly address the issue of double counting.
3. H.R. 1229 would also require congressional approval before the U. S. government could declare that China's economy has graduated from non-market economy status. This requirement would wipe out decades of precedent and strip authority from the agency that is charged with administering these laws, turning what is now a technical and economic analysis done by the Department of Commerce into a political exercise.
4. The bill before the Committee essentially requires the use of third country information by creating an irrebuttable presumption that information within China is not reliable. However, we have no assurance that information external to China is more reliable. So we are faced with the likelihood of excessive imposition of duties on Chinese imports that will harm American manufacturers, retailers and consumers, based on unreliable information from a "surrogate country." We urge the Subcommittee to insist on the use of reliable information internal to the country under investigation, and to require accuracy above all else.
5. Application of countervailing duty laws to non-market economies is probably WTO-illegal. We cannot expect China and other WTO members to comply with their own WTO obligations if we do not. Moreover, we owe it to our own people to avoid WTO violations where possible. We believe that the WTO Accession Protocol with China does not permit the U.S. to impose countervailing duties on China while simultaneously treating that country as a "non-market economy" under antidumping rules.
6. Our current trade remedy law and practice contain fundamental inequities that often cause more harm than benefit. In our view, expanding existing trade remedy law is counterproductive until those existing inequities are fixed. For example, under current law consuming industries and the public interest play no role whatsoever in determining the imposition of often onerous and protective duties under the antidumping and countervailing duty laws. This inequity leads to the imposition of taxes, or duties, that raise raw material and input costs for American consuming industries. When those costs are artificially raised above the global price, American industries that rely on those products are made less competitive against their global

competitors. The addition of countervailing duties in non-market economy cases, given the uncertainty of data and methodology for determining the appropriate duties, will simply provide another opportunity for excessive taxation of American industry. This is a burden that our economy cannot afford in today's global marketplace.

We do not believe that American industry is "under assault" from deliberate dumping and subsidies, in fact, the domestic steel industry posted all-time record profits in 2006. Therefore, we have a duty to all U.S. industries to calculate fairly and accurately these duties while determining equally carefully that the duties we decide to impose are in fact in the public interest.

Accordingly, CITAC believes it is premature to make this precipitous change until the overall reform of these laws is a reality, including:

- A. Industrial user standing, which would be provided by legislation currently pending before the House, H.R. 1127.
- B. Calculation of duties so that importers know at the time of entry the amount of the definitive duty. Otherwise, uncertainty discourages fairly traded imports, and dampens legitimate competition.
- C. Complete abolition of the WTO-illegal and unfair practice of zeroing which overtaxes American manufacturers, retailers and consumers.

Reform of the methodology for calculation of antidumping duties for non-market economies so that American manufacturers and retailers know that these duties accurately reflect any price discrimination in the U.S. market. Our current non-market economy procedures do not meet that test.

7. U.S. antidumping law already provides adequate remedies for U.S. producers who believe they are injured by imports from China. Indeed, 42 percent of U.S. antidumping cases initiated in 2006 were against China under the existing non-market economy rules. Furthermore, a special safeguard against imports from China was put into legislation (Section 421 of the Trade Act of 1974, as amended). On top of that, a textile-specific safeguard is in effect through 2008. Accordingly, with all these provisions in place, applying unfair, inaccurate and excessive countervailing duties to imports principally from China and Vietnam is not urgent.

CITAC believes U.S. trade remedy laws should work for all Americans. We must make sure that the imposition of trade restrictions is done judiciously, and that they do not create more harm to the U. S. economy than benefit. Given the inequities of our current trade remedy law and practice, particularly with regard to U. S. consuming industries, the imposition of countervailing duties on China and

Vietnam, the two major non-market economies with whom we trade extensively, would not be in the best interests of the United States economy. We strongly believe that such a step must not be taken without full knowledge of the adverse consequences on U.S. manufacturers, retailers and consumers. Once those consequences are considered, we are hopeful that the Congress will not approve this legislation in its current form.

I would be happy to answer any questions you may have.