

UNFAIR TRADE PRACTICES: ADDRESSING BARRIERS FACING SMALL BUSINESS EXPORTERS

HEARING

BEFORE THE

SUBCOMMITTEE ON AGRICULTURE, ENERGY AND TRADE

OF THE

COMMITTEE ON SMALL BUSINESS

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Questions for the Record:

None.

Answers for the Record:

None.

Additional Material for the Record:

None.

UNFAIR TRADE PRACTICES: ADDRESSING BARRIERS FACING SMALL BUSINESS EX- PORTERS

THURSDAY, MAY 22, 2014

HOUSE OF REPRESENTATIVES,
COMMITTEE ON SMALL BUSINESS,
SUBCOMMITTEE ON AGRICULTURE, ENERGY AND TRADE,
Washington, DC.

The Subcommittee met, pursuant to call, at 9:31 a.m. in Room 2360, Rayburn House Office Building, Hon. Scott Tipton [chairman of the Subcommittee] presiding.

Present: Representatives Tipton, Luetkemeyer, Bachus, Meng and Murphy.

Chairman TIPTON. Well, good morning. I want to thank everyone for taking time to be able to be here, and this hearing will come to order.

I would like to be able to thank our witnesses for taking time away from your full-time jobs for this important hearing and we do look forward to your testimony.

As we celebrate World Trade Month, this is an ideal time to review our trade policy initiatives and the effects on small businesses here in the United States.

Currently there are a variety of trade policy initiatives in the pipeline, including ongoing negotiations with Trans-Pacific Partnership, the Transatlantic Trade and Investment Partnerships and the possible renewal of Trade Promotion Authority. These initiatives will directly or indirectly affect the way small firms compete and operate in the global economy. Exports are a significant contributor to the United States economy, helping to support millions of good paying jobs in trade and competing industries.

In 2013, the United States exported nearly \$2.3 trillion in goods and services, an all-time high. Small businesses account for a substantial share of this value. According to statistics from the United States Census Bureau, approximately 97 percent of exporting businesses are small and medium sized businesses.

While legal trade can confirm many benefits for small businesses and the economy, the opposite is true, when foreign nations and companies refuse to play by the established rules. Particularly unfair and predatory trade practices like dumping and intellectual property theft can result in substantial monetary harm to small businesses in trade competing industries. In addition, an inability to be able to protect your intellectual property rights can stifle the

innovation necessary to come up with further technological advances.

Remedies exist for small businesses to fight these unfair trade practices. Unfortunately in too many cases, the cost and complexity involved in fighting unfair foreign trade practices are beyond the means of most small businesses.

A recent report from the Government Accountability Office highlighted some of these challenges, noting that the cost of pursuing antidumping and countervailing duty cases at between \$1- and \$2 million. I have no doubt that the U.S. small businesses can compete with any company in the world. As we review the current trade agenda, we need to take a dual approach of improving coordination of domestic Federal agencies and strengthening our enforcement against unfair trade practices to ensure a level playing field for all small businesses.

Again I want to thank our witnesses for participating in today's hearing, and I would like to recognize our ranking member for his opening statement.

Mr. Murphy.

Mr. MURPHY. Thank you, Mr. Chairman. I want to thank you for putting this all together today, and thank you for calling this very important hearing.

I also want to thank the witnesses for being here and testifying on this very important issue. I am sure we all wish that votes were not interfering this morning, but I am looking forward to listening to your comments and understanding how unfair trade practices are hurting American small businesses and what we can do to alleviate these problems.

Reducing trade barriers and expanding free movement of capital, goods and services has transformed the U.S. economy and enabled the rise of global economy that has created new markets and expanded American access to emerging markets. The resiliency of small businesses has accounted for two-thirds of all new jobs created.

In 2011 alone, small businesses accounted for 97 percent of the total number of U.S. exports. Over 200,000 small businesses are sending American products to every corner of the globe, reducing our trade deficit to the lowest levels in a decade and spurring a revival in the U.S. manufacturing sector. Although small firms have increased exporting in recent years, they still face several challenges accessing foreign markets. The main barrier seems to be the lack of information and an unclear understanding of where to start. Nearly half of small business exports spend a minimum of three months to nearly 10 percent of their annual operating revenue just preparing to export.

The Export-Import Bank and the Small Business Administration have been vital to promoting the success of these companies by providing needed capital, one-on-one counseling, and access to foreign markets. I am hopeful that ideological crusades do not get in the way of reauthorizing Ex-IM so that small business owners can continue to be at the forefront of global trading. While the Federal Government offers numerous trade promotion programs, more collaboration and outreach is necessary to ensure these services are accessible by the firms that need them the most.

Unfair trade practices remain a major concern of U.S. workers as America debates new trade liberalization agreements in TPP, TTIP and TISA. These agreements have the potential to open new avenues for exporting around the world by lowering tariffs and harmonizing regulations.

The benefits are not without cost however, and some provisions remain controversial. It is our job here in Congress to promote U.S. interests and see that our trade objectives are met. As negotiations progress, we will be watching closely. Issues such as currency manipulation, unacceptable labor and environmental standards, anti-competitive state-sponsored subsidies, dumping of goods in the U.S. below market value, and intellectual property rights violations, are all serious problems that need to be addressed to preserve American small business competitiveness in the global stage. Hopefully, this hearing will provide insight into addressing these obstacles.

Again, I want to thank the chairman, and I want to thank the witnesses; and I apologize that votes are going to take us away this morning.

Thank you.

Chairman TIPTON. Thank you, Mr. Murphy.

If the committee members have an opening statement prepared, I ask that they submit it for the record.

I would like to be able to take a moment to be able to explain our timing lights for you. Each of you will have five minutes to be able to deliver your testimony. The light will start out as green. When you have one minute remaining, the light will turn yellow, and finally at the end of your five minutes, it will turn red. I would ask that you would try to adhere to the time limit if you can, and we will let you summarize at that point.

I would now like to yield to our colleague, Mr. Bachus, so that he may introduce our first witness.

Mr. BACHUS. Thank you, Chairman Tipton, also Ranking Member Murphy, for allowing me this privilege.

Milton Magnus is a spokesman for both his company and the American Wire Products Association. He serves as their president. He is President of M&B Metal Products in Leeds, Alabama. He is a third leading job supplier or employer in that town of 12,000 people. I can't imagine Leeds without M&B Hangers. What they do is they produce coat hangers. You will find that he is a very knowledgeable witness about the impact of unfair and illegal trade practices and their devastating effect on small and medium sized businesses that are really the backbone of our economy. They supply 70 percent of our jobs.

He has just about been put out of business by illegal dumping from China. That is the bottom line. Most of his competitors in the United States are out of business, and the incredible thing is they put them out of business, the American companies, and then they buy their equipment and sometimes take it to China or just put it out of production. They buy it because they—and they have eliminated most of the domestic production.

Our office has worked with him for years. He has hired private investigators. He has documented with pictures, transshipping, dumping, where they actually put on a box that it is made in Vietnam, and they ship it directly from China. He has had pictures of

where they claim the production is in Vietnam, and all it is, is a small shack with absolutely nothing there—and let me say this; I have always voted for free trade. I have been an advocate of free trade, but this sort of foolishness turns people against fair trade and makes people resist it. And if we are going to continue to be a trading Nation and negotiate these agreements, which I think we have to, the bottom line is we have to enforce them.

Some of our competitors don't play by the rules, don't even make a pretense of doing it and some of us, I think, have been the advocates of free trade with some countries unless they change their ways, I am afraid we just can't, there is just no way to promote trade with people who don't play by the rules.

So thank you again. Mr. Murphy and I are both going back to Financial Services for a markup, so thank you for the privilege of testifying.

And he will tell a horrifying story. Unfortunately, several of his colleagues in the business are no longer in business because they just simply didn't survive what he has gone through.

Thank you.

Chairman TIPTON. Thank you, Mr. Bachus.

And Mr. Magnus, thank you for appearing here today, and we appreciate you and look forward to your testimony.

STATEMENTS OF MILTON MAGNUS, PRESIDENT, M&B METAL PRODUCTS COMPANY, INC., LEEDS, AL, TESTIFYING ON BEHALF OF THE AMERICAN WIRE PRODUCERS ASSOCIATION; PETER JHONES, LEGAL ADVISOR, SPYDERCO, GOLDEN, CO; DON SHAWCROFT, OWNER, JON B. SHAWCROFT RANCHES, ALAMOSA, CO, TESTIFYING ON BEHALF OF THE COLORADO FARM BUREAU; AND TIMOTHY C. BRIGHTBILL, PARTNER, WILEY REIN, LLP, WASHINGTON, D.C.

STATEMENT OF MILTON MAGNUS

Mr. MAGNUS. Thank you, Chairman Tipton.

Thank you, Representative Bachus for your words and your friendship.

I am testifying today to explain the constant struggles small and medium size manufacturers face with unfair trade. In 2002 my company, along with two other U.S. hanger producers, saw a flood of Chinese-made hangers entering the United States at below our cost. We decided to file a Section 421 trade case, which is one avenue for relief for U.S. producers that are being harmed by imports from China. We were successful in our trade case at the ITC, but unlike an antidumping or countervailing duty case, a Section 421 case has to go to the President for approval.

Unfortunately no relief was granted. Shortly after that, Cleaners Hanger Company, an American company which was the largest garment hanger producer in the world, filed for Chapter 7 bankruptcy. Then it seemed like dominoes. All of the remaining U.S. hanger producers with the exception of M&B either went out of business or closed their U.S. operations and imported all their hangers from China.

Over the next few years we struggled having to close our plant in South Hill, Virginia and lay off 85 hardworking Americans. We

continued our struggle, but the Chinese were relentless, and eventually we had to either import 100 percent of our hangers or fight by filing an antidumping petition against China. We chose to fight.

On July 31, 2007, we filed an antidumping petition against Chinese hangers. When we filed we were almost out of business, and we really didn't know how we were going to pay the substantial legal fees and other costs to file this case, but we proceeded. After a long and demanding process before the ITC and Commerce, dumping duties ranging from 16 to 187 percent were imposed on imported hangers from China. Things improved, and we were able to pass along raw material increases. But just as we were hiring again, increase in our production, the same producers that were shipping hangers from China were working on illegal schemes to avoid dumping duties by shipping their hangers through other countries or simply just changing the company of origin on the paperwork.

We filed over 30 e-allegations with Customs with specific information about these illegal schemes. We met with Customs officials on a number of times detailing what was happening, but we saw no progress.

We then hired an investigator at great cost to our small company and sent him to Taiwan and Vietnam to visit these so-called new factories that were shipping hundreds of millions of hangers to the United States. He didn't find any hanger factories, but he did receive detailed offers from Chinese producers to illegally transship hangers to the United States through Taiwan and Vietnam avoiding the dumping duties that should have been collected.

When our investigator returned, we took him, his reports and our attorneys and met with Customs, as well as Immigrations and Customs Enforcement, or ICE, to detail the schemes. I felt really good when we left the meeting, but with the exception of one small importer transshipping Chinese hangers through Mexico, nothing happened.

We then filed anti-circumvention petitions against two so-called hanger producers in Vietnam. We won those cases, too, but with the help of the Chinese producers, hanger imports from Taiwan and Vietnam continued to grow. We had no choice but to file an antidumping case against Taiwan and antidumping and countervailing duty cases against Vietnam. We won those cases as well, but immediately hangers started appearing from Laos and Malaysia. We have been told these hangers are made in Vietnam or China and transshipped to the United States. We decided not to file any more e-allegations or send investigators to these countries to bring back proof of duty evasion because we saw no results from our previous efforts.

M&B along with U.S. producers suffering from the same evasion schemes formed a coalition to try to get meaningful legislation passed to address these illegal activities. The Enforcing Orders and Reducing Customs Evasion, or ENFORCE Act, creates a procedure at Customs to investigate claims of evasion including timelines for Customs to make determinations and apply the appropriate duties as well as regular and timely reports that will not only deter future evasion, but add transparency, accountability and oversight where there currently is none. The provisions of ENFORCE passed the

Senate Finance Committee by voice vote and have been included in the Senate Customs Reauthorization bill. The complimentary bill in the House, introduced by Representatives Long and Sanchez, has a bipartisan group of 46 cosponsors.

There are many other industries that face the same struggles with cheating, illegal transshipping, and evasion of their orders. They include industries making nails, innersprings, threaded rod, PC strand, wire shelving, and many more. We all produce with a high degree of integrity, which includes paying our workers a fair wage with good benefits, being environmentally responsible, paying taxes, and providing a return on investments. Without meaningful relief from ongoing duty evasion schemes, it will be difficult to maintain our U.S. production.

Thank you for your time, and I welcome any questions.

Chairman TIPTON. Thank you, Mr. Magnus.

Our next witness is Mr. Peter Jhones. He serves as legal advisor to Spyderco, a manufacturer of utility knives based in Golden, Colorado. Spyderco is a family-owned enterprise started in 1981 and currently exports its products to over 60 countries.

Mr. Jhones, thank you for appearing here today, and we look forward to your testimony. Please begin.

STATEMENT OF PETER JHONES

Mr. JHONES. Thank you.

Chairman Tipton, Ranking Member Murphy, members of the Subcommittee, thank you for your invitation to appear today.

I am Peter Jhones, Manager of Research and Development at Spyderco, Inc. The company has designed and manufactured and distributed some of the highest quality and most innovative folding knives and related products in the world. Spyderco was built from nothing by its founder Sal Glessner and his family. It now employs more than 80 individuals in Golden, Colorado, generates \$20 million annually, and has been awarded more than 190 pieces of intellectual property worldwide.

Customers have come to rely upon the high performance, superior engineering and ergonomic designs of Spyderco's products. These customers include virtually all of this country's military branches, special services, law enforcement personnel, and are in service at every level of state and local law enforcement. We sell our products through the United States and to 57 countries around the world. A significant portion of our manufacturing is performed in Golden, and we are in the process of tripling that capacity.

The safety and reliability of the tools used by our country's servants should not be called into question. However, that is exactly what is now happening. An alarming increase in counterfeits, knock-offs and infringing product is flooding the United States market by Chinese companies. The Chinese counterfeits are anything but an exact duplicate of a genuine item. These products are made of inferior materials, demonstrate poor manufacturing techniques, making for a dangerous and unreliable tool for service personnel and the consumer alike. These copies have achieved a level of outward appearance that makes it difficult for even our own staff to tell a genuine product from a fake.

Spyderco does its best to police the marketplace seeking to remove copies from the stream of commerce. For the most part Spyderco has been successful in these activities, stemming the flow of counterfeit goods being sold through United States sales entities. However, it is having difficulty stopping the sales of counterfeit products sold through Chinese distribution outlets. Indeed, the bulk of these copies are entering the stream of commerce through online auction sites, primarily Alibaba, TaoBao and DHgate. These Chinese owned sites have a very poor or no response to requests to remove auctions of infringing goods.

In contrast, the famous online auction house eBay has developed their Verified Rights Owner program to combat just this issue. Although utilizing more of a storefront format, Amazon.com also keeps a tight rein on infringing products preventing their entrance into the Amazon.com stream of commerce.

Costs associated with trying to remove unauthentic products from Chinese sales Web sites is now prohibitive. As with all small business operations, availability of funds to fight an infringement war are restricted. Every dollar diverted for an effort to protect the marketplace from unsafe counterfeits and patent infringements takes money from corporate activities such as research and development, increasing production capacity, additional employees, machinery acquisition, wage increases, et cetera. As a result copies of many of our core products are now available on these sites at significantly lower prices than for which our genuine products can be offered.

As I am sure we all realize, it is impractical for U.S. Customs and Border Patrol to inspect every package coming into this country. If all manufacturers selling products in America, domestic and international alike, were subject to the same intellectual property enforcement standards, this problem would be alleviated. All internet auction sites should be required to have an infringement notification and removal system that works. This would level the playing field between the U.S. and Chinese owned internet auction and commerce sites. It would also provide an ideal point for IP holders to review and stop the offer for sale of infringing items being put into commerce worldwide.

Spyderco agrees it is important for the United States to continue embracing free trade principles with our trading partners. However, it is imperative that these partners respect and enforce American intellectual property rights regardless of importation venue. Spyderco respectfully requests this Subcommittee and the United States Congress to implement laws and treaties which require all Web sites viewable within the United States to publish and enforce strong intellectual property protection mechanisms and to require trading partners to respect and enforce American intellectual property rights.

Thank you.

Chairman TIPTON. Thank you, Mr. Jhones. Good to see a fellow Coloradan here.

And it is now a pleasure of mine to also be able to introduce another fellow Coloradan and also a constituent of mine who has a product that I think it is important for any of us who like to be able to eat in this country.

Representing a lot of our farm and ranch communities in terms of his property in Alamosa, Colorado, our next witness is Mr. Don Shawcroft. He is owner of Jon B. Shawcroft Ranches in Alamosa, Colorado. If you haven't been there, one of the most beautiful places in the country and certainly a delight to visit.

In addition to operating a small cattle operation, Mr. Shawcroft also serves as President of the Colorado Farm Bureau and has been a great advocate on behalf of our farm and ranch community, and I appreciate you taking the time to be able to be here today to testify; and please continue.

STATEMENT OF DON SHAWCROFT

Mr. SHAWCROFT. Thank you, Chairman Tipton, members of the Subcommittee. Thank you for holding this hearing.

I am Don Shawcroft, President of the Colorado Farm Bureau, a fourth generation rancher from the San Luis Valley of southern Colorado and a board member of the American Farm Bureau Federation. Farm Bureau is, in fact, the largest agricultural based grassroots organization in the country with a membership of over 6 million farm and ranch families growing everything imaginable from alligators, to children, to grandchildren, and even to zucchini.

Trade is vitally important to agriculture on the U.S. economy. According to USDA's Economic Research Service, the \$136.4 billion of agricultural exports in 2011 produced an additional \$176 billion of economic activity in the United States, including 637,000 jobs in the non-farm sector. Ag exports helped offset some of the non-agricultural U.S. trade deficit and are a significant market for Ag products from Colorado and the rest of the Nation.

Agricultural trade could and will be more significant if and when it is unfounded upon and the SPS issues a non-tariff trade barriers and these things are eliminated. For example, Mexico has been using sanitary and phytosanitary measures to block the importation of U.S. potatoes into Mexico's cities beyond those cities that are near our common border, where we have been able to in the past. However, I am pleased to announce that through the hard work of negotiation now, over time Colorado potatoes will be allowed into Mexican cities with populations of 100,000 or more.

Early estimates give the indication that revenue from potatoes could be as high as \$80 million, a truly fourfold increase over the present situation. This is a prime example of how SPS issues are used to prevent agricultural trade and how they can be overcome with science and negotiation and have a direct impact on American farmers. I ask you today to do all you can to eliminate all SPS issues and other barriers to agricultural trade.

As was mentioned, when it comes to trade, currently there are three Ts that are in action and things that can be done. One is TTIP, or Transatlantic Trade and Investment Partnership Agreement. The other is the TPP, Trans-Pacific Partnership Agreement, and the other is key as well, Trade Promotion Authority. The TTIP negotiations between the U.S. and the European Union are an opportunity to deal with many substantial issues that impede U.S. and EU trade in agriculture, such as longstanding barriers against conventionally raised U.S. beef, ongoing restrictions against U.S.

poultry and pork, and actions that limit U.S. export of goods produced using biotechnology.

The U.S. and the EU are major international trading partners in agriculture. Ten years ago, the EU was the third largest designation for U.S. Ag products, but over the last decade, this growth has been the slowest among our top ten agricultural destinations. The EU is now the fifth largest export, and in 2013 we exported to them \$11.5 billion of agricultural and food products, while they exported to us \$17 billion of Ag products. This market needs to be increased, and the TTIP is an opportunity to do so.

The other trade agreement, the TPP, deals with, of course, specific countries, and in particular one of those important ones is Japan. Japan is currently the fourth largest export market to the United States with over \$14 billion of trade. This is important because Japan continues to do things that restrict the trade based on SPS as well as non-tariff barriers. The tariffs going into Japan need to be reduced. That is something that can be done with this agreement, and hopefully that will, in fact, happen.

The last and perhaps the most important thing is the Trade Promotion Authority. If we negotiate these other agreements and the Trade Promotion Authority is not available to quickly and effectively put a stamp of approval by Congress on these agreements, much of that effort can be wasted. I highly encourage you to support the current Trade Priorities Act of 2014, which is H.R. 3830. It is a necessary and critical component for a successful trade policy agenda.

While there are many challenges that yet remain, I again thank you, Chairman Tipton, and the members of this Subcommittee for the opportunity to testify to you today on this important issue. American agriculture drastically needs more market access that is free of SPS and non-tariff trade barriers. American farmers and ranchers are the most productive in the world. With market access, we can continue to provide high quality products to markets throughout the world.

I look forward to answering any questions you may have. Again, thank you.

Chairman TIPTON. Don, thank you for your testimony.

And I would now like to be able to yield to my colleague, Ms. Meng, for purposes of introduction of our final witness.

Ms. MENG. Thank you, Mr. Chairman.

It is my pleasure to introduce Tim Brightbill. Mr. Brightbill is a partner in the international trade practice of Wiley Rein, LLP, in Washington, D.C., where he represents clients on all aspects of international trade law and policy, including import trade remedies, global trade policy, and trade negotiations. He is also an adjunct Professor at Georgetown University Law Center and has provided advice to the U.S. Government on ongoing trade agreement negotiations such as the Trans-Pacific Partnership and the Transatlantic Trade and Investment Partnership.

He is a graduate of Northwestern University and Georgetown University Law Center. From 1994 to 1995, he served as counsel to the House Committee on Small Business.

Welcome back, Mr. Brightbill.

STATEMENT OF TIMOTHY C. BRIGHTBILL

Mr. BRIGHTBILL. Thank you, Congresswoman. I appreciate that. Chairman Tipton, Ranking Member Murphy, members of the Subcommittee, thank you for the opportunity to testify before you today on the issue of unfair trade practices and barriers facing small business exporters.

I practiced international trade law for almost 20 years, and my practice has always focused on helping American companies, American industries, and American workers. I have worked with a variety of industries, including manufacturing of everything from steel to solar panels, to school notebooks, to heavy forged hand tools. I also work with many companies that provide services, both here and abroad. My job is to help these companies grow, prevent unfair trade practices from harming them, and to help eliminate trade barriers overseas.

Small businesses face enormous challenges in the area of international trade. Trade laws and regulations are complicated. Trade remedy cases are expensive, as you have heard, and trade barriers are becoming more pervasive and more challenging all the time. As a result, it is probably not surprising how few small businesses are able to become substantial exporters of goods or services.

Let me list several of the challenges facing U.S. small business exporters. First, dumping and subsidies. These are two of the most pervasive unfair trade practices. Foreign manufacturers often sell below cost to enter the U.S. market and take market share away from domestic competitors.

Subsidies and government ownership of foreign competitors facilitate this kind of unfair pricing. Small businesses are forced to choose between cutting prices to match foreign competition or giving up sales and market share. Notably the antidumping and countervailing duty laws that address these practices are complex, and the requirements for filing trade remedy cases are difficult even for large companies.

There are many steps that Congress and the Commerce Department could take to make the trade laws simpler and easier to use for small businesses. I would be happy to discuss those specific ideas later this morning.

I would also like to endorse the comments of Mr. Magnus regarding the ENFORCE Act, which we hope will be passed and signed into law this year.

Second is currency manipulation. This is a serious problem that harms all U.S. exporting businesses, large and small. The Peterson Institute for International Economics has called currency manipulation the biggest subsidy of them all and estimates that currency actions by China and more than 20 other countries have increased the U.S. trade deficit by \$200 billion to \$500 billion per year and that the United States has lost 1 million to 5 million jobs as a result of foreign currency manipulation. If Congress wanted to take one trade-related action that would create new American jobs, it would be to pass legislation to investigate currency manipulation as a countervailable subsidy.

Third is intellectual property theft. This is a pervasive problem. It demands a serious response from the U.S. Government and law enforcement. The United States took an important step this week

by filing criminal charges against the Chinese military for cyber hacking. The U.S. companies targeted are at the heart of American manufacturing of steel, aluminum, solar and others, and I applaud the Administration for taking that step; but the reality is that the Chinese government sees no difference between military espionage and corporate IP and trade secret theft, and there are thousands of U.S. companies that are victims of these activities. As one expert has stated, there are two kinds of U.S. companies, those that know they have been hacked and those that just haven't figured it out yet.

Fourth is the rise of state-owned and state-controlled enterprises, another factor that is very harmful to small business exporters. U.S. companies should not be forced to compete with foreign governments, and while China is a big problem in this area, there are many other economies that are problems as well. We need to include strong, enforceable disciplines on state-owned enterprises in all new trade agreements including the TPP and the TTIP agreement. I would be happy to discuss that later today as well. Finally, we need to address the growing use of non-tariff barriers to shut down trade. This can involve obvious measures like export taxes, but also more subtle barriers like Customs regulations, import licenses, and burdensome standards and certification requirements, even SPS requirements as Mr. Shawcroft just noted.

The United States has been very successful in reducing tariffs worldwide, but those that want to protect their markets are continually looking for new ways to shut out foreign competition.

So thank you again to the Committee and the Subcommittee for addressing this important issue today, and I would be happy to answer any questions.

Chairman TIPTON. Well, thank you all for your testimony here this morning. I appreciate you again taking the time to be able to be here.

I would like to begin some of our questioning, and Mr. Shawcroft, I would like to be able to begin with you.

A number of Nations have imposed trade restrictions on GMO crops, citing safety concerns. Do you believe science supports these claims or are some of our trading partners claiming safety as a dubious excuse to be able to limit the export of American products?

Mr. SHAWCROFT. I think you have stated the problem precisely. The science does not back up these claims. In fact, it is just the opposite. Science proves that these GMO products are safe. They have been through a rigorous testing, and it goes back to a precautionary type of approach that in particular the EU takes upon these things, and that that is it is trying to prove the negative.

If there is no evidence that, in fact, they do not cause this, instead of saying, well, the use of this product does cause X, Y and Z, if you do have the proof that it does not cause those kinds of things, that is a precautionary principle, and that is I think true in the GMO case as well as other things that the EU is concerned about. We are extremely about the GMO case because there is a tremendous opportunity for increased corn and soybean export to the EU, and that's an important issue.

Chairman TIPTON. I appreciate that, and while we are on the issues for the San Luis Valley, you mentioned how potato growers

were able to successfully challenge unfair Mexican SPS standards that restricted American potato exports. In this case, is it an outlier, or is the WTO dispute resolution mechanisms, are those adequate to be able to address agricultural product barriers in a timely manner?

Mr. SHAWCROFT. I think that it is an effective avenue, but it does take time and it does take money, just the same as the other issues that have been discussed here by the other witnesses. The cost is tremendous, and I applaud Mr. Magnus for going through the effort of challenging those things rather than just lying down and going on his own way and doing something else.

WTO is a process. We need to support that process. We need to make it something that is workable in a more expeditious manner, just the same as TTIP and TPP need to have those types of provisions where actions can be taken and that they can be enforced and again, in a timely and effective manner.

Chairman TIPTON. Do you believe that some of the future multilateral trade agreements such as the proposed TPP and TTIP should adopt similar SPS resolution mechanisms?

Mr. SHAWCROFT. I believe they need to. If they were to follow the lead of the WTO and say that those SPS issues can only be resolved based on science and that they need to have a level of reasonability to their implication and the implementation, I think that's important.

Chairman TIPTON. You know, and I think you brought up an important point. Mr. Magnus, how much money did you spend in terms of trying to be able to defend yourself?

Mr. MAGNUS. An enormous amount. It is an ongoing process. We have to go through administrative reviews every year, and that is expensive also. It is well over \$1 million to file a trade case, and then it is a quarter of a million dollars just to maintain them.

Chairman TIPTON. Just out of your pocket?

Mr. MAGNUS. The Government doesn't pay for it, yes, sir. It is out of my pocket.

Chairman TIPTON. It is out of your pocket. The bottom line either way you are paying for it, even if the Government pays for it, so you have still got that challenge.

Mr. MAGNUS. Yes sir.

Chairman TIPTON. Mr. Jhones, I appreciate you taking the time to be able to be here and a lot of great opportunities certainly for small businesses, small businesses like mine, to be able to take advantage of the websites and to be able to reach out of our different areas to be able to sell some of our products, but it also appears that as you noted in your testimony, ripe with opportunities to be able to counterfeit some of these products.

eBay has its Verified Owner Rights program in place to be able to prevent these counterfeits, but many other forum websites, as I know you are aware, do not.

What actions do you believe that the government should take to be able to prevent Web sites from carrying counterfeit products?

Mr. JHONES. Well, we have found the huge bulk of our patent infringements coming in over Chinese websites, auction sites; and what we would like to see is just to have the same expectations of

those websites as far as being able to have an infringing product taken off of it, the sale of infringing product.

eBay responds to us now within eight hours if we notify them of an infringement that is being sold as an auction. Alibaba we almost don't get any response. Alibaba, DHgate will make us prove our IP rights to an item that is on sale on their website, whereas eBay they will just allow us to say we will take liability for the case. If we say we have these pieces of intellectual property and we are willing to sign off on the liability issue for eBay, eBay will respond to us right away and does so. They are quite good about that.

Chairman TIPTON. You know, I am curious, Mr. Jhones, have you been able to do any sort of an estimate in terms of what you have lost in terms of counterfeiting?

Mr. JHONES. We had that discussion just before I came here. Our financial losses are probably not what would be considered to be significant. Where we really, really have concerns is with losses with our reputation.

For example, a customer will buy a product off of a Chinese website, or a secondary sale that's occurred from a product that we know came in through a Chinese website but was sold for example, at a store or flea market or a secondary sale, and then they are calling us saying what is your customer service going to do for this, it is broken. It has wounded me. It is falling apart. It is a poor product, and then our reputation winds up on the line because we have to tell that person that is not our product. It is a clone. We are aware those are out there. We apologize. We are working to cure that market, to close that market up, but that is not our product. And you can imagine that creates quite a bit of animosity in the customer-business relationship.

Chairman TIPTON. I can imagine. I don't want to belabor this, but I am a little curious given what you just commented where somebody wounds themselves. Have you had the threat of a lawsuit when it wasn't your product?

Mr. JHONES. Well, no, because you know, it is not our product. We are not in the chain of liability. But, of course, we still have concern for the consumer. We have concern for the people that thought that they bought our product. We have a high-end product.

As I mentioned, a lot of our products find their way into service in this country in law enforcement and in all of our country's servants, and we are really quite concerned that some of those people are going to get a hold of inferior product, and they are not going to meet the standards and the expectations that they have.

Chairman TIPTON. All right, well, I appreciate that.

Mr. Brightbill, certainly hearing some of these comments, I would ask you that they would probably appreciate it to be able to provide some free legal counsel on some of these issues. But what is the first thing that you would tell a small business company like Spyderco or M&B Metal Products if they came to you asking for help with intellectual property theft and dumping?

Mr. BRIGHTBILL. Well, I think there are a range of options available. It is true that the trade remedy cases are very expensive. They can be time-consuming. There are other ways to address the problems, sometimes in negotiations, although that can be difficult. There was the reference to negotiations with Mexico. There are

agencies that are out there willing to put some effort in, whether it is Customs and Border Protection, Commerce Department, the U.S. Trade Representative. We have had good results sometimes just on a bilateral level talking to another country, flagging a barrier that they have imposed without having to bring a full case.

So, although sometimes trade remedy cases are necessary, there are other ways sometimes to address the same problem and hopefully get some results for companies that shouldn't have to pay for this, and the Government can support them on it.

Chairman TIPTON. Okay. I appreciate that.

Mr. Magnus, I thought it was curious in your testimony to where you were able to stop the illegal importation through legal remedy and awareness, but then it would pop up coming out of a different country as well and it kind of reeked of Whack-A-Mole. You put one down, and another would pop up somewhere else.

You referenced that transshipping is a way that they are using to be able to avoid the tariffs and trade laws. Do you have some recommendations that you could make to Congress on how to best and most effectively combat that.

Mr. MAGNUS. We do and we have in the ENFORCE Act. The ENFORCE Act sets timelines, makes accountability where there is none, and involves the private sector as well as Customs. It is a tough job for Customs, but it is a black hole when we give them something because we never hear back from them. We have detailed it with the ENFORCE Act. Senator Wyden endorsed it, and his staffers even in a half a day were able to set up illegal transshipping schemes from China on hangers. They emailed the Chinese producers to say, yes, we can't ship it from China, but we can ship it from another country, and this is your price. They don't respect our trade laws, and the provisions of the ENFORCE Act that we have put before both the Senate and the House details some steps to be taken.

Chairman TIPTON. Yes, I am certainly aware of the ENFORCE Act. Any of the other gentlemen, do you have any other comments or thoughts in terms of how Congress can start to be pushing back to make sure that our businesses, our jobs, are going to be able to be protected?

Mr. SHAWCROFT. I would suggest that the principle of trust but verify is a very important aspect in all of these negotiations. As was mentioned or referred to the Mexico situation and potatoes, that took a long time. That was a slow process, and now what has to happen is we have to trust those Mexican officials and what they have said they will do but, follow through and make sure they, in fact, do that. I think that's an important aspect.

Chairman TIPTON. Mr. Brightbill.

Mr. BRIGHTBILL. Sure. With regard to Mexico, I wanted to point out that a couple of industries we work with, notably the steel industry, is facing a similar problem where Mexico has introduced a new import licensing system that is holding up steel shipments at the border and greatly increasing costs for U.S. companies that are trying to export, large companies and small companies.

And then just to highlight the ENFORCE Act one more time, we have had a couple of cases as well where the circumvention begins even before the trade case is over. We have brought cases on school

notebooks from China. Before you know it, they are allegedly coming from Taiwan or some other country.

Another case we brought on steel grating, subway grating like you walk on here in Washington, before the case had even ended, all the exports from China had disappeared and they started showing up from Malaysia. The only problem is Malaysia doesn't make bar grating. So, this is the kind of problem that companies face every day, and while Customs might bring a big enforcement action after four or five years, what we really need is enforcement of the antidumping duties right from the start, and that is where the ENFORCE Act could really be valuable to companies and industries like ours.

Chairman TIPTON. Well, I appreciate again, gentlemen, your comments. I would like to yield to my colleague, Ms. Meng for her questions.

Ms. MENG. Thank you.

I have a question for Mr. Brightbill. Trade assistance is administered by 20 different Federal agencies, each of which is tasked with their own mission, their own set of policies, and their own competing resources. What in your opinion would be the quickest and most cost effective means of improving coordination between these agencies and harmonizing their export strategies? And anyone is free to answer.

Mr. BRIGHTBILL. Thank you for that question. I think this committee and subcommittee have done a good job flagging the issue that there are lots of resources out there, but they overlap, and the missions are not always clear to companies out there just trying to figure out how do I send my products abroad to other countries.

So, I think there is a way to streamline and simplify and try to not have so many different agencies trying to provide aid so that its understandable to the companies who aren't familiar with all of these different programs and efforts; so I think this committee has done a good job flagging that as a place to start.

Ms. MENG. And we frequently hear that small businesses make up nine out of every ten businesses that export goods from the U.S., but when it comes to the negotiating process for these trade agreements, the interests of the small business community often takes a back seat to that of the larger multinational corporations. Is there anything that can be done to elevate the concerns of these small businesses in going multilateral trade negotiations?

Mr. BRIGHTBILL. I would just say to that that there is a system of industry trade advisory committees that provide input to the trade negotiators. I sit on one of those committees relating to services, and there is a specific small business committee that is open. Now that is one way that some of the views can get across, but I do think the process needs to be more transparent.

We are negotiating very significant, gold standard free trade agreements. I think if the American public and American businesses knew a little more of what was being negotiated, they would support them strongly, and they would be enacted into law once we reach these final agreements. But in the meantime when the process is not particularly transparent, it is very difficult to build support for them.

Ms. MENG. Yes.

Mr. SHAWCROFT. Yes. Thank you.

I would also like to comment the value on behalf of small businesses in agricultural, organizations like the American Farm Bureau and Colorado Farm Bureau who stand up for the needs of those individuals and those small businesses in those negotiations, that type of representation is important.

Ms. MENG. Thank you.

And as the U.S. continues to negotiate with its 11 partner Nations on the terms of the TPP trade agreement, as you know the Administration has been less than forthcoming with specifics with trade talks resuming this week. What protections are vital for your industries in any new agreement with Pacific Rim countries?

Mr. SHAWCROFT. Yes. Thank you.

I would just say that foremost is the concerns that have been expressed here today, the idea of having provisions there that anti-dumping cannot happen, make sure that those countervailing issues are resolved and particularly for agricultural, the non-tariff type barriers, and the tariff barriers, the SPS, sanitary and phytosanitary issues in agricultural, those types of things need to be in that agreement specifically and that there needs to be a viable and easily accessed enforcement tool in those agreements.

Mr. BRIGHTBILL. Congresswoman, I would just add to that.

The issue of state-owned enterprises is a critical one. We have not had SOE provisions in a free trade agreement before. We need strong, enforceable disciplines there. Companies should not have to compete with foreign governments, and they shouldn't have to compete with foreign government investments, whether or not it is coming here or in a third country, and so we need strong, enforceable disciplines. State-owned enterprises should not receive preferential legal or regulatory treatment. They shouldn't receive subsidies, and we should have a way to be able to ask questions of these state-owned enterprises and get information. That is the least we can do in a free trade agreement like the TPP or the TTIP.

Ms. MENG. If the TPP is ratified, would U.S. beef producers create more jobs as a result of it, or would the benefits flow mainly to foreign producers?

Mr. SHAWCROFT. I would certainly expect that in agricultural, in particular beef, that the advantage would be to us. There is much of the beef production today goes internationally because, quite frankly, most American consumers are not interested in consuming that part of the animal, as well as particularly the impact of the high-end cuts when it comes to steaks and prime rib roasts and those types of things in the beef trade.

That demand is, in fact, global and so those products move across the world. The more demand that there is with growing economies and emerging economies around the world, I can see that, I would certainly hope, at least and believe, in fact, that those prices would increase because of this agreement once they were ratified by Congress.

Ms. MENG. Question for Mr. Magnus or again anyone is welcome.

When I talk to small firms in my district, the barrier they most commonly raise is not necessarily stiff tariffs on exports but finding affordable credit to support their export business. Do you believe

that the Government's current mix of trade financing programs meets the needs of small firms?

Mr. MAGNUS. I will have to decline answering that. I am not fully versed on that. Most of our trade issues are dumping coming this way, not being able to export. Because many other Nations don't have dumping duties on Chinese hangers, it is very difficult for us to compete in foreign countries because of the low-priced Chinese hangers in foreign countries.

Mr. BRIGHTBILL. On the financing issue, there are financing programs available through the Government. I think this committee has emphasized private investment in private financing as well, which is important. One concern we have is when Ex-Im Bank provides financing abroad, in areas where there is already overcapacity, like steel or raw materials that then goes into steel coming back here, so that is a particular concern where the financing is subsidizing or benefitting excess capacity abroad that then is going to come back here and compete with U.S. companies.

So, but in general I think there are financing options available. It is still difficult for companies and small businesses in particular to get credit. Many of my clients which are in a weakened condition when they are bringing these dumping cases, also have difficulty in terms of financing and credit to grow their businesses, so that is still of an important area of concern.

Ms. MENG. Thank you.

I yield back, Mr. Chairman.

Chairman TIPTON. And I appreciate the question, particularly on some of the access to capital issues.

We have got a bill that I am cosponsoring called Capital Access to Main Street to be able to actually allow banks to eliminate some of the regulatory requirements to be able to do a look-back on seven years of financial statements, P and Ls, balance sheets, to be able to make a good business decision. When we talk about are farm and ranch community, the crops can be flooded out, frozen or burned, but in that fourth year when the commodity prices are up, it is going to come back. We just need to be able to free up some of these banking options and let bankers be bankers, I think frankly to be able to address some of that.

Since we have got just a couple of minutes I think before votes are going to be called, Mr. Magnus, your company has filed more than 30 e-allegations with the Customs service once you discovered that Chinese manufacturers were circumventing the antidumping duties. What kind of response did you receive from the agency?

Mr. MAGNUS. We received none except when we would meet with them they would say that we received your e-allegations but because of the laws we cannot report on what we are doing on them.

So they really, once you file an e-allegation, you have no idea whether they look at it, whether they act on it, or whether they throw it in the trash can.

Chairman TIPTON. So the answer is nothing.

Mr. MAGNUS. Nothing.

Chairman TIPTON. Absolutely nothing.

Mr. MAGNUS. Absolutely nothing.

Chairman TIPTON. Would you remind me again how many Americans you employ?

Mr. MAGNUS. In Alabama we employ between 80 and 90.

Chairman TIPTON. Okay, great. That is some good information for us.

And, Mr. Jhones, has your company attempted to be able to avail itself of any of the intellectual property remedies through the ITC, and have you been made aware of some remedies that are potentially available to you.

Mr. JHONES. We have pretty much fairly recently have become aware of the ITC. We have a quite cyclical sales. Fourth quarter is quite high for us. If we were to request Customs to stop a shipment of infringing product and they were to stop one of our shipments, remembering that these are clones, that could very well put Spyderco out of business.

It is a very large concern with us and we have had some of the same responses to our concerns with Customs that Mr. Magnus has had. We haven't had a lot of response. We have had, quite frankly, rumors; and competitors in our industry discuss the same problem, and they feel like Customs is somewhat unresponsive to them.

We have a large fear that if we were to request assistance there, that some of our stuff would get stopped, and we wouldn't have the ability to continue business basically. Our American production will not support us at this time, although we are trying to get that ramped up. So it is a bit of a fearsome situation.

Chairman TIPTON. So you aren't feeling a lot of support in that area?

Mr. JHONES. No. Sorry.

Chairman TIPTON. No. That is good for us actually to be able to know.

You know what, it took this administration more than two years to be able to submit the Korea, Panama and Columbia free trade agreements to the Congress, and during that period of time, these Nations that just cited the ratified trade agreements with other Nations, resulting in American farmers losing a substantial market share to their competitors.

Mr. Shawcroft, do we need to be able to guard against something similar happening while we negotiate this Trans-Pacific partnership and Transatlantic agreements?

Mr. SHAWCROFT. We do. I am not real sure what you can do to keep other people from taking advantage of an opportunity other than to move quicker and, in fact, for Congress to take action and approve a trade promotion agreement.

So that once those negotiations have taken place, it can be ratified quickly without a lot of discussion about what the individual terms of it are. I know it is sometimes somewhat perceived as a two-edged sword when you have a trade promotion authority because not everybody will be happy with it, but it is something that we have to rely on those negotiators; and if there is a little bit of emphasis that it needs to be done quickly by Congress and for example, yourselves in these Subcommittee, who can influence the expeditiousness of that, I think it needs to be done.

Chairman TIPTON. Well, thank you.

And, gentleman, I would like to take you all for taking the time.

Ms. Meng, did you have any other further questions to follow-up on.

I want to thank for taking the time to be here. This has provided us with some good information in terms of the responsiveness and lack thereof by the government in terms of being able to protect American jobs and to be able to expand those opportunities to create more jobs. I know in our district that's a number one issue, jobs and the economy, the people are concerned about and our opportunities to be able to export. We have the empirical evidence when those are present, and we have the opportunity to be able to do it in a fair way. We actually benefit the American consumer and certainly American families in that process.

You have all provided some very important insight to that and how unfair foreign trade practices are actually impacting our small businesses. This insight will assist us in Congress in our efforts to be able to ensure that foreign nations and companies play by the rules so that we are going to be able to compete on a level playing field, which is I think all that we ask for.

I would like to be able to ask for unanimous consent that members and the public have five legislative days to be able to submit comments and supporting materials into the hearing record.

Hearing no objection, so ordered, and this hearing is now adjourned. Thank you again, gentleman, for your time.

[Whereupon, at 10:30 a.m., the subcommittee was adjourned.]

A P P E N D I X

Milton Magnus Testimony

House Committee on Small Business

May 22, 2014

Good Morning, my name is Milton Magnus, and I am President of M&B Metal Products Company, Inc. of Leeds, Alabama. We manufacture wire Garment Hangers in Alabama. I am also the President of the American Wire Producers Association, an association of U.S. companies that purchase steel wire rod and produce wire and wire products of all types. I am testifying today to explain the constant struggles that small and medium size manufacturers face with unfair trade.

In 2002, my company, M&B, along with two other U.S. hanger producers saw a flood of Chinese-made hangers entering the United States at prices below our cost. We decided to file a Section 421 Trade Case, which is one avenue for relief for US producers that are being harmed by imports from China. China agreed to this special procedure when they entered the WTO. We were successful in our case at the International Trade Commission (ITC); but—unlike an antidumping or countervailing duty case—a Section 421 case has to go to the President for approval. Unfortunately, no relief was granted to our industry.

Shortly after that, Cleaners Hangers—an American company, which was the largest Garment Hanger producer in the world—filed for Chapter 7 bankruptcy, and all of their assets were sold at auction. Then it seemed like dominoes—all of the remaining US wire hanger producers, with the exception of M&B, either went out of business or closed their US operations and imported all of their hangers from China. Over the next few years, we struggled, having to close one of our US plants in South Hill, Virginia and lay off 85 hardworking Americans. We continued our struggle for another year, but the Chinese were relentless, and eventually we either had to join the club and import 100% of our hanger sales or fight by filing an antidumping petition against China. We chose to fight.

On July 31, 2007, we filed an antidumping petition against unfairly traded Chinese hangers. When we filed, we were almost out of business, and we really didn't know how we were going to pay the substantial legal fees and other costs to file this case, but we proceeded anyway. At the end of a long and demanding process before the ITC and Department of Commerce dumping duties between 16% and 187% were imposed on imported hangers from China.

Things improved almost immediately. We were able to pass along raw material increases. Our margins improved, and things were progressing as we had hoped. But, as we were hiring again and increasing our production, the same producers that were shipping

hangers directly from China were working on illegal schemes to avoid dumping duties by shipping hangers through other countries, or simply just changing the country of origin, and they continued to dump hangers in the U.S. market. We filed over 30 e-allegations with US Customs and Border Protection (Customs) with specific information about these illegal schemes, and we met with Customs officials a number of times detailing that was happening, but we saw no progress.

We then hired an investigator at great cost to our small company and sent him to Taiwan and Vietnam to visit the so-called new factories that were shipping hundreds of millions of hangers to the US. Guess what, he didn't find any hanger factories. He even had detailed offers from Chinese producers to illegally transship Chinese hangers to the US through Taiwan and Vietnam, avoiding the dumping duties that should have been collected. When our investigator returned, we took him, his reports, and our attorneys and met with Customs as well as Immigration and Customs Enforcement, ICE, to detail the schemes. I felt really good when we left this meeting. Both Customs and ICE complimented us on the detailed reports and told us how much they appreciated the information. Days, weeks, and months went by, and except for a small importer in Mexico that was caught transshipping Chinese hangers across the border, we saw no other action being taken.

We then filed Anti-circumvention petitions against two so-called hanger producers in Vietnam. We won those cases also, but with the help of the Chinese producers, hanger imports from Vietnam and Taiwan continued to grow. We had no choice but to file another antidumping petition against Taiwan, and an antidumping petition and countervailing duty petition against Vietnam. We won those cases as well, but immediately hangers started appearing from Laos and Malaysia. We have been told that these hangers were made in Vietnam or China. We decided not to file more e-allegations or send investigators to these countries to bring back proof of duty evasion because we had tried that but saw no results from our previous efforts.

Customs continues to be a black hole when it comes to commercial enforcement to the detriment of US manufacturing and workers and at great cost to the US Treasury.

In addition, the costs associated with fighting for our dumping order continue to add up. Each year Chinese producers or exporters can ask Commerce to recalculate their dumping margins. We are in the midst of our fifth review. While each review involves additional costs to our company we have to participate in order to ensure the dumping margins remain accurate and effective. As the result of the first four reviews, all but two Chinese hanger producers will have a dumping margin of 187%. I should be very excited by these results and begin adding employees and equipment, but I am very cautious because I already have heard that Chinese hangers are now being transshipped through Cambodia and Sri Lanka. I fear that we will have to start this never-ending, expensive process all over again.

We also see no aggressive action on Customs to collect duties that are owed. In the US, we operate on a Retrospective System, which means the final dumping rate is determined after the products have been imported. The importer only pays an estimated dumping margin, or deposit, when they import the product. After the Administrative Review, the final dumping margin is set and Customs is required to either refund any excess deposit paid, with interest, or collect the additional duty, with interest. We have seen in the past that Customs is quick to return overpayment, but slow (many times never) collect the additional duty. This not only hurts the US Treasury, but it shows that Customs will NOT enforce our Dumping Orders.

M&B, along with other producers experiencing the same evasion schemes, formed a coalition to try to get meaningful legislative and policy changes passed to address these illegal activities. The Enforcing Orders and Reducing Customs Evasion (ENFORCE) Act creates a procedure at Customs to investigate claims of evasion, including timeliness for Customs to make determinations and apply the appropriate duties as well as regular, timely reports that will not only deter future evasion but add transparency, accountability and oversight where there currently is none. The provisions of ENFORCE passed through the Senate Finance Committee by voice vote and have been included in the Senate Customs Reauthorization bill. The complimentary bill in the House, introduced by Representatives Long and Sanchez, has a bipartisan group of 46 co-sponsors.

As I said at the beginning, there are many other industries besides the garment hanger industry that face the same struggles with cheating, illegal transshipment, and evasion under their trade orders. They include the Nail industry, the innerspring industry, the threaded rod industry, the PC Strand industry, the wire shelving industry, and many more.

I see manufacturing in the US as a privilege. We all produce with a high degree of integrity, which includes paying our workers a fair wage with good benefits, being environmentally responsible, paying income taxes, and providing a return on investments to our owners. Without meaningful relief to ongoing duty evasion schemes, it will continue to be difficult to maintain our production in the US.

Thank you for your time. I welcome your questions.



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**Enforcing Orders and Reducing Circumvention and Evasion (ENFORCE) Act
HR 1440
White Paper
September 2013**

I. Summary

The **Enforcing Orders and Reducing Circumvention and Evasion (ENFORCE) Act of 2013**, HR 1440 was designed to improve enforcement of US trade laws by increasing transparency and timely action when allegations of evasion of antidumping and countervailing duty (AD/CVD) orders are investigated.

This trade enforcement legislation does not alter the existing powers and authority of US Customs and Border Protection (CBP), or impose new responsibilities. Instead, it provides defined structures and reasonable timelines for critical determinations, and it increases transparency in the processes used to investigate duty evasion. The law would require that CBP determine whether there is a reasonable basis to believe an importer is evading an AD/CVD order within 90 days after the submission of a properly supportable allegation. If an affirmative preliminary determination is made, the ENFORCE Act would require that AD/CVD penalties be collected in cash until the investigation is concluded.

II. Background

Domestic producers and industries may petition the US Commerce Department (Commerce) and the US International Trade Commission (ITC) to investigate imports that are believed to be sold at less than fair value or "dumped" in antidumping duty (AD) investigations or which benefit from unlawful government subsidies in countervailing duty (CVD) investigations. If Commerce finds that the imports are dumped or unfairly subsidized, and the ITC finds that these imports are a cause of material injury (or threaten material injury) to the US industry, Commerce will issue an order imposing remedial duties on imports of these products, to offset the amount of dumping or improper subsidies.

AD/CVD investigations and the resulting orders are the primary means by which US industries combat unfairly-traded imports. However, these remedies are only effective to the extent the orders are enforced and attempts to illegally evade the orders are stopped. Foreign exporters and US importers are increasingly using various schemes to evade payment of AD/CVD duties when importing products under order. These often involve transshipping products through a third country, sometimes repackaging or relabeling the product, and then using false documentation to declare that the third country is the country of origin. Importers also may deliberately misclassify imports,

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claiming that they are a different product or that they are excluded from the scope of the order.

Other common tactics to avoid AD/CVD duties include subjecting the products to minor alterations, or sending parts to a third country where minor or insignificant completion or assembly operations are performed. Such products are then improperly identified as a product of the third country in blatant circumvention of the order.

These actions violate US law and deprive American companies of the relief which the AD/CVD laws are intended to provide. Evasion of existing trade orders causes continued financial harm to domestic industries and results in the loss of good-paying jobs for American workers. In addition, **the US Treasury loses hundreds of millions of dollars in uncollected duties annually** because products enter the US without paying the applicable, legally-required duties.

III. Status of Legislation

House: On April 9, 2013, the **Enforcing Orders and Reducing Customs Evasion Act of 2013** (HR 1440) was introduced by Representatives Billy Long (R-MO) and Linda Sánchez (D-CA). The bill was referred to the Trade Subcommittee of the House Committee on Ways & Means and has 43 bipartisan co-sponsors.

Senate: During the 112th Congress, the ENFORCE Act was referred to the Senate Finance Committee, where it was passed by voice vote on July 17, 2012. In the 113th Congress, the legislation, as passed by the Senate Finance Committee, has been incorporated into the **Trade Facilitation and Trade Enforcement Reauthorization Act of 2013** (S 662), introduced by Chairman Max Baucus (D-MT) and Ranking Member Orrin Hatch (R-UT) on March 22, 2013.

IV. AWPA's Position

A number of AWPA member companies have invested considerable time, resources and funds to stop the illegal dumping and subsidizing of wire and wire products by foreign competitors. Our members successfully have obtained multiple AD and CVD orders against imported wire products that were found to be sold at dumped prices or unfairly subsidized by foreign governments. These companies have also experienced firsthand the effects of the illegal schemes used by foreign producers and US importers to evade the payment of lawfully-owed AD and CVD duties. These illegal schemes have caused further injury to these companies and have resulted in the loss of more American jobs.

AWPA member companies and their respective orders:

- M&B Metal Products, Inc.*—AD orders against steel wire garment hangers from China, Taiwan and Vietnam and a CVD order against Vietnam
- Leggett & Platt, Incorporated*—AD orders against innerspring units from China, Vietnam, and South Africa
- Mid-Continent Nail*—AD orders against steel nails from China and the United Arab Emirates

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Vulcan Threaded Products—AD order against steel threaded rod from China
Insteel Industries—AD orders against prestressed concrete (PC) strand from China, Brazil, India, Korea, Mexico, Thailand, and a CVD order against India
American Spring Wire—AD orders against PC strand from China, Brazil, India, Korea, Mexico, Thailand, and a CVD order against India
Sumiden Wire Products—AD orders against PC strand from China, Brazil, India, Korea, Mexico, Thailand, and a CVD order against India
SSW Holding Company—AD/CVD orders against kitchen appliance shelving and racks from China
Nashville Wire Products—AD/CVD orders against kitchen appliance shelving and racks from China

The multiple AD and CVD orders identified above represent just a small sample of the orders that are affected by illegal duty evasion. Scores of other industries across the country have AD and CVD orders that are being undermined by illegal evasion. These include US producers of glycine, honey, diamond saw blades, and tissue paper products, to name just a few.

The enforcement tools embodied in the ENFORCE Act and similar measures will help these AWPA members obtain effective, timely enforcement of their orders against dumped and subsidized imports. They will also help protect and promote American jobs and revenue owed to the US Treasury.

V. ACTION

AWPA member company representatives ask Representatives to co-sponsor ENFORCE – HR 1440.

House Members of the Wire and Wire Products Caucus are asked to sign the Caucus Letter of Support, which is being circulated by the Co-Chairs.

All Representatives are asked to ensure that HR 1440 becomes enacted into law either as a stand-alone bill; or as part of another piece of legislation, like the Customs Reauthorization bill.



**AMERICAN
WIRE
PRODUCERS
ASSOCIATION**

"Steel Wire and Wire Products
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Kimberly A. Korbelt
Executive Director

**Trade Facilitation and Trade Enforcement Reauthorization Act of 2013 (S 662)
Customs Reauthorization
White Paper
September 2013**

I. Summary

On May 22, 2013, Senators Max Baucus (D-MT), Chairman of the Senate Finance Committee and Orrin Hatch (R-UT), Ranking Member of the Committee, introduced the Trade Facilitation and Trade Enforcement Reauthorization Act of 2013 (S 662). This bill establishes and fully authorizes the Customs and Border Protection (CBP) and Immigration and Customs Enforcement (ICE) agencies which currently exist only as a function of discretionary authority under the Homeland Security Act enacted in 2002.

S 662 (Customs Reauthorization) includes the language of the **Enforcing Orders and Reducing Circumvention and Evasion (ENFORCE) Act of 2011** (S1133) that was introduced during the 112th Congress. The purpose of ENFORCE language is to stop the problem of transshipment which is having such an adverse effect on wire and wire products manufacturers, as well as scores of other industries, in the United States.

A Senate Finance Committee hearing was held on the Customs Reauthorization bill, but it awaits further action. While the House does have a companion bill to the ENFORCE Act (HR 1440), it has not yet introduced a companion Customs Reauthorization bill. It remains uncertain whether the House bill will include the ENFORCE Act language or other related enforcement provisions.

II. ENFORCE

The ENFORCE Act addresses duty evasion by incorporating the following provisions:

Full use of all existing tools. The government agencies responsible for enforcing trade orders should be required to use all existing tools and authority to combat evasion, including risk-based targeting, issuing CF-28 requests for information, conducting audits and focused assessments, and using information Customs already collects for other applications. Prompt and aggressive use of these tools will show those who evade the trade laws that our agencies are paying attention and will use every means at their disposal to enforce these lawful orders.

Prompt action. Every day that duty evasion continues is a day that US industries and employees are not receiving the benefit of the remedy that Congress intended them to receive when they brought and won their trade cases. Evasion must be addressed quickly. Setting reasonable timelines and deadlines for action by the agencies that enforce these orders would ensure that evasion is promptly addressed.

AWPA White Paper – Customs Reauthorization Bill

Page 2

Process: This legislation establishes a process for CBP to investigate claims that AD/CVD orders are being evaded:

- Domestic producers can formally petition CBP to investigate possible evasion.
- Once an investigation is initiated, CBP must make both a preliminary and a final determination as to whether an importer is engaged in evasion.
 - 1) To make a determination of evasion, CBP is directed to focus on whether the correct amount of duty is being collected on the merchandise, rather than on an importer's intent to engage in evasion.
 - 2) CBP is authorized, however, to use its full authority and enforcement tools, including collaboration with ICE to pursue criminal charges when an importer's intent is involved.
- CBP is required to act and publicly report on its findings within set timeframes.
- The bill prescribes enforcement and remedial measures for each determination.
- The legislation does NOT give CBP the authority to expand the existing scope of covered merchandise or expand CBP's existing authority to investigate goods subject to AD/CVD orders.

Publicized results. Publishing regular and timely public reports with meaningful details will promote a number of important policy goals, including:

- Deterring companies and individuals who are tempted to try to evade duties
- Adding transparency to the process
- Adding oversight and accountability of the agencies handling allegations of evasion
- Promoting recognition of the efforts and success of the enforcement agencies which stop evasion schemes

III. PROTECT

An alternative trade law enforcement bill known as the **PROTECT Act (HR 166)** has been introduced in the House.

The PROTECT Act contains many good provisions, but overall it would not fully or satisfactorily address the very real enforcement issues that undermine the effectiveness of AD/CVD orders. Among other things, the PROTECT Act does not implement any type of transparent process associated with allegations of evasion; it does not establish deadlines for CBP to act on such allegations; and it provides only a limited remedy in cases where evasion is found. Without such provisions, the PROTECT Act's utility is extremely limited.

Domestic industries agree that the more robust and structured approach proposed by the ENFORCE Act is preferable and offers a greater set of tools to address evasion than the approach proposed in the PROTECT Act. However, the two pieces of legislation are not mutually exclusive. Marrying both approaches would result in a comprehensive piece of legislation that enhances enforcement, provides appropriate deadlines and transparency, and ultimately promotes the purposes of our trade laws.

AWPA White Paper – Customs Reauthorization Bill
Page 3

IV. ACTION

AWPA member company representatives ask their Senators to support a Customs Reauthorization bill that includes the language contained in the ENFORCE Act of 2011 (S 1133).

We ask legislators to vote on this bill, as soon as possible, so that the illegal transshipment of products can be stopped and wire and wire products manufacturers will have a level playing field on which to compete.



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Kimberly A. Korbel
Executive Director

American Jobs and International Trade: An Approach to Combat Transshipment
February 2014

I. Summary

Domestic producers and industries may petition the US Commerce Department (Commerce) and the US International Trade Commission (ITC) to investigate imports that are believed to be sold at less than fair value – antidumping (AD) – or which unfairly benefit from government subsidies – countervailing duty (CVD). If Commerce finds that the imports are "dumped" or unfairly subsidized, and the ITC finds that these imports are a cause of material injury (or threaten material injury) to the US industry, Commerce will issue an AD and/or a CVD order imposing special duties on imports of these products to offset the amount of dumping and/or subsidies.

AD/CVD orders are the primary means by which US industries combat unfairly-traded imports. These trade remedies are only effective to the extent the AD and CVD orders are enforced. Foreign exporters and US importers are increasingly devising ways to evade payment of AD/CVD duties. This often involves transshipping products through a third country, sometimes repackaging or relabeling the product, and then using false documentation to declare that the third country is the country of origin. Importers also may deliberately misclassify imports, claiming that they are a different product or that they are excluded from the scope of the case.

Another common tactic involves subjecting the products to minor alterations, or minor or insignificant completion or assembly operations in third countries. Such products are then falsely identified as a product of the third country, in blatant circumvention of the order.

These actions violate US law and deprive American companies of the relief which the AD/CVD laws are intended to provide. Evasion of existing AD/CVD orders causes continued financial harm to domestic industries and results in the loss of good-paying jobs for American workers. In addition, **the US Treasury is losing hundreds of millions of dollars in uncollected duties annually**, because products enter the US without paying the applicable, legally-required AD/CVD duties.

The US Department of Commerce is well suited to investigate allegations of transshipment, both in the context of administrative reviews and anti-circumvention inquiries. It clearly has the legal authority to do both. Commerce has expert knowledge of the products and manufacturing processes of the imports under order, having been required to educate itself in order to conduct the original investigation and subsequent reviews. Commerce also has long-standing, highly developed procedures to investigate foreign companies and verify the accuracy of the information they submit. A finding of transshipment would extend the existing order to companies in a third country, which have illegally exported the products to the US, for the purpose of evading the duties.

II. AWPA Position

AWPA asks the Administration to direct the Secretary of Commerce to **use the agency's existing tools and authority**, during the annual review and in anti-circumvention inquiries of AD and CVD orders, to investigate allegations and impose duties on companies in third countries that are found to be transshipping merchandise subject to existing AD/CVD orders.

30

Hearing on
Combating Unfair International Trade Practices:
Barriers and Obstacles for Small Business

Presented to:

U.S. House of Representatives

Committee on Small Business

Subcommittee on Agriculture, Energy and Trade

On behalf of

Spyderco, Inc.

May 22, 2014

By Peter H. Jhones

Chairman Tipton, Ranking Member Murphy, and Members of the Subcommittee, thank you for the invitation to appear today.

Spyderco Inc. Introduction

Spyderco has designed, manufactured and distributed some of the highest quality and most innovative folding knives and related products in the world. The company was built from nothing by its founder Sal Glessner and his family. The company now employs more than 80 individuals in its Golden, Colorado facilities and generates more than \$20 million dollars annually for the Colorado economy. Spyderco has been awarded 33 U.S. trademarks (60 overseas), 29 U.S. utility patents (11 overseas) and 48 U.S. design patents (12 overseas).

Spyderco customers have come to rely upon the high performance, superior engineering and ergonomic designs of the Spyderco products they use daily. These customers include virtually all of this Country's military branches. Special Services, and Federal Law Enforcement Agencies. Our products are also in service at every level of state and local law enforcement. We sell our products throughout the United States and to 57 countries around the world. A significant portion of our manufacturing is performed in Golden, Colorado and we are in the process of tripling that capacity.

Unfair Practices: Chinese Counterfeits

The safety and reliability of the tools used by our country's servants should not be called into question. However, that is exactly what is now happening. An alarming increase in clones, knock-offs and infringing product made by Chinese companies is flooding the U.S. market. The Chinese counterfeit knives of which we have become aware, are anything but an exact duplicate of our genuine items. These products are made using inferior materials and demonstrate poor engineering techniques. They make for a dangerous and unreliable tool for service personnel and consumer alike. The problem is these copied products have reached a level of outward appearance which makes it difficult even for our own staff to tell a genuine Spyderco knife from a fake.

Obstacles and Solutions

Spyderco does its best to police the marketplace, seeking to remove copies from the stream of commerce. For the most part, Spyderco has been successful in these activities, stemming the flow of counterfeit product being sold through U.S. based sales entities. However, we are having difficulty stemming the sales of counterfeit product sold through Chinese distribution outlets. Indeed, the bulk of these copies are entering the stream of commerce through on-line auction sites; primarily Alibaba, TaoBao and DHgate. The first appearing page of a "Spyderco" search of DHgate and Alibaba is attached. No item therein is an authentic Spyderco Inc. product. These Chinese owned sites have incredibly poor or absolutely no response to requests to remove auctions of counterfeit goods. In contrast, the famous on-line auction house eBay has developed their Verified Rights Owner (VeRO) program to combat just this issue. Utilizing more of a storefront format, Amazon.com also keeps a

tight rein on infringing products, preventing their entrance into the Amazon.com stream of commerce.

The costs associated with trying to remove unauthentic products from Chinese sales websites are now prohibitive. As with all small business operations, availability of funds to fight an infringement war are limited. Every dollar diverted for the effort to protect the marketplace from unsafe clones and patent infraingements, takes money's slated to be invested in corporate activities; increasing production capacity, research and development, additional employees, machinery acquisition, wage increases, etc. As a result, copies of many of our core products are now available on these sites at significantly lower prices than for which our authentic products can be offered.

As I am sure we all realize, it is impractical for U.S. Customs and Border Patrol to inspect every package for IP infringements. If all manufacturers selling products into America, domestic and international alike, were subject to the same intellectual property enforcement standards, this problem would be alleviated. All internet auction sites should be required to have an infringement notification and removal system that works. This would level the playing field between the U.S. and Chinese owned internet auction and commerce sites. It would also provide an ideal point for IP holders to review and stop the offer-for-sale of infringing items being put into commerce worldwide.

Spyderco agrees that it is important for the U.S. to continue embracing free trade principles with our trading partners. However, it is imperative that these partners respect and enforce American intellectual property rights. Spyderco respectfully requests this Subcommittee and the United States Congress to implement laws and treaties which require all websites viewable within the United States to publish and enforce strong Intellectual Property protection mechanisms similar to the eBay VeRO system, and to require our trading partners to respect and enforce American intellectual property rights.

Thank you



C81GPBK2

Counterfeit, Alibaba \$47.80 (top)

Authentic Golden, Colorado Production \$189.95 (bottom)



C36GPBK

Counterfeit, DHgate \$20.66 shipping incl. (top)
Authentic Golden, Colorado Production (bottom, \$259.95 MSRP)

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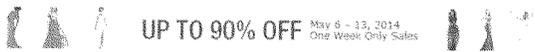
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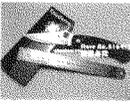
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Free shipping 5pcs lot Spyderco C36 GPE tactical knife CPM-S30V outdoor survival knife camping hunting pocket **US \$14.45 - 17.65 / Piece**

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Free shipping Spyderco outdoor gear Folding blade knife Tactical knife EDC Pocket Knife camping knife knives New **US \$4.26 - 5.2 / Piece**

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Feedback: 99.2% Items Sold: 54

Min. Order: 2 Pieces
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Free shipping Spyderco C12GS tactical knife VG10 Serrated Blade outdoor survival knives pocket folding knife

Processing Time: 20 days
Items Sold: 6

Seller: jaydeen0310

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US \$28.07 - 37.83 / Piece

Min. Order: 1 Piece
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Spyderco C36 GPE Folding Knife CPM- S30V blade G10 handle Line lock Camping knife Survival Knife Tactical free

Processing Time: 2 days
Feedback: 99.0% Items Sold: 25

Seller: ydmeiju

Message

US \$17.6 - 20.66 / Piece

Min. Order: 1 Piece
Free Shipping Via ePacket (Standard)

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SPYDERCO - DA39 Hunting Pocket Knife Folding Knives 440C 56HRC Drop Pointed Blade All-Steel Black Titanium

Processing Time: 2 days
Feedback: 98.3% Items Sold: 109

Seller: eudora

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US \$8.38 - 9.79 / Piece

Min. Order: 2 Pieces
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New Spyderco C36 multicolor G10 handle camping knife folding knife outdoor hunting gift box BEAR

Processing Time: 7 days
Items Sold: 4

Seller: cegeby

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US \$12.67 - 17.5 / Piece

Min. Order: 1 Piece

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SPYDERCO C81 camping knife Hunting Folding Pocket Knife Survival Knife CPM-S30V Xmas gift KNIFE 2pcs

Processing Time: 2 days
Feedback: 99.8% Items Sold: 4

Seller: wiadom888

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US \$19.38 - 20.11 / Piece

Min. Order: 2 Pieces
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Spyderco C81GP2 Paratrooper half gear BladeFolding Knife S30V Blade G10 Handles, Hunting Knives Outdoor

Processing Time: 2 days
Feedback: 99.0% Items Sold: 8

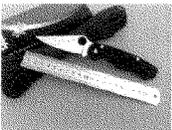
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Processing Time: 20 days

Seller: jaydeen0310

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US \$25.97 - 32.6 / Piece

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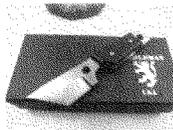
US \$18.85 - 21.74 / Piece

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Feedback: 98.3% Items Sold: 7

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US \$23.13 - 30.0 / Piece

Min. Order: 1 Piece
Free Shipping Via ePacket (Standard)

Processing Time: 2 days
Feedback: 100.0% Items Sold: 3

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BENCHMADE 3300 3310 Spyderco Bear Folding Handle pocket Camping, Outdoor Hunting Knives tactical, survival

US \$47.13 - 53.27 / Piece

Min. Order: 1 Piece

Processing Time: 10 days

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5pcs Spyderco C36 GPE tactical knife survival camping knife best gift box 60HRC G10 handle pocket folding knife free

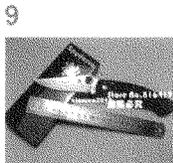
US \$20.88 - 24.09 / Piece

Min. Order: 5 Pieces
Free Shipping Via CHINAPOSTAIR (Slow)

Processing Time: 5 days
Feedback: 98.0% Items Sold: 1

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Free shipping 5pcs lot Spyderco C36 GPE tactical knife CPM-S30V outdoor survival knife camping hunting pocket

US \$14.0 - 17.1 / Piece

Min. Order: 5 Pieces
Free Shipping Via CHINAPOSTAIR (Slow)

Processing Time: 3 days
Feedback: 99.2% Items Sold: 1

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New Camouflage Spyderco C81 folding pocket knife 9Cr13Mov 58-60Hrc blade G10 handle survival knife gift

US \$31.42 - 36.93 / Piece

Min. Order: 1 Piece
Free Shipping
Via HONGKONGPOST (Slow)

Processing Time: 30 days
Feedback: 99.1% Items Sold: 5

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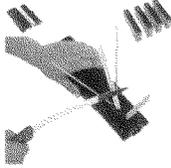
Free shipping Spyderco H1 tactical knife 56HRC pocket knives camping survival folding knife ABS handle

US \$17.19 - 19.83 / Piece

Min. Order: 1 Piece
Free Shipping Via CHINAPOSTAIR (Slow)

Processing Time: 5 days
Feedback: 98.0% Items Sold: 1

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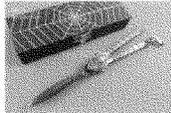
Latest Version Spyderco Professional Kitchen Knife Sharpener System Fix-angle 4 Stones English Manual

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US \$48.8 - 50.66 / Piece
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Processing Time: 30 days
Feedback: 98.0% Items Sold: 9

US \$16.97 - 19.57 / Piece
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Wholesale - 2014 New Spyderco karambit Camping outdoor Pocket Knife Folding Knives

Processing Time: 5 days
Items Sold: 1

US \$24.09 - 29.35 / Piece
Min. Order: 1 Piece
Free Shipping
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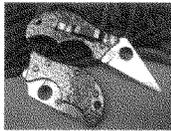
Spyderco CTS.XHP Folding blade knife 440 steel sanding Fine edge microtech CTS Tactical camping hunting gear

Processing Time: 30 days
Feedback: 99.6% Items Sold: 3

US \$17.72 - 19.99 / Piece
Min. Order: 2 Pieces
Free Shipping
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SPYDERCO QQ Mini Small Spider Hunting Pocket Knife Folding Knives High-carbon steel 420 54HRC Blade All-

Processing Time: 2 days
Feedback: 99.8% Items Sold: 12

US \$4.81 - 5.25 / Piece
Min. Order: 2 Pieces
Free Shipping
Via HONGKONGPOST (Slow)

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(PK-S505A) 3" Spyderco Fatbody Tick Blade Pocket Folding Knife Favorites Compare

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 1200 Pieces (Min. Order) China (Mainland) [Contact Details >](#)
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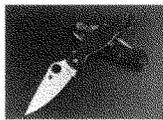
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OEM Spyderco American Parachutist Knife Training Knife with Black G10 Handle UDTEK01385

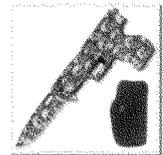
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500 Pieces (Min. Order)

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7.8" Hot seller Gun Shaped Outdoor Fording Assist Opening spyderco knife

US \$2-2.2 / Piece (FOB Price)
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Free shipping KNI003 stainless steel red knife spyderco as gift

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1 Piece (Min. Order)

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Outdoor Rose wood handle spyderco knives

2000 Pieces (Min. Order)

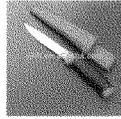
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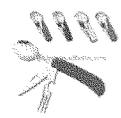
15G-L5 spyderco Favorites Compare

US \$0.8-2.31 / Piece (FOB Price)
6000 Pieces (Min. Order)

Ningbo Assist Tools Co., Ltd.
China (Mainland) Contact Details >

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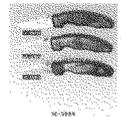
Customized new arrival spyderco pocket knife Favorites Compare

US \$1-3 / Piece (FOB Price)
2000 Pieces (Min. Order)

Guangzhou Grandy Plastic & Metal S...
China (Mainland) Contact Details >

Place of Origin: CN:GUA ; Application:
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Spyderco folding knife Favorites Compare

US \$1.95-3.5 / Piece (FOB Price)
605 Pieces (Min. Order)

Shanghai Zangpai Trading Co., Ltd.
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Mini Spyderco Plastic Handle Knife/ Promotional Knife With Key Ring Favorites Compare

1000 Pieces (Min. Order)

Chamfun Industrial Co., Ltd (Yangjiang)
China (Mainland) Contact Details >

Place of Origin: CN:GUA ; Brand:
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OEM SPYDERCO F22 Folding Knife for Camping UDEK00569 Favorites Compare

US \$11-14 / Piece (FOB Price)
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(PK-4803BK) 3.5" Spyderco Black Coating Arc-Lock / Axle Lock Blade Folding Pocket Knife

US \$1.60-1.80 / Piece (FOB Price) Yangjiang Vigor Trade Co., Ltd. China (Mainland) [Contact Details](#)

1200 Pieces (Min. Order)

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Design hot sale spyderco clasp knife

US \$1-3 / Piece (FOB Price) Guangzhou Grandy Plastic & Metal S... China (Mainland) [Contact Details](#)

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Spyderco pocket knife

US \$1.95-3.6 / Piece (FOB Price) Shanghai Zanpai Trading Co., Ltd. China (Mainland) [Contact Details](#)

666 Pieces (Min. Order)

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Double Colour Anodized Aluminium Handle Sharpest Folding Spyderco Knife

1000 Pieces (Min. Order) Chamfun Industrial Co., Ltd (Yangjiang) China (Mainland) [Contact Details](#)

Place of Origin: CN;GUA; Brand: **20.4% Response Rate**

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High Quality OEM Spyderco F44 Folding Knife Survival Knife with Aluminum + Steel Handle UDTEK01291

US \$9.67-12.09 / Piece (FOB Price) Shenzhen UD-Tek Technology Co., L... China (Mainland) [Contact Details](#)

100 Pieces (Min. Order) **66.6% Response Rate**

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Spyderco knife Favorites Compare



US \$1.95-2.5 / Piece
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Place of Origin: CN;ZHE ; Application:

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China (Mainland) | Contact Details >

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3Cr13 Stainless Steel Blade Color Wood Handle Spyderco Folding Pocket Knife/ Spider Knife Favorites Compare



1000 Pieces (Min. Order)

Place of Origin: CN;GUA ; Handle

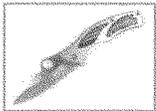
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China (Mainland) | Contact Details >

20.4% Response Rate

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Stone-washed Surface OEM Spyderco 690 Hunting Knife Set UDTEK01465 Favorites Compare



US \$17.20 / Piece
(FOB Price)

500 Pieces (Min. Order)

Place of Origin: CN;GUA ; Application:

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Spyderco pocket knife/hunting knife/saber/combat knife/military knife/survival knife/stainless/camping knife/clasp knife Favorites Compare



US \$19-21 / Piece
(FOB Price)

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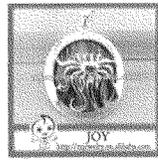
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84.9% Response Rate

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Whoelsale 925 silver pendant, silver gemstone pendant,siver Spyderco pendant with gemstone

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US \$2.8-4.5 / Piece
(FOB Price)
5 Pieces (Min. Order)

Yiwu Joy Jewelry Promotion Factory
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Jewelry Type:
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US \$345-365 / Piece
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spyderco diamond knife sharpeners

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US \$5.2-5.9 / Piece
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1984 Pieces (Min.
Order)

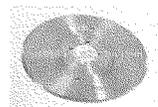
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Type: Sharpeners ;

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japanese sewing machine siruba sewing machine, spyderco tactical

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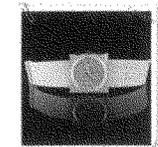
Huizhou Ruida Hardware&Plastic Co., Ltd.
China (Mainland) | [Contact Details](#)

Place of Origin:
CN;GUA ; Machine

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2013 Customized Kids silicone watches pink girls gift silicon watches & Spyderco net dial

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(FOB Price)
500 Pieces (Min.
Order)

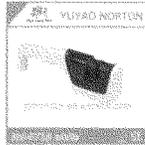
Shenzhen Caister Watch Co., Ltd.
China (Mainland) | [Contact Details](#)

40.8% Response Rate

Place of Origin:
CN;GUA ; Gender:

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US \$2.62-2.82 / Piece
 (FOB Price)
3000 Pieces (Min. Order)
 Type: Sharpeners ;
 Place of Origin:

Yuyao Norton Electric Appliance Co...
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41.8% Response Rate
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Knife sharpening stones Spyderco 2013 colored ceramic knife Favorites Compare

US \$0.8-1.5 / Piece
 (FOB Price)
1000 Pieces (Min. Order)
 Type: Sharpeners ;
 Place of Origin:

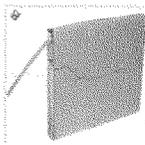
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Electric Sharpener Spyderco Knife Sharpener Drill Bit Sharpeners 2008 Favorites Compare

50 Pieces (Min. Order)
 Place of Origin:
 CN:ZHE ; Disc(Wheel)

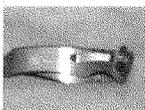
Yongkang Jiahong Tools Manufactur...
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Cheap and quality blue spyderco folding knife Favorites Compare

US \$5-20 / Box (FOB Price)
10 Units (Min. Order)
 Place of Origin:
 CN:GUA ; Application:

Dongguan Buiter Advertising Equipm...
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SPYDERCO JUMBO Spring Assisted Tanto Blade partially serrated Favorites Compare

US \$40-360 / Dozen
 (FOB Price)
1 Piece (Min. Order)
 Place of Origin:
 US:14808 ; Model

Michael Lococo
 United States | Contact Details >
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Spyderco cutting knife hunting knife/saber/combata knife/military knife/survival knife/stainless/straight knife/camping knife Favorites Compare

Guangzhou Honlike Trading Co., Ltd. >



Spyderco clasp knife/pocket knife/hunting knife/saber/comb Favorites Compare
knife/military knife/survival knife/stainless/camping knife

US \$9-10 / Piece Guangzhou Honlike Trading Co., Ltd. (FOB Price) China (Mainland) Contact Details >
1 Piece (Min. Order) **84.9% Response Rate**
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Spyderco knife hunting knife/saber/comb knife/military knife/survival knife/stainless/camping knife/straight knife Favorites Compare

US \$14-15 / Piece Guangzhou Honlike Trading Co., Ltd. (FOB Price) China (Mainland) Contact Details >
1 Piece (Min. Order) **84.9% Response Rate**
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**STATEMENT OF DON SHAWCROFT
PRESIDENT-COLORADO FARM BUREAU**

**before the
COMMITTEE ON SMALL BUSINESS
SUBCOMMITTEE ON AGRICULTURE, ENERGY AND
TRADE**

U.S. HOUSE OF REPRESENTATIVES

MAY 22, 2014

Chairman Tipton, members of the subcommittee, thank you for holding this hearing.

My name is Don Shawcroft, President of the Colorado Farm Bureau. I am a rancher from the San Luis valley in Colorado. I am a board member of the American Farm Bureau Federation. Farm Bureau is the largest agriculture based grassroots organization in the country. Our membership is made up of 6 million farmers and ranchers growing everything you can think of—from alligators to zucchini and everything in between.

Trade is vitally important to agriculture. According to the Economic Research Service (ERS) at the United States Department of Agriculture (USDA),

“U.S. agricultural exports generated employment, income, and purchasing power in both the farm and nonfarm sectors. ERS estimates that each dollar of agricultural exports stimulated another \$1.29 in business activity in 2011. The \$136.4 billion of agricultural exports in 2011 produced an additional \$176 billion in economic activity for a total economic output of \$312.3 billion. Every \$1 billion of U.S. agricultural exports in 2011 required 6,800 American jobs throughout the economy. Calendar year 2011 agricultural exports required 923,000 full-time civilian jobs, which included 637,000 jobs in the nonfarm sector. The agricultural export surplus helped to offset some of the nonagricultural trade deficit.”¹

These are not just high level impacts either. On the ground farmers and ranchers in Colorado, Kansas, Iowa and states all over the United States feel the positive impact of trade. However, with every positive, there is always a negative. One challenge that we are facing in agriculture is the use of non-tariff trade barriers.

This issue can be illustrated through Mexico’s use of Sanitary-Phytosanitary (SPS) measures to block the importation of U.S. potatoes into Mexico. This issue caused hardship for U.S. potato growers and Colorado potato growers specifically. Colorado farmers send about seven truckloads of potatoes a day to Mexico—that’s nearly 2,000 truckloads a year for only 5 percent of all the potatoes shipped.² However, I am happy to announce that through work and negotiation Colorado potatoes will now be allowed to be export potatoes to Mexican cities with populations of 100,000 or more. Early estimates give the indication that revenue from potatoes could be as high at \$80 million, a four-fold increase. This is money that comes back to farmers.

I provided this example because it is a good illustration of how SPS issues are used to prevent agriculture trade and the negative impacts that it can have at the farmgate.

While potatoes are a success story of how science has prevailed, agriculture still see impacts of SPS barriers being used against U.S. products. There continue to be simmering issues between the European Union (EU) and the U.S. pertaining to the production of

¹ <http://www.ers.usda.gov/data-products/agricultural-trade-multipliers/2011-data-overview.aspx#.U3OS7YFdVyl>

² <http://www.cpr.org/news/story/new-trade-deal-mexico-good-news-colo-potato-farmers>

beef and the use of hormones. This ban is an example of how SPS measures and non-tariff barriers are used as disguised protectionism, primarily intended to restrict imports from other countries.³

However, the Transatlantic Trade and Investment Partnership is a mechanism that can help to alleviate this problem. Farm Bureau supports efforts to increase agricultural trade flows and remove trade barriers that currently exist between the United States and the European Union.

The Transatlantic Trade and Investment Partnership (TTIP) negotiations between the U.S. and the EU must deal with the many substantive issues that impede U.S.-EU agricultural trade, such as long-standing barriers against conventionally raised U.S. beef, ongoing restrictions against U.S. poultry and pork, and actions that limit U.S. exports of goods produced using biotechnology.

The U.S. and the EU are major international trading partners in agriculture. U.S. farmers and ranchers exported more than \$11.5 billion worth of agricultural and food products to the EU in 2013, while the EU exported more than \$17 billion worth of agricultural products to the U.S. last year.

Despite this impressive sum, just 10 years ago, the EU was the third-largest destination for U.S. agricultural exports. Today, it has fallen to our FIFTH-largest export market. Over the last decade, growth of U.S. agricultural exports to the EU has been the slowest among our top 10 export destinations. If U.S. farmers and ranchers were provided an opportunity to compete, the EU market could be a growth market for them.

Regulatory barriers have become a significant impediment to that growth. Unless these trade barriers are properly addressed within the TTIP negotiations, they will continue to limit the potential for agricultural trade. It is imperative that TTIP be a high-standard trade agreement that covers all significant barriers in a single, comprehensive agreement. Scientific standards are the only basis for resolving these issues. Continuing barriers to the export of U.S. beef, pork and poultry, along with the slow approval process for biotech products, are major areas of interest to the U.S. in the TTIP negotiations. Both the U.S. and the EU adhere to the World Trade Organization's Agreement on SPS measures. These measures states that measures taken to protect human, animal or plant health should be science-based and applied only to the extent necessary to protect life or health.

Continuing barriers to the export of U.S. beef, pork and poultry, along with the slow approval process for biotech products, are major areas of interest to the U.S. in the TTIP negotiations. Both the U.S. and the EU adhere to the World Trade Organization's Agreement on Sanitary and Phytosanitary Measures, which states that measures taken to protect human, animal or plant health should be science-based and applied only to the extent necessary to protect life or health. The U.S. follows a risk-assessment approach for food safety. The EU is additionally guided by the "precautionary

³ <http://www.fas.org/sgp/crs/row/R40449.pdf>

principle,” which holds that where the possibility of a harmful effect has not been disproven, non-scientific risk management strategies may be adopted.

The use of the “precautionary principle” is inconsistent with the WTO SPS Agreement and is used as a basis for scientifically unjustified barriers to trade. The TTIP negotiations must result in a modern, science- and risk-based approach, based on international standards that can truly resolve SPS disputes. SPS issues must be directly addressed as a part of the negotiations, and these provisions must be enforceable.

The EU approach for approving products of biotechnology combines a lengthy approval process with the ability of EU member states to ban approvals. The result in restrictive import policies and substantial reductions in U.S. exports of corn and soybeans to the EU.

Furthermore, is it not just SPS issues that present non-tariff trade barriers to agricultural trade. An example of one of these issues is the EU system of geographic indications for foods and beverages designates products from specific regions as legally protected for original producers. The use of these markers will prevent forward looking U.S. farmers and ranchers from developing products for a marketing program which would allow them to capture the value added through processing. The U.S. has opposed recognizing geographical names for foods when it would inhibit the marketability or competitiveness of U.S. products. The TTIP must not become an avenue to erect a new barrier to U.S. agricultural exports through the use of geographic indications...pretty sure salami is salami no matter where it is made.

Negotiations on bilateral concerns move in both directions. There must be positive outcomes for all sides. The European Union has concerns about U.S. rules on EU beef and dairy products. An emphasis on finding trade-opening solutions to sanitary barriers will assist in resolving our many trade issues.

In addition to resolving non-tariff barriers to trade, the TTIP negotiation proposal also calls for the elimination of tariffs. The average U.S. tariff on imported agricultural products is 5 percent, with 75 percent of our tariff lines at between zero and 5 percent. For the EU, the average tariff is 14 percent, with 42 percent of tariff of lines at zero to 5 percent. In order to expand market opportunities for U.S. agricultural products in the EU, tariff reductions will be necessary.

We call for an ambitious agreement that addresses the real barriers to the growth of agricultural trade between the United States and the EU, both in the form of tariff and non-tariff barriers. The European Union’s 28 members account for 19% of world imports and exports⁴ and in 2012 consumed \$458 billion in goods and private services from the U.S.⁵

While the EU presents U.S. farmers and ranchers with very real potential for a major new market, TTIP is not the only trade deal

⁴ <http://ec.europa.eu/trade/policy/eu-position-in-world-trade/>

⁵ <http://www.ustr.gov/about-us/press-office/fact-sheets/2013/june/wh-ttip>

that has the potential to help farmers and ranchers through reductions in tariff and non-tariff trade barriers to trade.

The Trans Pacific Partnership (TPP) is the other major regional trade negotiation for the U.S. TPP consists of Australia, Brunei, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore, Vietnam in addition to the United States. The addition of Japan to full participation in the TPP talks enhances the significance of the negotiations and makes the agreement much more encompassing of North American goals for agricultural trade. It will also fuel interest among other Asia-Pacific nations for similar opportunities to improve trade relations with the U.S. and other participating countries. Japan is the fourth-largest agricultural export destination for the U.S. with more than 12.4 billion dollars in sales in 2013.

Again despite our trade success in Japan, the country maintains several restrictive policies that inhibit U.S. exports, such as high tariffs on dairy, horticulture, rice and other products, along with various SPS barriers. By joining the TPP negotiations under the same conditions as other participants, Japan must negotiate to resolve long-standing trade barriers for all agricultural products thus benefitting U.S. farmers and ranchers.

The TPP will only fulfill its promise of improved and increased trade in the Pacific region by including the elimination of tariffs on agricultural products.

While TTIP and TPP offer ways for the U.S. to deal with SPS and other non-tariff trade barriers through the framework of trade deals, they are not the only option for the U.S. As a member of the World Trade Organization (WTO) U.S. agriculture must continue to seek a commercially meaningful outcome through expanded market access from WTO negotiations. We must remain committed to advancing the goal of trade liberalization and increased opportunities for real trade growth. The U.S. wants an outcome to trade negotiations in the WTO that will open new markets around the world, produce new trade flows and grow the global economy. We can achieve this outcome by negotiating on the basis of a new agenda, not be reliving the failures of the past. Lastly, Farm Bureau has long supported trade promotion authority (TPA) in order to complete and pass into law trade agreements. For our important TPP and TTIP negotiations to move forward, to maintain the focus on improving and expanding trade between our negotiating partners, we need to have TPA in place.

Agricultural market access measures are usually finalized at the end of negotiations when the certainty of TPA is crucial to a successful negotiation. We urge the House to pass the Bipartisan Congressional Trade Priorities Act of 2014, HR. 3830, as a necessary and critical component for a successful trade policy agenda. While we understand that the Small Business committee is not the primary committee of jurisdiction for H.R. 3830, the committee can sever as an excellent conduit for support of H.R. 3830. They can do this by sharing the challenges faced by small business and small agribusiness with the House Ways and Means committee as they move this legislation.

While many challenges continue to present themselves, 2013 was not without some successes. 2013 saw expanding U.S. beef exports by 12 percent to reach over \$6 billion by expanding access for U.S. beef to Japan, the European Union, Indonesia, Mexico, Panama, and the Dominican Republic. In 2013, the European Union also opened its market to live swine. Peaches, nectarines, and cherries may now be exported to Australia and Japan. These increases were the result of the removal their unwarranted SPS measures.⁶

I thank you Chairman Tipton for the opportunity to testify today on this important issue. American agriculture drastically needs more market access that is free of SPS and non-tariff trade barriers. American farmers and ranchers are the most productive in the world. With market access, we can continue to provide high quality products to markets throughout the world. I look forward to answering any questions you may have.

⁶<http://www.ustr.gov/sites/default/files/FINAL-2014-SPS-Report-Compiled.pdf>

House Committee on Small Business
Subcommittee on Agriculture, Energy, and Trade
“Unfair Trade Practices: Addressing Barriers Facing Small Business
Exporters”

Testimony of Timothy C. Brightbill
Partner, Wiley Rein LLP, Washington DC
Adjunct Professor, Georgetown University Law Center

May 22, 2014

Chairman Tipton, Ranking Member Murphy, and Members of the Subcommittee. I am Tim Brightbill, a partner at Wiley Rein LLP and adjunct professor at Georgetown University Law Center. Thank you for the opportunity to testify before you today on the issue of unfair trade practices and barriers facing small business exporters. (These views are my own, not those of my firm or my clients.)

I have practiced international trade law for almost 20 years, and my practice has always focused on helping American companies, American industries, and American workers. I have worked with a variety of industries—including manufacturers of everything from steel to solar panels to school notebooks to heavy forged hand tools. I also work with many companies that provide services both here and abroad. My job is to help these companies grow, to prevent unfair trade practices from harming these companies, and to help eliminate trade barriers overseas.

Small businesses face enormous challenges in the area of international trade. While all U.S. companies face trade barriers and unfair trade practices, these problems can be even greater for small- and medium-sized businesses. Trade laws and regulations are complicated, trade remedy cases are expensive, and trade barriers are becoming more pervasive and more challenging all the time.

As a result, it is probably not surprising how few small businesses are able to become substantial exporters of goods and services. Let me list several of the challenges facing U.S. small business exporters, as well as all U.S. companies:

- 1) **dumping and subsidies** - are two of the most pervasive unfair trade practices. Foreign manufacturers often sell below cost to enter the U.S. market and to take market share away from domestic competitors. Subsidies and government ownership of foreign companies facilitate this type of unfair pricing. Small businesses are forced to choose between cutting prices to match foreign competition, or giving up sales and market share. Notably, the antidumping (AD) and countervailing duty (CVD) laws that address these unfair practices are complex and the requirements for filing trade remedy cases are difficult

for even large, sophisticated companies. There are many steps that Congress and the Commerce Department could take to make the trade laws simpler and easier to use for small businesses. I would be happy to discuss these specific ideas with the subcommittee later this morning.

2) **currency manipulation** - is a serious problem that harms all U.S. exporting businesses, large and small. The Petersen Institute for International Economics, one of the most respected think tanks in Washington, has called currency manipulation “the biggest subsidy of them all,” and estimates that currency actions by China and more than 20 countries have increased the U.S. trade deficit by \$200 billion to \$500 billion per year, and that the United States has lost 1 million to 5 million jobs as a result of foreign currency manipulation. If Congress wanted to take one trade-related action that would create the most new American jobs, it would be to pass legislation directing the Commerce Department to investigate currency undervaluation as an illegal subsidy.

3) **intellectual property theft** - is a pervasive problem that demands a serious response from U.S. government and law enforcement. The United States took an important step this week by filing criminal charges against five members of the Chinese military for cyber hacking. The U.S. companies named as victims in this week’s indictments are at the heart of American manufacturing of steel, aluminum, solar, and others. I applaud the Administration for taking this step. But the reality is that the Chinese Government sees no difference between military espionage and corporate IP and trade secret theft. And there are thousands of U.S. companies that are victims of these activities. As one expert has stated, there are two kinds of U.S. companies—those that know they’ve been hacked, and those that just haven’t figured it out yet.

4) the rise of **state-owned and state-controlled enterprises** is another factor that is harmful to small business exporters. U.S. companies are forced to compete not with private companies, but with foreign governments. And while China is also a notable example of this problem, SOEs play substantial roles in the economies of many countries—Russia, Brazil, Indonesia, India, Malaysia, and many others.

We need to include strong, enforceable disciplines on state-owned enterprises in all new free trade agreements, starting with the Trans-Pacific Partnership and the T-TIP agreement with the European Union. I would be happy to discuss what specific terms and conditions we need to include in these trade agreements in order to help U.S. small businesses compete. And, if we are serious about addressing SOEs, we should include such provisions in any bilateral investment treaty with China as well.

5) Finally, we need to address the growing use of **non-tariff barriers** to shut down trade. This can involve obvious measures like export taxes, but also more subtle barriers like Customs regulations, import licenses, burdensome standards and certification requirements that can become technical barriers

to trade. The United States has been very successful in reducing tariffs worldwide, but those that want to protect their markets are continually looking for new ways to shut out foreign competition.

Thank you for addressing this important issue today, and I would be happy to answer any questions.

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