

Mr. President, I rise today to offer, along with Senator Craig, much needed trade legislation. I also want to thank Senators Bayh and Rockefeller for their support for this legislation.

The bill that we are introducing would create a Commission to review decisions of the World Trade Organization. Why is this legislation necessary? Simply put – we must ensure that the United States is getting the benefit of the agreements we negotiated. WTO panels have handed down several decisions recently that go well beyond the scope of their authority. These decisions have had a wide-ranging impact, undermining our ability to use antidumping and safeguard laws and calling major portions of the U.S. tax code into question.

Most recently, the WTO ruled that the so-called "Byrd Amendment" violates WTO rules. In fact, the Byrd Amendment simply takes duties collected on unfairly traded products out of the U.S. Treasury and redistributes them to companies and workers hurt by that unfair trade.

The Byrd Amendment adds no burden whatsoever on imports. But despite this, a WTO panel has inexplicably ruled that this law imposes an impermissible penalty for dumping. I would note here that the Administration has proposed repealing the Byrd Amendment. I strongly oppose that. And so does an overwhelming majority of the Senate. In fact, last month 70 Senators sent a letter to the President in support of this important law. I ask Unanimous Consent that this letter be included in the record.

Another area that I have great concerns about involves the softwood lumber dispute. The WTO correctly found that Canada subsidizes its lumber industry, and I applaud that decision. But then the WTO undercut the benefits of that decision. They ruled that when determining a market price, Commerce must use the subsidy-distorted Canadian timber prices rather than the market-based U.S. prices. This practice is wholly inconsistent with previous WTO practice.

We need to start seriously examining why it is that we are losing these and other cases. In my view, it is because WTO panels have ceased interpreting our trade agreements and have begun legislating. Instead of following the rules, they are flouting the rules. And they are substituting their own judgment in place of carefully negotiated principles. In the process, they are eroding U.S. trade laws, taking away rights the U.S. bargained for, and imposing new obligations we never agreed to accept. Just as troubling, they are doing so mostly under the radar of Congress and the American public.

Mr. President, the purpose of the legislation Senator Craig and I are proposing is to open the performance of WTO panels to public debate. Under the legislation, the President, in consultation with Congress, would create a Commission by appointing five retired federal appellate judges to serve five-year terms. The Commission would review WTO decisions adverse to the United States to examine whether the panelists have exceeded their authority. The commissioners would then report their findings to Congress.

Increasing the transparency of the WTO in this manner is entirely consistent with the Administration's stated objectives. It would also allow us to discuss openly and fairly whether the WTO is working as it should.

This legislation offers something for everyone. If the Commission finds that the WTO is applying the rules properly, it will silence critics – and perhaps earn converts. But if the WTO is in fact straying beyond the carefully negotiated boundaries of our trade agreements, Congress needs to have the oversight in place so that we can remedy the situation.

I understand and support the need for a global trading system. But we need to ensure that the WTO is respecting the limits of its authority and honestly applying the rules under which it operates. I hope that my colleagues will join me in helping to pass this important legislation.