National Retail Federation
The Voice of Retail Worldwide

TESTIMONY OF

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U.S. SENATE COMMITTEE ON FINANCE

"*TRADE ENFORCEMENT FOR A 21st CENTURY ECONOMY*"

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Good morning, I am Erik Autor, Vice President and International Trade Counsel for the National Retail Federation. I appreciate the opportunity to testify at today's hearing on behalf of the NRF and its member companies in the U.S. retail industry.

By way of background, NRF is the world's largest retail trade association, with membership comprising all retail formats and channels of distribution including department, specialty, discount, catalog, Internet, independent stores, chain restaurants, drug stores and grocery stores, and ranging from single store sole proprietorships to the largest publicly-held retailers with hundreds of thousands of employees. NRF represents an industry with more than 1.6 million U.S. retail establishments, more than 24 million employees - about one in five American workers - and 2006 sales of $4.7 trillion.

International trade issues fundamentally impact the ability of U.S. retailers to run their businesses successfully in an industry marked by cut-throat competition and a 2 percent profit margin. Every American retailer, from the biggest to the smallest, sources consumer products from around the world to provide their customers, the American consumer, what they want and need – the widest selection of merchandise at the best value.

These commercial activities support good-paying, blue and white collar jobs, many of them union jobs. Millions of American workers are employed not only in the retail industry, but also in many industries that support retail operations and supply chains – for example, manufacturing, farming, ports, rail, trucking, warehousing, air delivery, and logistics among others.

I first want to underscore that American retailers fully support actions by the U.S. government to ensure that our trading partners abide by their commitments under international trade agreements and rules, for example through use of dispute settlement mechanisms at the World Trade Organization and under our free trade agreements. Our industry has also experienced problems on this front, such as piracy of retail brands or trade barriers that violate international trade rules as more U.S. retailers open stores and serve customers in foreign markets.

Retailers also support strong enforcement of U.S. laws and regulations with respect to any company, foreign or domestic, doing business in the United States. If any of our suppliers are scofflaws, the reputation of our company brands will suffer and the ability to get merchandise to our customers is seriously compromised.

In supporting vigorous trade enforcement, I must acknowledge that we do have concerns about over-zealous and inappropriate actions, mainly involving the U.S. trade

remedies laws – antidumping, countervailing duty, and safeguards measures. Such laws admittedly have their place in the rules-based trading system. However, waving the banner of "fair trade," some domestic industries have taken advantage of popular anxiety over trade and globalization to push for protectionist measures and legislation to limit foreign competition and pad their own profit margin. Among other things, they argue that the U.S. trade remedies laws must be strengthened and enforced more vigorously to make it easier to obtain protection from import competition. They exploit widespread misunderstanding about what the trade remedies laws are, and what they are intended to do, with erroneous claims that major changes are needed to punish "illegal" and "predatory" trade.

As an extremely trade dependent industry, retailers are very vulnerable in the face of such histrionics and disinformation. Recently, our industry has experienced a notable increase in trade remedies investigations against imported consumer products – for example, the dumping case against wooden bedroom furniture and safeguards actions against imported apparel. Based on our experience in these cases, we firmly believe that there is no need to "strengthen" current laws to make it easier for petitioning industries to obtain relief.

The fact is that U.S. trade remedies laws are already vigorously, even zealously enforced. Most antidumping and CVD cases end up in affirmative determinations, and

any disputed or unclear issues or questions are almost uniformly decided in favor of the petitioner. In the apparel trade, backdoor political deals have been cut to impose arbitrary safeguards measures in ways that violate basic principles of U.S. administrative law, and for possible government self-initiation of antidumping actions in ways that are designed to circumvent the injury and standing requirements of U.S. law.

Meanwhile, U.S. retailers and other importing and consuming industries in manufacturing and agriculture feel that the trade remedies rules are already heavily stacked against them. For example, unless they are an importer of record, under the statute they are not considered "interested parties" for purposes of standing to participate fully in antidumping and CVD investigations, even though they pay the bill for the import taxes imposed in these cases. As a result, they are forced to defend their interests with one hand tied behind their backs.

Therefore, an increasing number of U.S. industries and companies now look with alarm at some recent legislation purporting to "strengthen" U.S. trade remedies laws. We are concerned that a number of these proposals would allow petitioners to further abuse and game the system to attack legitimate trade. In a number of cases, these bills, if signed into law would violate WTO rules and expose U.S. exporters to billions of dollars in WTO approved trade sanctions.

Several proposals that raise particular concern are legislation to restrict presidential discretion to consider the national economic interest in so-called 421 safeguards cases; to apply CVD law to non-market economy countries without ensuring that the procedures follow WTO rules by precluding petitioners from getting double relief for the same injury; and to circumvent WTO subsidies rules by deeming currency imbalances to be a countervailable export subsidy.

We live in a much more trade-dependent, interconnected economy, than when most of the current trade remedies rules were first written. To be competitive in this world, all U.S. industries now have global supply chains, importing products from their foreign suppliers and exporting products to their foreign customers. In this world, trade-remedy cases brought against imports into the United States have had a significant and adverse effect on U.S. retailers, farmers, and manufacturers, increasing costs and often undermining their ability to compete globally.

In this new world, trade remedies cases are no longer a struggle solely between a foreign manufacturer and a domestic manufacturer. Rather they increasingly pit American industries against each other as we have seen in the recent case of the steel and automobile industries. When the importer is a manufacturer, losing this fight can force it to shutter its U.S. operations and move offshore.

U.S. industries also see increasing risk to their businesses from trade remedies imposed by foreign countries. The problem has become so serious, that U.S. exporters are now the number three target for antidumping cases in the world after China and Korea.

Thus, an increasing number of U.S. industries in retail, manufacturing and agriculture, are becoming concerned about the use of trade remedies procedures and proposed changes to trade remedies laws that would undermine U.S. competitiveness.

In a recent conversation with Uruguayan Ambassador to the World Trade Organization and Chairman of the WTO Rules Negotiating Group, Guillermo Valles, the Ambassador said something very important that goes to the very heart of the subject of today's hearing – "each WTO member needs to ask itself whether its trade remedies regime is compatible with where its economy will be in ten years." This is a question that many, including the European Union, are now asking.

It is not in our national economic interests to create a trade remedies system that, under the guise of a quasi-judicial proceeding, becomes essentially an arbitrary, results-driven, and politically-influenced means to provide a few favored industries automatic relief from import competition. Such a system merely becomes an instrument of protectionism that undermines U.S. competitiveness, hurts millions of American

consumers, and is incompatible with where our country needs to be in the 21st Century global economy. To support a modern, globally competitive U.S. economy, we need trade remedy rules that are balanced and fair, inclusive of the participation of all affected parties, and compatible with commercial practices. This objective would not weaken U.S. trade remedies laws as some would have you believe – it would improve them.

Thank you.

Respectfully submitted,

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National Retail Federation