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STATEMENT OF

SOUTHERN SHRIMP ALLIANCE

ON

CUSTOMS TRADE FACILITATION AND ENFORCEMENT IN A SECURE ENVIRONMENT

BEFORE

THE SUBCOMMITTEE ON TRADE COMMITTEE ON WAYS AND MEANS U.S. HOUSE OF REPRESENTATIVES

HEARING DATE: MAY 20, 2010

The Southern Shrimp Alliance (SSA) submits these written comments in support of the Trade Subcommittee's comprehensive review of the structure and resources of U.S. Customs and Border Protection (CBP) and U.S. Immigration and Customs Enforcement (ICE) from a commercial operations and customs enforcement perspective. In particular, SSA's comments address the last of the topics examined by the Subcommittee: CBP and ICE challenges in revenue collection and customs enforcement.

SSA is a non-profit alliance of members of the shrimp industry in eight states committed to preventing the continued deterioration of America's domestic shrimp industry and to ensuring the industry's future viability. SSA serves as the national voice for the shrimp industry in Alabama, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, and Texas. In December of 2003, the domestic shrimp industry filed petitions for relief from dumped imports of frozen and canned warmwater shrimp from Brazil, China, Ecuador, India, Thailand, and Vietnam. The industry's petition resulted in the imposition of antidumping duties on frozen warmwater shrimp from these six countries in February of 2005.

Since the imposition of antidumping duties, the shrimp industry has defended the trade remedy in a changed circumstances review before the U.S. International Trade Commission (ITC), in multiple administrative reviews before the U.S. Department of Commerce (Commerce), and before the United States Trade Representative in response to challenges made by trading partners at the World Trade Organization. The industry is currently defending the remaining antidumping orders in sunset review proceedings at the ITC and Commerce. These proceedings, while requiring the domestic industry to expend substantial resources to maintain meaningful trade relief, are part and parcel of the trade remedy system established by Congress. Circumvention of antidumping duties and widespread fraud on the U.S. government, however, are not.

The Hearing Advisory inviting written comments identifies as a major issue “allegedly growing fraudulent practices to avoid antidumping duties . . .” SSA has been forced to directly confront the rise in fraudulent practices with respect to antidumping duties on shrimp. Efforts to circumvent trade relief began almost immediately after the shrimp industry filed its petitions. In a declaration submitted to the U.S. Court of International Trade on March 9, 2006, Bruce W. Ingalls, the Chief of the Debt Management Branch in Revenue Division of the Office of Finance, CBP, described a substantial transshipment scheme that allowed Chinese shrimp to circumvent antidumping duties falsely labeled as product of Indonesia. Mr. Ingalls declared:

18. After initiation of the antidumping case, CBP noted substantial shifts in import patterns that suggest transshipment of shrimp to circumvent the high tariffs on shrimp. CBP and U.S. Immigration and Customs Enforcement representative (ICE) from the Singapore Attaché office visited shrimp producers in Indonesia (a country not subject to antidumping) that appeared to be of high-risk for transshipment.
19. CBP confirmed that three producers commingled Chinese shrimp and exported the merchandise claimed as Indonesian to circumvent the payment of antidumping duties. Fifty-four importers were sourcing shrimp from three Indonesian producers during the time when Chinese shrimp was commingled. . .
21. Customs has demanded \$65 million in antidumping duty cash deposits from all importers involved. The country-wide rate upon Chinese shrimp is 112.81%. To date \$756,000 has been collected.
22. Indonesian Officials have been cooperative and provided vital information to the United States. The Indonesian Officials stated that they were aware that after the U.S. antidumping order went into effect, a great deal of Chinese shrimp was imported into Indonesia. These import statistics, which showed a 700% increase in shrimp imports from China, were provided to United States officials.¹

¹ Declaration of Bruce W. Ingalls, National Fisheries Institute, Inc. v. United States, Court No. 05-00683 (March 9, 2006).

CBP's laudable efforts to quickly address transshipment of shrimp did not, unfortunately, put an end to all attempts to circumvent the antidumping duty orders. Importers responded with additional circumvention schemes – adding Malaysia, Cambodia, and Mexico as vehicles for transshipment – as well as misclassification fraud whereby shrimp imports were falsely declared to be exempt from antidumping duties.

Over the life of the antidumping duty orders, SSA has coordinated closely with CBP and ICE officials in an effort to address these various circumvention schemes. For example, in response to rampant abuse of an ill-considered exclusion of “dusted” shrimp granted by Commerce over the objection of the domestic industry, the volume of “dusted” shrimp imports exploded. During the four-year period spanning from 2001 to 2004 ship manifest data indicated that a total of 5.5 million pounds of “dusted” shrimp had been imported into the United States. In 2005 alone, 5.2 million pounds of “dusted” shrimp were imported, with that figure shooting up to 26.9 million pounds in 2006.² After consultations with Commerce proved unproductive and the agency declined to take any steps to address the obvious circumvention, SSA worked with CBP to identify fraudulent shipments of “dusted” shrimp. In a report to Congress, CBP provided some details regarding the results of its efforts:

Misclassification Outside the Scope of the Order. Based on an allegation from the domestic shrimp industry, CBP conducted a special operation centered on cargo examination and lab analysis to determine whether imports of shrimp from China were being misdescribed as “dusted” shrimp so that the shipments would fall outside of the scope of the AD order. CBP's operation confirmed the allegation. CBP determined that fourteen importers evaded the AD order, resulting in \$5 million in lost revenue. CBP recently completed this operation and has initiated procedures to collect the lost revenue and issue penalties. Further investigations with ICE and penalty processing are underway.³

The U.S. Government Accountability Office (GAO) provided further details regarding CBP's efforts, indicating that the \$5 million in lost revenue failed to fully express the extent of fraud on the U.S. government:

On the basis of allegations from the U.S. shrimp industry, CBP initiated an intensive examination and sampling operation to determine whether importers were bringing in shipments of falsely declared dusted shrimp to avoid the antidumping duties on Chinese shrimp. Over the course of a 90-day period, CBP found that of the 81 alleged dusted shrimp entries examined and sampled, approximately 64 percent of the shipments did not meet the criteria to qualify as dusted shrimp. The potential loss of trade revenue from these fraudulent dusted shrimp shipments was approximately \$5 million. Extrapolating back to when the antidumping duty order first became effective in 2005, CBP concluded that the

² Source: Urner Barry Foreign Trade Data.

³ U.S. Customs and Border Protection, “Report to Congress on (1) U.S. Customs and Border Protection's Plans to Increase AD/CVD Collections and (2) AD/CVD Enforcement Actions and Compliance Initiatives” (2008) at 11.

importers caught importing these fraudulent dusted shrimp imported approximately \$117 million worth of potentially fraudulent dusted shrimp with a possible loss of trade revenue from the uncollected antidumping duties of \$132 million.⁴

Although misclassification of shrimp as “dusted” has been significantly diminished by CBP’s enforcement efforts, other misclassification schemes abound. For example, in the course of an administrative review of the antidumping duty order on shrimp from China, Commerce discovered that some of the imports of shrimp from Zhanjiang Regal Integrated Marine Resources Co., Ltd. (Zhanjiang Regal) had been falsely declared at entry to be exempt from antidumping duties. When the agency confronted Zhanjiang Regal with these findings, Commerce noted that “[c]ompany officials stated that this sale was for subject merchandise, and that Regal is not the importer, and thus, has no control over what the importer enters on the CBP 7501.”⁵ This basic circumvention scheme is unlikely to have been limited to Zhanjiang Regal’s importers. In CBP’s Fiscal Year 2009 report to Congress, the agency observed that although frozen shrimp from China with a reported value of \$38,518,126 entered the United States in fiscal year 2008, CBP only collected \$56 in antidumping duty deposits on those entries.⁶ **\$56.** That means that for virtually all of the \$38 million worth of frozen shrimp that entered the United States from China between October 1, 2007 and September 30, 2008, importers reported the product as either exempt from antidumping duties or subject to a zero percent duty deposit rate. Unfortunately for the domestic shrimp industry, although Commerce quite accidentally uncovered a significant circumvention scheme of the simplest kind in an overseas verification of a Chinese exporter (fraudulent declarations of shrimp as a “type 1” rather than “type 3” import), the agency has taken no action to assist CBP or ICE in addressing similar fraudulent schemes to defraud the U.S. government, requiring, instead, that the domestic shrimp industry establish that such fraud is, in fact, occurring before it will investigate further.

Separately, CBP and ICE have taken further enforcement action to address continued transshipment schemes identified by SSA and by the agencies’ own analysis. In another report to Congress, CBP observed:

Transshipment/Commingling. CBP recovered \$2.5 million in AD duties through a company audit. The product was frozen warm water shrimp transshipped from China through Indonesia where it was commingled with Indonesian shrimp.⁷

⁴ U.S. Government Accountability Office, “Seafood Fraud: FDA Program Changes and Better Collaboration among Key Federal Agencies Could Improve Detection and Prevention” GAO-09-258 (Feb. 2009) at 15-16.

⁵ U.S. Department of Commerce Internal Memorandum from P. Walker through S. Fullerton to the File, Case No. A-570-893 at 13 (Mar. 2, 2009).

⁶ U.S. Customs and Border Protection, “AD/CV Duty Enforcement Actions and Compliance Initiatives: Fiscal Year 2009 Report to Congress” (March 13, 2009) at 49.

⁷ U.S. Customs and Border Protection, “AD/CV Duty Enforcement Actions and Compliance Initiatives: Fiscal Year 2009 Report to Congress” (March 13, 2009) at 12.

The GAO report on seafood fraud also detailed additional efforts by CBP and ICE, partially in response to allegations made by SSA, to address transshipment both of the antidumping duties on shrimp and a Food and Drug Administration import alert intended to prevent the importation of unsafe shrimp into the United States:

On the basis of industry information and CBP and ICE investigations, CBP determined that Chinese shrimp was being transshipped to the United States through Malaysia. Due to this illegal transshipment, importers of Chinese shrimp were able to circumvent not only the 2005 antidumping duty but also FDA's recent import alert. In September 2007, CBP tested shipments of suspected Chinese shrimp illegally transshipped through Malaysia for the presence of unapproved drugs and found some contaminated shrimp.⁸

SSA is grateful for the extraordinary efforts of the men and women of CBP and ICE that have endeavored to uncover and stop the myriad circumvention schemes attempted by unscrupulous importers and exporters. Nevertheless, the extensive efforts of these agencies to address fraud on the U.S. government have only managed to address a small minority of the illegal activity that now constitutes the norm, rather than the exception, in U.S. trade. This unfortunate theme has been echoed repeatedly by a broad array of parties providing testimony to the Subcommittee:

- Deputy Assistant Secretary Peña reported that ICE was currently “involved in approximately 90 investigations relating to open Department of Commerce AD/CVD orders that include honey, saccharin, citric acid, pencils, lawn groomers, lined paper products, pasta, polyethylene bags, shrimp, steel and wooden bedroom furniture.”⁹
- Deputy Assistant Secretary Skud observed that the problem of undercollection of antidumping and countervailing duties “has been exacerbated by unscrupulous importers who knew that they were likely to

Commissioner Bersin cited to this enforcement example in his testimony to the Subcommittee. Testimony of Alan D. Bersin, Commissioner, U.S. Customs and Border Protection, Department of Homeland Security, Committee on Ways and Means, Subcommittee on Trade, United States House of Representatives (May 20, 2010) at 4.

⁸ U.S. Government Accountability Office, “Seafood Fraud: FDA Program Changes and Better Collaboration among Key Federal Agencies Could Improve Detection and Prevention” GAO-09-258 (Feb. 2009) at 15.

⁹ Statement of Alonzo R. Peña, Deputy Assistant Secretary for Operations, U.S. Immigration and Customs Enforcement, Department of Homeland Security Regarding a Hearing on “Customs Trade Facilitation and Enforcement in a Secure Environment” Before the U.S. House of Representatives, Committee on Ways and Means, Subcommittee on Trade (May 20, 2010) at 14.

incur retrospective duty assessments and absconded when payment was due.”¹⁰

- The President of the National Council of Textile Organizations testified to the proliferation of importers that are not resident in the United States, making the importer effectively free of CBP regulation: “[t]hus, even when fraud is discovered, there is no way for Customs to successfully punish the offender.”¹¹
- Frank Vargo, of the National Association of Manufacturers (NAM), detailed various open and obvious transshipment schemes identified by NAM members designed to circumvent antidumping duties.¹²
- Mr. Vargo’s testimony was seconded with substantial and compelling detail by the written testimony of the Coalition for Enforcement of Antidumping and Countervailing Duty Orders.¹³
- John Herrmann, of Kelley Drye & Warren LLP, testified as to the aggressive efforts undertaken to circumvent the antidumping duty order on pre-stressed concrete wire strand.¹⁴
- The domestic honey industry has also submitted a written statement describing the corrosive impact of circumvention on the trade relief obtained with respect to unfairly traded honey imports.¹⁵

¹⁰ Statement of Timothy E. Skud, Deputy Assistant Secretary for Tax, Trade, and Tariff Policy, U.S. Department of the Treasury, Testimony before the Subcommittee on Trade, Committee on Ways and Means (May 20, 2010) at 1-2.

¹¹ Testimony of Cass Johnson, President, National Council of Textile Organizations, U.S. House of Representatives, Committee on Ways and Means, Subcommittee on Trade, “Customs Trade Facilitation and Enforcement in a Secure Environment” (May 20, 2010) (unnumbered 8-9). Mr. Johnson also noted a common circumvention tactic that does not appear to have seriously impacted the shrimp antidumping duty orders despite having significant negative effects on other antidumping duty orders; namely, the intentional undervaluation of goods by importers of record. *Id.* at 9.

¹² Testimony of Frank Vargo, Vice President, International Economic Affairs, National Association of Manufacturers, before the Committee on Ways and Means Trade Subcommittee on Customs Trade Facilitation and Enforcement in a Secure Environment (May 20, 2010) at 12.

¹³ Statement of the Coalition for Enforcement of Antidumping and Countervailing Duty Orders, Committee on Ways and Means, Subcommittee on Trade, United States House of Representatives (May 20, 2010).

¹⁴ Statement of John M. Hermann, The Committee on Ways and Means, Subcommittee on Trade, Hearing on Customs Trade Facilitation and Enforcement in a Secure Environment (May 20, 2010) at 2-3.

The testimony submitted to this Subcommittee is fully consistent with SSA's experience. Although incidents of circumvention have been dismissed in some quarters as aberrational, the mounting evidence amassed by diverse industries, CBP, and ICE indicates that intentional efforts to defraud the government are widespread. Worse, circumvention of trade relief is, as a general matter, barely concealed and often open and obvious.

CBP's Fiscal Year 2009 Report to Congress regarding antidumping and countervailing duty enforcement actions identified four different types of circumvention: (1) transshipment; (2) undervaluing of goods; (3) misclassification/false description; and (4) smuggling of goods (failure to manifest).¹⁶ SSA's experience with the antidumping duty orders on shrimp has involved working to counteract three of these four types of circumvention, but SSA has also faced a fifth form of circumvention that seriously undermines trade relief: abuse of new shipper reviews. In the shrimp context, abuse of the new shipper review provisions has occurred when a new shipper applicant has successfully obtain a 0% or *de minimis* deposit rate following a full investigation of Commerce of a single commercial shipment or a small number of commercial shipments. Once the "new shipper" obtains a Commerce ruling that frees its importers from a deposit requirement, the "new shipper" begins to export substantial quantities of shrimp to the United States. However, although Commerce may have determined that the "new shipper" is unlikely to unfairly trade shrimp into the United States, the market has generally not agreed with this assessment. Thus, the "new shipper's" exports are largely imported by companies with no importing history that have been established solely for the purpose of importing merchandise from the new shipper. In one example currently faced by the domestic shrimp industry, a new importer was registered at the same address as a large and well-known U.S. seafood importer, with the new company exclusively importing shrimp from a "new shipper" with a 0% deposit rate.

The Department of Treasury recognized this problem several years ago in analyzing CBP's difficulties with antidumping and countervailing duty collection, noting that "[s]ome importers establish shell companies that they intend to close if CBP attempts to collect any duties that are determined retrospectively."¹⁷ CBP affirmed Treasury's observation in its Fiscal Year 2008 Report to Congress, noting that "there are importers who are unwilling, unable, or simply have no intention of paying the actual duties and go out of business when CBP issues a bill."¹⁸ By establishing a shell company to absorb all the risk of Commerce eventually determining that

¹⁵ Statement of American Beekeeping Federation, American Honey Producers Association, National Honey Packers & Dealers, Hearing on Customs Trade Facilitation and Enforcement in a Secure Environment, Before the U.S. House of Representatives, Committee on Ways and Means, Subcommittee on Trade (June 2, 2010).

¹⁶ U.S. Customs and Border Protection, "AD/CV Duty Enforcement Actions and Compliance Initiatives: Fiscal Year 2009 Report to Congress" (March 13, 2009) at 11.

¹⁷ U.S. Department of the Treasury, Duty Collection Problems FY 2003-2006 (July 2007) at 9.

¹⁸ U.S. Customs and Border Protection, "Report to Congress on (1) U.S. Customs and Border Protection's Plans to Increase AD/CVD Collections and (2) AD/CVD Enforcement Actions and Compliance Initiatives" (2008) at 3.

the “new shipper” has dumped merchandise into the United States, importers create convenient vehicles that cease to exist when duties come due. And although these actions appear to be lawful under current U.S. law, they represent a scheme designed and intended to circumvent trade remedies and make it impossible for CBP to collect antidumping duties owed to the federal government.

Importantly, this form of circumvention is open and obvious. Domestic industries can reasonably anticipate that if a “new shipper” applicant is successful, new importers will be created for the sole purpose of importing merchandise from that company. But even the more traditional forms of circumvention identified by CBP tend to be open and obvious. For example, SSA routinely identifies importers that pose substantial risks of circumvention through these companies’ unique importing profiles. These importers will generally import merchandise that is never declared as subject to antidumping duties, but specialize in importing products that line up with various circumvention schemes. These seafood importers will have little to no importing history prior to the imposition of antidumping duty orders, but thereafter import only “dusted” or “breaded” shrimp or shrimp from Malaysia or Indonesia, while also importing “whole” cooked crawfish (not subject to the antidumping duties on crawfish tails from China), and swai fillets from Malaysia. Identification of importers with these unique and commercially illogical profiles allows SSA to also identify exporters that act as the nexus for circumvention schemes that, in turn, allow for the identification of other importers that raise serious concerns regarding the possible fraudulent entry of merchandise to avoid antidumping duties.

Nevertheless, although SSA can usually identify problematic importers and exporters, the speed with which these companies come into existence and disappear is staggering. For example, ship manifest data indicates that a “Malaysian” shrimp exporter named Megah Awana Resources began exporting shrimp to the United States in April 2009. In just eight months, Megah Awana shipped 5 million pounds of shrimp to the U.S. Megah Awana’s shrimp was imported by companies like Network Foods, a company created in November 2008 that only imported shrimp from Megah Awana for the first five months of its existence. Another importer, Ideal Innovations, began importing shrimp – exclusively from Malaysia – in December of 2008 after being founded in July of that year. Through May of this year, manifest data indicated that Ideal Innovations had imported 4.3 million pounds of “Malaysian” shrimp (and only “Malaysian” shrimp), a remarkable amount for a new importer. The company’s substantial shrimp imports are made all the more remarkable by Ideal Innovation’s corporate filings in the State of Wyoming that indicate that its principal office address is located in Shanghai, China. None of the foregoing establishes that any of these companies have, in fact, engaged in illicit or unlawful activity, but by the time that enough information is available to raise questions regarding their behavior, many of the exporters and importers have begun to wind down their businesses and new exporters and importers appear on the scene with similar profiles. Megah Awana’s exports of shrimp to the U.S., for example, stopped in November 2009; in its place, Value Pack Resources began to export “Malaysian” shrimp to Megah Awana’s former importers, shipping a reported 3.1 million pounds of shrimp beginning in November 2009.

The cumulative impact of systematic circumvention of antidumping duties cannot be overstated. As noted above, just two enforcement actions by CBP and ICE to address circumvention led CBP to demand \$65 million in antidumping duty deposits in response to a

shrimp transshipment scheme and estimate a possible loss of trade revenue of \$132 million resulting from a false classification scheme involving shrimp. Other industries materially injured by unfair trade also report substantial amounts at stake. The domestic honey industry estimates that circumvention schemes related to Chinese honey imports cost the U.S. Treasury \$200 million in 2008 and 2009.¹⁹ NAM's description of circumvention notes that the transshipment schemes employed with respect to one antidumping duty order resulted in the "loss of well over \$50 million in antidumping duties that should have been paid."²⁰ The Coalition for Enforcement of Antidumping and Countervailing Duty Orders estimates that transshipment of Chinese-made wire hangers through Taiwan alone has cost the U.S. Treasury \$27 million since March 2008.²¹ In its Fiscal Year 2009 Report to Congress, CBP additionally reported:

Misdescription. CBP uncovered a situation in which crawfish tail meat was misdescribed as whole crawfish to avoid anti-dumping duties of up to 223.01 percent. Reviews of entry summary documents led to the identification of 43 discrepant lines with \$17.3 million in unpaid dumping deposits. CBP referred the case to ICE as the importer has not paid the duties.²²

With respect to shrimp and other food imports, the problem of circumvention is not only monetary; circumvention of trade laws also denotes circumvention of food safety laws. The GAO has observed:

CBP and ICE's shrimp transshipping investigation also highlights the connection between economic fraud and food safety. CBP and ICE's investigation found that foreign manufacturers and importers were not only attempting to circumvent antidumping duties by sending Chinese shrimp to the United States through Malaysia, but these companies were also evading an FDA import alert aimed at stopping adulterated Chinese shrimp from entering the United States.²³

¹⁹ Statement of American Beekeeping Federation, American Honey Producers Association, National Honey Packers & Dealers, Hearing on Customs Trade Facilitation and Enforcement in a Secure Environment, Before the U.S. House of Representatives, Committee on Ways and Means, Subcommittee on Trade (June 2, 2010) at 2.

²⁰ Testimony of Frank Vargo, Vice President, International Economic Affairs, National Association of Manufacturers, before the Committee on Ways and Means Trade Subcommittee on Customs Trade Facilitation and Enforcement in a Secure Environment (May 20, 2010) at 12.

²¹ Statement of the Coalition for Enforcement of Antidumping and Countervailing Duty Orders, Committee on Ways and Means, Subcommittee on Trade, United States House of Representatives (May 20, 2010) at unnumbered 6.

²² U.S. Customs and Border Protection, "AD/CV Duty Enforcement Actions and Compliance Initiatives: Fiscal Year 2009 Report to Congress" (March 13, 2009) at 12.

²³ U.S. Government Accountability Office, "Seafood Fraud: FDA Program Changes and Better Collaboration among Key Federal Agencies Could Improve Detection and Prevention" GAO-09-258 (Feb. 2009) at 20.

Likewise, the domestic honey industry observes that circumvention schemes relating to Chinese honey implicate food safety concerns as well.²⁴

Commissioner Bersin testified that he “would like to see us enhance our Anti-Dumping Countervailing Duty (AD/CVD) and Intellectual Property Rights (IPR) enforcement efforts.”²⁵ For all of the reasons provided above, SSA enthusiastically supports any effort by CBP to augment the agency’s enforcement capacity. SSA also generally agrees with the legislative proposals suggested by other trade-affected domestic industries that seek to strengthen CBP’s and ICE’s capability to address circumvention.

In addition to these proposals, the Subcommittee should consider two additional concerns. First, CBP’s reporting of both collected and uncollected antidumping and countervailing duties on a fiscal year basis, as required by the Continued Dumping and Subsidy Offset Act, has been an invaluable tool in allowing domestic industries to monitor enforcement problems with respect to trade remedies. A yearly comparison of these reported amounts indicates that undercollection remains a significant problem: expressed as a percentage of all assessed antidumping or countervailing duties during a fiscal year, CBP’s reporting indicates that 35% of duties were uncollected in 2003; 47.79% in 2004; 29.18% in 2005; 27.78% in 2006; 47.47% in 2007; 32.75% in 2008; and 47.66% in 2009. However, the utility of CBP’s reporting is now limited by the apparent decision to only make public collection information regarding import entries made prior to October 1, 2007. Absent continued public disclosure regarding the success and/or difficulties attendant to the collection of antidumping and countervailing duties, domestic industries will be generally unable to ascertain the effectiveness of these trade remedies. Accordingly, the Subcommittee should consider requiring CBP to publish collection data for all assessed antidumping and countervailing duties on an annual basis.

Second, SSA believes that the single most important action that can be taken by Congress to counteract the now widespread, systematic fraud that significantly undermines trade remedy programs is to enact law that would directly address the problem of unscrupulous importers. CBP and the Treasury Department have, consistent with SSA’s experience, acknowledged that importing companies have been established and perpetuated simply to circumvent trade relief and avoid the payment of duties. At present, CBP appears to be without adequate authority to address this cornerstone of circumvention. As such, the practice of establishing importers that circumvent the trade laws but are effectively judgment proof (should their illicit activity ever be discovered) is a growing and increasingly unmanageable problem. Nevertheless, simple changes in the law that would afford CBP some measure of control or ability to limit who may commercially import merchandise into the United States should significantly improve CBP’s trade remedy enforcement efforts.

²⁴ Statement of American Beekeeping Federation, American Honey Producers Association, National Honey Packers & Dealers, Hearing on Customs Trade Facilitation and Enforcement in a Secure Environment, Before the U.S. House of Representatives, Committee on Ways and Means, Subcommittee on Trade (June 2, 2010) at 3.

²⁵ Testimony of Alan D. Bersin, Commissioner, U.S. Customs and Border Protection, Department of Homeland Security, Committee on Ways and Means, Subcommittee on Trade, United States House of Representatives (May 20, 2010) at 2.